

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

PJM Interconnection, L.L.C.	)	Docket Nos. ER22-2931-000 and
	)	EL24-26-000
	)	(consolidated)

**MOTION TO HOLD  
SECTION 206 PROCEEDING IN CONTINUED ABEYANCE**

PJM Interconnection, L.L.C. (“PJM”), pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”)<sup>1</sup> and the Commission’s February 2, 2024 Notice of Extension of Time,<sup>2</sup> respectfully submits this motion to hold in continued abeyance this Federal Power Act (“FPA”) section 206 proceeding concerning whether PJM’s *pro forma* Interconnection Construction Service Agreement (“ICSA”) under the PJM Open Access Transmission Tariff (“Tariff”) is unjust, unreasonable, unduly discriminatory, or preferential.<sup>3</sup> PJM requests that the Commission continue abeyance in this proceeding for an additional four months, until August 2, 2024, to afford PJM time to further refine the scope of changes to the Tariff that may be required to address the question raised in the Commission’s show cause directive.<sup>4</sup> During the abeyance period, PJM intends to engage with its stakeholders to provide information on the issue of third-party land rights and to outline proposed Tariff changes to be filed with

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<sup>1</sup> 18 C.F.R. § 385.212.

<sup>2</sup> *PJM Interconnection, L.L.C.*, Notice Granting Extension of Time, Docket Nos. ER22-2931-000, et al. (Feb. 2, 2024) (extending time to respond to show cause directive until April 2, 2024) (“April 2 Notice”).

<sup>3</sup> *PJM Interconnection, L.L.C.*, Notice of Institution of Section 206 Proceeding and Refund Effective Date, Docket No. EL24-26-000 (Feb. 9, 2024).

<sup>4</sup> *PJM Interconnection, L.L.C.*, 185 FERC ¶ 61,202, at P 41 (2023) (“December 20 Order”).

the Commission pursuant to FPA section 205 in compliance with the December 20 Order. Preserving this section 206 proceeding will lend impetus to that effort.

PJM expects to complete its stakeholder engagement on proposed Tariff changes and submit a FPA section 205 filing package by August 2, 2024. During the pendency of the requested abeyance, PJM will provide updates in this proceeding on the status of PJM's work with stakeholders every thirty days.

## **I. BACKGROUND**

This proceeding arises from the filing by PJM of an unexecuted ISA and unexecuted ICSA among PJM as Transmission Provider, New Market Solar, LLC ("New Market Solar") as Interconnection Customer, and Delmarva Power & Light Company ("DPL") as Interconnected Transmission Owner.<sup>5</sup> The New Market Solar Agreements were submitted on an unexecuted basis at New Market Solar's direction due to concerns about land rights and other issues.

The Commission in the December 20 Order accepted the New Market Solar Agreements for filing subject to refund, suspended their effectiveness for five months, and established paper hearing procedures to develop a further record as to whether the New Market Solar Agreements are just and reasonable.<sup>6</sup> The December 20 Order also initiated a show cause proceeding to address the entity responsible for using efforts to procure land

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<sup>5</sup> *PJM Interconnection, L.L.C.*, Original Service Agreement Nos. 6612 and 6613; Queue No. AC1-190, Docket No. ER22-2931-000 (Sept. 26, 2022) ("September 26, 2022 Filing"). The agreements, which are referred to as the New Market Solar ISA and the New Market Solar ICSA, respectively, and collectively as the New Market Solar Agreements, are associated with PJM Queue No. AC1-190. PJM submitted a supplement to the September 26, 2022 Filing on September 30, 2022. PJM, New Market Solar, and DPL are each referred to herein as a "Party" and collectively as "Parties." Capitalized terms not otherwise defined herein shall have the meaning set forth in the Tariff.

<sup>6</sup> December 20 Order at P 39. Contemporaneously with this Motion, PJM is submitting an Amendment to Service Agreement Nos. 6612 and 6613, which resolves the issues set for paper hearing in Docket No. ER22-2931-000.

from a third party under PJM’s *pro forma* ICSA.<sup>7</sup> The Commission stated it was “establish[ing] a proceeding under section 206 of the FPA requiring PJM to show cause why ‘the default position, the prior rate’ remains just and reasonable,”<sup>8</sup> but also indicated that PJM could file a motion to hold these proceedings in abeyance to allow time for consideration of a section 205 filing.<sup>9</sup>

On January 19, 2024, PJM moved, in relevant part, to hold this proceeding in abeyance for 180 days to allow PJM to consider whether revisions to the Tariff should be made, engage with stakeholders, and develop and submit any necessary Tariff revisions pursuant to FPA section 205 for the Commission’s consideration.<sup>10</sup> On February 2, 2024, the Commission extended the deadline for response to the show cause directive for 60 days, until April 2, 2024.<sup>11</sup>

## **II. MOTION FOR CONTINUED ABEYANCE**

As permitted by the December 20 Order,<sup>12</sup> PJM intends to submit an FPA section 205 filing to revise Tariff, Part IX, to resolve the issue of treatment of third-party land rights on a prospective basis.<sup>13</sup> Holding this section 206 proceeding in continued

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<sup>7</sup> December 20 Order at PP 39, 41. *See also infra* note 13.

<sup>8</sup> December 20 Order at P 40 (footnote omitted); *id.* at P 41 (directing PJM “to either: (1) show cause as to why its *pro forma* ICSA under its Tariff is just and reasonable and not unduly discriminatory or preferential; or (2) explain what changes to its Tariff it believes would remedy the identified concerns if the Commission were to determine that the Tariff has, in fact, become unjust and unreasonable or unduly discriminatory or preferential and, therefore, were to proceed to establish a replacement Tariff”).

<sup>9</sup> December 20 Order at P 45.

<sup>10</sup> *PJM Interconnection, L.L.C.*, Response of PJM Interconnection, L.L.C. to Show Cause Order and Motion to Hold Proceedings in Abeyance and for Expedited Consideration and a Shortened Comment Period, Docket Nos. ER22-2931-000, et al. (Jan. 19, 2024).

<sup>11</sup> April 2 Notice at 2.

<sup>12</sup> December 20 Order at P 41.

<sup>13</sup> PJM notes that while the show cause directive applies to the *pro forma* ICSA, the applicable form of interconnection-related service agreement(s) to be tendered after July 10, 2023, is the Generation Interconnection Agreement or the stand-alone Construction Service Agreement under Tariff, Part IX, Subparts B and J, respectively. Therefore, any Tariff changes filed pursuant to FPA section 205 would apply

abeyance, therefore, will allow the Commission to determine the extent to which the new section 205 filing provides a just and reasonable resolution of the third-party land rights issue that prompted the Commission to open this section 206 proceeding.

Holding this section 206 proceeding in abeyance will also afford a reasonable opportunity for stakeholder education and engagement on PJM's section 205 proposal to resolve the limitations identified in the current Tariff. Such proposal contemplates building upon and clarification of the site control provisions that are included in PJM's new interconnection procedures.<sup>14</sup> To that end, PJM has proposed a path forward, working with its Interconnection Process Subcommittee and Planning Committee, to consider PJM's proposed changes to the interconnection process to clarify third-party land rights and obligations. The requested abeyance therefore will support PJM's initiative to engage with its stakeholders and solicit feedback on its proposed Tariff changes. PJM anticipates completion of this stakeholder engagement and preparing of a filing package that includes proposed Tariff changes by August 2, 2024, and asks the Commission to hold this proceeding in abeyance until that process is complete.

During the pendency of the requested abeyance, PJM will provide status reports in this docket every thirty days advising the Commission on the progress of its engagement with stakeholders on this matter.

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to these agreements, contained in Tariff, Part IX, Subparts B and J. *See PJM Interconnection, L.L.C., Notification of Occurrence of Transition Date of PJM Interconnection, L.L.C., Docket Nos. ER22-2110-000, -001 (July 11, 2023).*

<sup>14</sup> *PJM Interconnection, L.L.C.*, 181 FERC ¶ 61,162 (2022), *order on reh'g*, 184 FERC ¶ 61,006 (2023).

### III. CONCLUSION

For all of the foregoing reasons, PJM respectfully requests that the Commission issue an order holding this proceeding in continued abeyance until such time as PJM has completed its stakeholder engagement and prepared proposed Tariff changes to address third-party land rights, which PJM anticipates will be completed by August 2, 2024.

Respectfully submitted,

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April 2, 2024

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 2nd day of April 2024.

/s/ Elizabeth P. Trinkle  
Elizabeth P. Trinkle

**Attorney for PJM Interconnection, L.L.C.**