



MC Legal Report
Summary of Significant Filings, Legal Activity
and
Federal Energy Regulatory Commission (Commission) Orders
(May 13, 2020 – May 31, 2020)

ORDERS

On May 29, 2020, in Docket No. ER20-1451-000, the Commission accepted PJM and PJM Settlement's revisions to the PJM Tariff and the PJM Operating Agreement to enhance the rules for evaluating and managing credit risk posed by entities seeking to participate or participating in the PJM Markets. The revisions update and enhance PJM's procedures for monitoring and mitigating credit risk in the PJM Markets for the purpose of reducing and better managing the risk of financial defaults. The revisions are effective June 1, 2020.

On May 21, 2020, in Docket No. EL18-61-001, the Commission denied Public Citizen's November 18, 2019 request for rehearing of its October 17, 2019 order denying the complaint because Public Citizen failed to demonstrate that PJM's rate was unjust and unreasonable and that the fees paid by PJM to the Democratic Governors Association and the Republican Governors Association were unrecoverable.

On May 21, 2020, in Docket No. EL19-34, the Commission denied in part and granted in part the complaint of Brookfield Energy Marketing LP against PJM. The Commission rejected allegations that PJM's pseudo-tie rules are unjust, unreasonable, unduly discriminatory, and preferential, and that PJM applied its pseudo-tie rules to the Brookfield facilities in a manner that is inconsistent with the PJM Tariff. However, the Commission determined that PJM's rules are unjust and unreasonable in not providing an open and transparent process for pseudo-tie applicants regarding failure of the market-to-market flowgate test, and directed PJM to submit a compliance filing to revise the PJM Tariff no later than July 6, 2020.

On May 21, 2020, in Docket No. EL18-145, the Commission denied the complaint of Tilton Energy LLC (Tilton) in which Tilton objected to PJM's determination that Tilton's pseudo-tie does not satisfy the PJM Tariff requirements for external Generation Capacity Resources to participate in RPM Auctions.

On May 21, 2020, in Docket Nos. EL17-32 and EL17-36, the Commission denied the December 23, 2016 complaint of Old Dominion Electric Cooperative, Direct Energy Business, LLC on behalf of itself and its affiliate Direct Energy Business Marketing, LLC, and American Municipal Power, Inc., and the January 5, 2017 complaint of Advanced Energy Management Alliance. The Commission determined the complainants failed to meet their burden Federal Power Act, section 206 to show that the existing annual Capacity Performance construct is unjust and unreasonable as applied to seasonal resources.

On May 21, 2020, in Docket Nos. EL19-58 and ER19-1486, the Commission issued an order regarding PJM's Reserve Market Proposal finding PJM's existing Tariff and Operating Agreement to be unjust and unreasonable, largely adopting PJM's proposed replacement rate as just and reasonable, subject to certain modifications, and directing PJM to submit a compliance filing by July 6, 2020 to revise the PJM Tariff and Operating Agreement accordingly. The Commission also found that adoption of the proposed reserve market revisions rendered PJM's existing methodology for calculating the energy and ancillary services offset (E&AS Offset) in PJM's capacity market unjust and unreasonable, established as a just and reasonable replacement rate a forward-looking E&AS Offset, and directed PJM to submit a compliance filing by July 6, 2020 to revise Attachment DD of its Tariff accordingly.

On May 21, 2020, in Docket Nos. ER19-1958-001 and -002, the Commission accepted PJM's February 21, 2020 Order No. 845 Compliance Filing revisions relative to provisional interconnection service, and accepted, subject to further compliance, revisions relative to contingent facilities and material modifications and incorporation of advanced technologies, effective July 20, 2020. The Commission also accepted, subject to further compliance, PJM's Tariff revisions concerning surplus interconnection service effective November 17, 2020. The Commission denied Leeward Renewable Energy Development, LLC's request for rehearing, or in the alternative, clarification of the Commission's December 19, 2019 order on compliance.

On May 20, 2020, in Docket No. EL19-51, the Commission denied in part and granted in part the complaint of Cube Yadkin Generation, L.L.C. (CYG) against PJM, finding that CYG failed to meet its burden of proof to show that the electrical distance test is unjust and unreasonable or that PJM has applied it in a manner inconsistent with the PJM Tariff. However, the Commission directed PJM to revise the PJM Tariff, by July 6, 2020, to provide greater notice and transparency in its administration of the electrical distance requirement.

On May 13, 2020, in ER20-1416, the Commission accepted revisions to Operating Agreement, Schedule 6, section 1.5.8 that provide any entity submitting a proposal through the proposal window process, that is pre-qualified as eligible to be a Designated Entity, must pay all actual proposal study costs incurred by PJM to evaluate the submitted proposal, and, if the proposal is submitted with a cost estimate above \$5 million, a \$5,000 non-refundable deposit that will be fully credited to the actual proposal study costs incurred by PJM. The revisions are effective May 27, 2020.

FILINGS

On May 29, 2020, PJM submitted on behalf of Baltimore Gas and Electric Company (BGE) revisions to stated depreciation rates in its formula rate in PJM Tariff, Attachment H-2A. The updated depreciation rates are estimated to increase depreciation expense by approximately \$3.8 million, but with no impact to billable rates until June 1, 2021. BGE requested an effective date of August 1, 2020. (ER20-1929)

On May 28, 2020, PJM submitted an errata to its pending fast-start pricing practices compliance filing submitted on August 30, 2019 to correct a minor, one-word error in the proposed PJM Tariff and Operating Agreement language contained therein. (ER19-2722-001)

On May 28, 2020, PJM filed proposed revisions to the PJM Tariff, Schedule 12-Appendix A to incorporate cost responsibility assignment for one economic project (b3145) included in the Regional Transmission Expansion Plan approved by the PJM Board of Managers on December 4, 2019. PJM requests the revisions become effective on August 26, 2020, 90 days after the date of this filing, to allow a 30 day comment period. (ER20-1913)

On May 27, 2020, in Docket Nos. Docket No. ER20-1902-000 and ER20-1903, the Midcontinent Independent System Operator, Inc. (MISO) and PJM submitted proposed clarifying revisions to the PJM-MISO JOA to include a new subsection to clarify that MISO and PJM are explicitly permitted to release Energy Management System (EMS) models and the data used for current and future EMS modeling, exchanged in accordance with the JOA, to their respective Transmission Owners for operational and reliability compliance purposes. MISO and PJM requested an effective date of July 27, 2020.

On May 22, 2020, in Docket No. ER20-1889, PJM submitted on behalf of Public Service Electric and Gas Company (PSEG) revisions to the transmission formula rate set forth in PJM Tariff, Attachment H-10A in compliance with Order No. 864. PSEG requested an effective date of January 27, 2020.

On May 22, 2020, in Docket No. ER20-1883, PJM submitted revisions to PJM Tariff, Schedule 12-Appendix A to incorporate cost responsibility assignments for 13 baseline upgrades included in the recent update to the Regional Transmission Expansion Plan (RTEP) approved by the PJM Board of Managers on April 22, 2020. PJM requests the revisions become effective on August 20, 2020, which is 90 days after the date of this filing to allow a 30 day comment period.

On May 22, 2020, in Docket No. ER20-1886, PJM submitted on behalf of Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company (collectively, the AEP East Operating Companies), revisions to the transmission formula rate set forth in PJM Tariff, Attachment H-14B in compliance with Order No. 864. The AEP East Operating Companies requested an effective date of January 27, 2020.

On May 22, 2020, in Docket No. ER20-1888, PJM submitted on behalf of AEP Appalachian Transmission Company, Inc.; AEP Indiana Michigan Transmission Company, Inc.; AEP Kentucky Transmission Company, Inc.; AEP Ohio Transmission Company, Inc.; and AEP West Virginia Transmission Company, Inc. (collectively, the AEP East Transmission Companies), revisions to the transmission formula rate set forth in PJM Tariff, Attachment H-20B in compliance with Order No. 864. The AEP East Transmission Companies requested an effective date of January 27, 2020.

On May 21, 2020, in Docket No. EL20-30, PJM submitted an Answer to the May 1, 2020 Comments of Buckeye Power, Inc. and the May 1, 2020 Answer of American Electric Service Corporation in response to the March 6, 2020 Complaint filed by the Indiana Municipal Power Agency and the City of Lawrenceburg, Indiana. In its Answer, PJM states that it supports a stakeholder process to discuss clarifying tariff language

regarding station power on a prospective basis once the Commission resolves the jurisdictional debate between complainants and Lawrenceburg Power, LLC. PJM also argued that the Commission should reject any requested relief that results in unlawful changes to past rates or charges assessed by PJM under its tariffs.

On May 20, 2020, in Docket Nos. ER15-1387-007 and ER15-1344-008, PJM submitted a request for expedited consideration of the request for clarification filed by Linden VFT, LLC, comments submitted in support by Consolidated Edison Company of New York, Inc., and Requests for Rehearing filed in the captioned dockets regarding calculation and rebilling RTEP charges, including interest. PJM also notified the Commission that it will commence the reallocations by issuing monthly billing adjustments for each refund year approximately 90 days after May 20, 2020.

On May 20, 2020, in Docket No. ER20-1870, PJM submitted a request for an expedited, one-time, prospective waiver of the requirements of PJM Tariff, Attachment DD, section 5.10(e) to allow PJM to post an updated PJM Region Peak Load Forecast to reflect a substantial change (as a result of the current pandemic) in the economic forecast relied on by the load forecast. PJM asked that the Commission act on the filing by no later than June 15, 2020, and shorten the deadline for comments and intervention to 10 days, i.e. June 1, 2020.

On May 20, 2020, in Docket No. EO20030203 before the New Jersey Board of Public Utilities (BPU), PJM submitted comments into the BPU staff's Investigation of Resource Adequacy Alternatives proceeding. On May 18, 2020, in Docket No. ER20-1590, PJM submitted an answer in response to the protest of the Independent Market Monitor for PJM dated May 8, 2020 regarding PJM's proposed load management testing PJM Tariff?? and PJM Operating Agreement?? revisions.

On May 18, 2020, in Docket No. EL18-183, PJM and Commonwealth Edison Company filed a joint request for rehearing of one aspect of the Commission's April 16, 2020 order in the paper hearing complaint proceeding, i.e., the directive to rebill Incremental Capacity Transfer Rights for the 2019-2020 Delivery Year.

On May 18, 2020, in Docket No. ER18-680-002, PJM submitted a request for expedited consideration of the requests for rehearing and clarification filed by Hudson Transmission Partners, LLC, New York Power Authority (collectively, "HTP") and Linden VFT, LLC concerning calculating and rebilling RTEP charges. PJM also notified the Commission that it will commencebegin to rebill the reallocations by issuing monthly billing adjustments for each refund year approximately 90 days after May 18, 2020.

On May 15, 2020, in Docket No. ER20-1829, PJM submitted on behalf of Trans-Allegheny Interstate Line Company (TrAILCo) revisions to the transmission formula rate set forth in PJM Tariff, Attachment H-18A in compliance with Order No. 864. TrAILCo requested an effective date of January 27, 2020.

On May 15, 2020, in Docket No. ER20-1832, PJM submitted on behalf of Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc. (together, DEOK) revisions to the transmission formula rate set forth in PJM Tariff, Attachment H-22A in compliance with Order No. 864. DEOK requested an effective date of January 27, 2020.

On May 15, 2020, in Docket No. ER20-1830, PJM submitted on behalf of Duquesne Light Company (Duquesne) revisions to the transmission formula rate set forth in PJM Tariff, Attachment H-17A in compliance with Order No. 864. Duquesne requested an effective date of January 27, 2020.

On May 15, 2020, in Docket No. ER20-1831, PJM submitted on behalf of UGI Utilities, Inc. (UGI) revisions to the transmission formula rate set forth in PJM Tariff, Attachment H-8C in compliance with Order No. 864. UGI requested an effective date of January 27, 2020.

On May 14, 2020, in Docket No. ER20-1805, PJM submitted comments in response to the request for expedited waiver of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company pertaining to the requirement to test Demand Resources for the 2019/2020 Delivery Year.

On May 13, 2020, in Docket No. ER20-1451, PJM filed a limited answer to comments submitted in response to its March 31, 2020 filing proposing changes to the PJM Tariff and PJM Operating Agreement to enhance rules for managing credit risk posed by entities seeking to participate or participating in the PJM Markets.