



**MC Legal Report**  
**Summary of Significant Filings, Legal Activity**  
**and**  
**Federal Energy Regulatory Commission (Commission) and Court Orders**  
**(April 10, 2021 – June 7, 2021)**

**ORDERS**

**On June 1, 2021**, the Commission issued a notice denying by operation of law the request for rehearing filed by the Independent Market Monitor regarding **Panda Stonewall LLC**. (ER17-1821-005)

**On May 28, 2021**, the Commission rejected PJM's filing on the use of **Real Time Values**, finding it does not sufficiently contain protections to avoid market power. (ER21-1591)

**On May 27, 2021**, the Commission issued an order **authorizing the issuance of securities** requested by PJM in its Application filed on April 29, 2021 under section 204 of the FPA requesting an order authorizing the issuance of securities in an aggregate principal amount not to exceed \$200 million by no later than May 29, 2021. The Commission's authorization is **effective as of June 1, 2021**. (ES21-42)

**On May 25, 2021**, the Commission granted PJM's motion to hold the paper hearing regarding capacity capability rules for all resources in abeyance, until the Commission rules on PJM's revised Effective Load Carrying Capability (**ELCC**) proposal, which was submitted on **June 1, 2021**. (EL19-100 and ER20-584)

**On May, 21, 2021**, the Commission issued a deficiency letter to PJM's proposed revisions to Tariff, Schedule 6A to clarify the operational requirements for Black Start Units, and provide for transparency and annual updates to the Capital Recovery Factor (**CRF**) **component of Black Start Service** payments for units that require new or additional capital investment, and a commitment period for Black Start Units electing to recover new or additional Black Start Capital Costs based on the life of the Black Start Equipment. The response to the deficiency letter is due **June 11, 2021**. (ER21-1635)

**On May 20, 2021**, the Commission rejected PJM's April 18, 2017 compliance filing proposing Tariff and OA revisions to implement modifications to the **FTR forfeiture rule**, finding a component of the proposed FTR forfeiture rule trigger mechanism, informally known as the "penny test," to be unjust and unreasonable, and finding that PJM implemented a version of the FTR forfeiture rule (inclusive of the penny test) prematurely. The Commission directed PJM to submit a compliance filing by **July 19, 2021**, proposing a new trigger threshold or mechanism and including information regarding potential refunds. The Commission also rejected as moot an April 8, 2020 complaint filed by **XO Energy LLC** relating to PJM's application of the FTR forfeiture rule. (ER17-1433-001 and EL20-41)



**On May 20, 2021**, the Commission accepted PJM's remaining Tariff and OA revisions in the **fast-start pricing** compliance proceeding. The Commission set the effective date for implementation of fast-start pricing as July 1, 2021. On **June 7, 2021**, PJM filed a motion for extension of effective date, requesting to change the effective date from July 1, 2021 to September 1, 2021. (ER19-2722-003)

**On May 14, 2021**, the Commission granted, in part, and denied, in part, a Complaint filed by Jackson Generation, LLC (**Jackson Complaint**) against PJM. In the order, the Commission agreed with PJM that sunk costs may not be excluded in a unit-specific MOPR floor price determination and agreed with Jackson that the asset life may be greater than 20 years in a unit-specific MOPR floor price determination. (EL21-62)

**On May 14, 2021**, the Commission accepted the filing by PJM of proposed revisions to Tariff, Schedule 12, to incorporate cost responsibility assignments for 69 baseline upgrades included in the recent update to the **RTEP** approved by the Board on February 10, 2021. The proposed revisions become effective as of **June 10, 2021**. (ER21-1364)

**On May 12, 2021**, the Commission granted an extension of time to file reply briefs to the PJM filing on May 3, 2021, proposing a replacement rate for the default Market Seller Offer Cap (**MSOC**). PJM's proposed replacement MSOC is based off the recently accepted offer cap used in ISO New England. The extension will allow stakeholders and the Commission time to review the results of the 2022/2023 PJM Base Residual Auction, which are scheduled to be released on **June 2, 2021**. The due date to file reply briefs is **June 9, 2021**. (EL19-47 and EL19-63)

**On May 5, 2021**, the Commission accepted PJM's proposed revisions to the OA, Schedule 12 and the RAA, Schedule 17, to reflect the permanent termination of Entrust Energy East, Inc. (**Entrust**) as a PJM Member, because Entrust failed to make payments when due twice during a 12 month period. The revisions are effective as of May 12, 2021. (ER21-1341)

**On April 30, 2021**, the Commission issued an order rejecting PJM's proposed revisions to the Tariff and OA to create and implement an Effective Load Carrying Capability (**ELCC**) construct for determining the relative amount of capacity that variable, limited duration, and combination resources may offer in PJM's capacity market or provide in a Fixed Resource Requirement (FRR) capacity plan. The Commission's April 30, 2021 order lifts the abeyance of the paper hearing in Docket No. EL19-100 and ER20-584, with PJM's initial brief due June 1, 2021. The Commission specified that, in the event that PJM wishes to file a revised ELCC proposal pursuant to FPA section 205 on or before **June 1, 2021**, then PJM may move to hold the paper hearing in abeyance, and must, in that event, file such motion on or before **May 14, 2021**. PJM has filed its motion, and submitted a new FPA section 205 filing on **June 1, 2021**. (ER21-278-001)

**On April 28, 2021**, the Commission issued an order accepting PJM's proposed revisions to the PJM Tariff to incorporate surety bonds as an acceptable form of Collateral, subject to PJM submitting a compliance filing to incorporate a detailed description of the required provisions of an acceptable surety bond into



Tariff, Attachment Q, section V.D, effective May 1, 2021 as requested. The compliance filing is due **May 28, 2021**. (ER21-1211)

**On April 27, 2021**, the Commission issued an order accepting in part and rejecting in part revisions to PJM's station power Tariff provisions in PJM's November 23, 2020 compliance filing in Docket No. EL20-56-000. PJM submitted its November 23, 2020 filing in compliance with the Commission's September 17, 2020 Order addressing a complaint and petition for declaratory order on the station power provisions. In the April 27, 2021 order, the Commission rejected nearly all the protests and accepted mostly all PJM's proposed revisions to the PJM Tariff and PJM Operating Agreement. However, the Commission rejected the language PJM included regarding simultaneous self-supply between two plants owned by the same entity "as it reinjects ambiguity regarding the provision of station power into PJM's Tariff." The Commission directed PJM to submit a compliance filing to remove the language within 30 days of the order. (EL20-56 and ER21-460)

**On April 21, 2021**, the Commission issued a Notice Inviting Post-Technical Conference Comments seeking comments on questions concerning RTO/ISO credit principles and practices. (AD21-6; AD20-6)

**On April 15, 2021**, the Commission issued an order addressing arguments GreenHat Energy, LLC (GreenHat) raised in its December 18, 2020 request for rehearing of the Commission's November 19, 2020 order granting in part Shell Energy North America's (Shell) petition for declaratory order related to disputes between Shell and GreenHat regarding bilateral transfers of Financial Transmission Rights under the PJM Tariff. The Commission modified its discussion, but came to the same conclusion in its November 19, 2020 order in which it determined that entry of data into FTR Center for bilateral trades does not automatically establish stand-alone bilateral contracts at the stated price, absent a separate agreement by the parties to the bilateral trades to do so, and declined to assert primary jurisdiction to resolve the dispute under Texas law as to whether Shell and GreenHat entered into separate contracts that Shell would make payments based on entries in the FTR Center. (EL20-49-001)



## **FILINGS**

**On June 7, 2021**, PJM submitted a motion for extension of effective date requesting to extend the effective date of the revisions to the PJM Tariff and the Operating Agreement relating to fast-start pricing practices in PJM, from July 1, 2021 to September 1, 2021. (ER19-2722)

**On June 7, 2021**, the ISO/RTO Council filed comments and responses in reply to the United States Department of Energy's Notice of Request for Information on Ensuring the Continued Security of the United States Critical Electric Infrastructure published in the Federal Register on April 22, 2021. (AD21-6)

**On June 4, 2021**, PJM filed a motion for an extension of time, from June 17, 2021 until June 28, 2021, to answer the Complaint filed by Illinois Municipal Electric Agency (IMEA) against PJM alleging that PJM's reduction of Incremental Capacity Transfer Rights (**ICTR**) allocated to IMEA for the 2021/2022 Delivery Year and future Delivery Years violates the Tariff and IMEA's Upgrade Construction Service Agreement. PJM also requested that the Commission: (i) shorten the ordinary fifteen-day period for answers to this motion to 4 days, i.e., Tuesday, June 8, 2021; and (ii) issue an order as soon as practicable thereafter but no later than Friday, June 11, 2021. (EL21-79)

**On June 4, 2021**, PJM submitted its fourth informational filing to allow **Panda Stonewall** to continue to participate in the PJM Markets, as required by the Commission's order issued February 5, 2021. (ER21-972)

**On June 4, 2021**, PJM submitted revisions to OA, section 1 and Tariff, Attachment K, to remove provisions that allow an entity to "**buy-through**" PJM congestion for certain interchange transactions that PJM would have otherwise curtailed by implementing the transmission loading relief (TLR) procedures. PJM requested an effective date of August 5, 2021 for the revisions. (ER21-2079)

**On June 1, 2021**, PJM submitted a revised FPA section 205 filing to establish an Effective Load Carrying Capability (**ELCC**) construct for determining the relative amount of capacity that variable, limited duration, and combination resources may offer in PJM's capacity market (known as the Reliability Pricing Model or RPM) or provide in a Fixed Resource Requirement (FRR) capacity plan. This revised proposal, among other things, removed the "transition" or "floor" mechanism that the Commission found objectionable when it rejected PJM's initial ELCC filing on April 30, 2021. PJM requested an effective date of August 1, 2021. (ER21-2043)

**On June 1-2, 2021**, the dates the Commission hosted a **technical conference to discuss climate change, extreme weather, and electric system reliability**. On **May 28, 2021**, PJM submitted a written statement in advance of the conference. (AD21-13)



**On May 28, 2021**, PJM submitted revisions to the Tariff in compliance with the April 28, 2021 order, to incorporate additional details regarding the required provisions of an acceptable **surety bond**. PJM requested an effective date of May 1, 2021. (ER21-1211-001)

**On May 28, 2021**, Illinois Municipal Electric Agency (**IMEA**) filed a complaint against PJM alleging that PJM's reduction of Incremental Capacity Transfer Rights (**ICTR**) allocated to IMEA for the 2021/2022 Delivery Year and future Delivery Years violates the Tariff and IMEA's Upgrade Construction Service Agreement. The due date for answers and comments is **June 17, 2021**. On June 4, 2021, PJM filed a request for extension to answer on **June 28, 2021**. (EL21-79)

**On May 27, 2021**, PJM submitted revisions to the Tariff and PJM OA pertaining to **Station Power service**, as directed by the Commission in an April 27, 2021 order to remove a provision related to self-supply between commonly owned generators. As directed, PJM is requesting an effective date of September 23, 2020. (EL20-56 & ER21-460-001)

**On May 25, 2021**, the Commission hosted a **technical conference on Modernizing Electricity Market Design**. (AD21-10)

**On May 24, 2021**, PJM filed an answer to the May 18, 2021 Motion for Leave to Answer and Answer of Kumquat & Citron Cleantech, LLC (K&C Cleantech), arguing that **K&C Cleantech** had not justified its request for waiver of certain study deposit requirements under the PJM Tariff. (ER21-1787)

**On May 24, 2021**, PJM submitted proposed revisions to Tariff, Schedule 12 to incorporate cost responsibility assignments for 66 baseline upgrades included in the recent update to the Regional Transmission Expansion Plan (**RTEP**) approved by the board on April 22, 2021. PJM requested an effective date of August 22, 2021. On May 26, 2021, the Commission issued a notice extending the due date for interested parties to comment to June 14, 2021. (ER21-1987)

**On May 24, 2021**, PJM filed a protest in response to the May 3, 2021 Petition for Limited Waiver and Request for Shortened Comment Period and Expedited Commission Approval by **SunEnergy1, LLC**, seeking waiver of certain study-related Tariff deadlines, on the basis that the waiver request was not justified and also includes a correction to an earlier version of the filing. (ER21-1832)

**On May 21, 2021**, PJM submitted comments on Panda Stonewall LLC's (**Panda**) compliance filing and related supplement recalculating its reactive services rate schedule under Tariff, Schedule 2. PJM supported Panda's compliance proposal as just and reasonable, but requested that the Commission expressly condition approval of the proposal on the following: (1) in the event that Panda does not fulfill its refund obligations, PJM will automatically cease payment to Panda for Reactive Services and terminate Panda's Schedule 2 revenue requirement; and (2) Panda will not attempt to discharge its refund obligation in bankruptcy while the refund obligation is outstanding. (ER17-1821-004)



**On May 21, 2021**, PJM filed a Motion for Leave to Answer, Clarification, and Answer in response to pleadings filed in response to PJM's April 7, 2021 filing (**Black Start Filing**) of revisions to Tariff, Schedule 6A and PJM's May 13, 2021 answer filed in this proceeding. PJM submitted this Clarification and Answer: (1) to address a request for clarification of the Black Start Filing by Buckeye Power, Inc. (Buckeye); (2) to provide new information concerning when replacement Black Start Service will be needed due to retirement of certain generating units from Black Start Service, but stress that, nevertheless, time continues to be of the essence; and (3) to rebut the Joint Consumer Advocates' arguments for hearing and settlement judge procedures. (ER21-1635)

**On May 17, 2021**, PJM submitted proposed revisions to the Tariff and OA to effectuate the "**long-term**" reforms to PJM's dispatch and pricing practices. The "long-term" reforms represent the last of three distinct sets of reforms—"short-term," "intermediate-term," and "long-term"—identified by PJM, the IMM, and PJM stakeholders to enhance the means by which PJM dispatches and prices resources in its footprint. PJM requested an effective date of November 1, 2021. (ER21-1919)

**On May 17, 2021**, PJM submitted a one-time informational filing providing an update to the Commission on the status of its "long-term" dispatch and pricing reforms, as required by the Commission's December 17, 2020 order on **PJM's fast-start** compliance filing. The filing referenced PJM's FPA section 205 filing made on May 17, 2021 in Docket No. ER21-1919-000, which proposed Tariff and OA revisions to effectuate the "long-term" reforms to PJM's dispatch and pricing practices. (ER19-2722)

**On May 14, 2021**, PJM submitted a motion requesting that the Commission hold the paper hearing in those proceedings in abeyance so that PJM may submit a revised Effective Load Carrying Capability (**ELCC**) construct on or before **June 1, 2021**, in accordance with the Commission's specifications in its April 30, 2021 Order rejecting PJM's first ELCC FPA section 205 filing in Docket No. ER21-278. On **June 1, 2021**, PJM submitted its revised ELCC FPA section 205 filing in Docket No. ER21-2043. (ER20-584 and ER19-100)

**On May 13, 2021**, PJM filed an answer to the protest filed in response to PJM's April 7, 2021 filing of revisions to Schedule 6A of the Tariff. This proceeding relates to revisions to clarify and rationalize the requirements for Black Start Units, and provide for transparency and annual updates to the Capital Recovery Factor (**CRF**) component of **Black Start** payments for units that require new or additional capital investment and commence Black Start Service after the effective date of the Black Start filing. (ER21-1635)

**On May 12, 2021**, PJM submitted an answer in response to the complaint from LS Power Development, LLC and Doswell Limited Partnership, claiming that PJM erroneously approved a Fixed Resource Requirement (**LS Complaint on FRR**) Capacity Plan that covered one Delivery Year of a FRR election in alleged contravention of the rules contained in the Reliability Assurance Agreement. PJM asked that the



Commission deny the Complaint on the grounds that (1) PJM's approval of one-year FRR Capacity Plans is consistent with both the language and intent of PJM's RAA and Manual and (2) it would not be practical or reasonable to require a five-year FRR Capacity Plan given the timing with which certain parameters are determined that define an FRR Entity's obligations. (EL21-72)

**On May 11, 2021**, PJM submitted an informational filing on the status of its efforts, in collaboration with its stakeholders, to improve the Tariff, Part IV, Subpart A interconnection deficiency review deadline requirements to allow PJM additional time to meet those deadlines in light of the extremely large number of **New Service Requests** PJM has received in recent queue windows and expects to continue to receive at the end of New Services Queues for the foreseeable future. (ER21-1016)

**On May 10, 2021**, PJM submitted an informational filing describing the status and target schedule of its **Order No. 2222** stakeholder process, as required by the Commission's April 9, 2021 Order extending the due date of PJM's Order No. 2222 compliance filing from July 19, 2021 to **February 1, 2022**. (RM18-9)

**On May 10, 2021**, PJM submitted post-technical conference comments in response to the Commission's **Off Shore Wind Technical Conference** held October 27, 2020. PJM addressed the following broad topics covered in the Notice: (i) opportunities to improve the interconnection procedures for OSW generation; (ii) incorporating state policies into RTO/ISO transmission planning and interconnection processes; (iii) quantifying the potential benefits of planned transmission solutions for OSW integration; and (iv) dedicated transmission planning processes for OSW integration. (AD20-18)

**On May 10, 2021**, PJM filed a protest in response to an April 28, 2021 **Waiver Request and Alternative Request for Affirmative Relief** filed by Kumquat & Citron Cleantech, LLC, which seeks waiver of certain study deposit requirements, on the basis that the Waiver Request was not justified. (ER21-1787)

**On May 7, 2021**, PJM submitted comments supporting the Commission's efforts to promote greater public participation and greater representation in proceedings before the Commission through the Office of Public Participation (**OPP**). PJM's comments also suggest potential design criteria for a Commission program that would provide compensation for reasonable attorney's fees, expert witness fees, and other costs when requested by intervening litigants in significant matters before the Commission. (AD21-9)

**On May 5, 2021**, PJM submitted the third informational filing to provide the Commission with additional information regarding **Panda Stonewall**, LLC's progress toward satisfying PJM's January 21, 2021 Collateral Call. (ER21-972)

**On May 4, 2021**, PJM filed proposed revisions to Tariff, Attachment DD, to modify determination of the Capital Recovery Factor (**CRF**) component of the **Avoidable Project Investment Recovery Rate**, on a prospective basis only, to update the CRF for each Reliability Pricing Model auction. PJM requested that the Commission accept the proposed revisions effective July 2, 2021, and requested waiver of the Commission's 60-day notice requirement to accommodate the requested effective date. (ER21-1844)



**On May 3, 2021**, PJM filed on behalf of the ISO/RTO Council a motion for a 30-day extension of time for all parties to submit comments relating to the Supplemental Notice that introduces a new Transmission Organization Incentive (**RTO Adder**). As a result, initial comments are due **June 25, 2021**. Reply comments are due **July 26, 2021**. Panelist nominations are due by **May 21, 2021**. (RM20-10)

**On May 3, 2021**, PJM filed a brief proposing a replacement rate for the default **Market Seller Offer Cap (MSOC)**. PJM's proposed replacement MSOC is based off the recently accepted offer cap used in ISO New England. (ER19-47 and EL19-63)

**On April 30, 2021**, PJM filed revisions to Tariff, Attachment K-Appendix, and to the identical corresponding provision in the OA, Schedule 1, to effectuate the single rate component of a reform package related to PJM's process for generation **stability limits**. The Tariff and OA revisions limit the ability of a generation resource to seek lost opportunity cost credits when honoring a generation stability limit. PJM requested a June 1, 2022, effective date for the proposed revisions. (ER21-1802)

**On April 29, 2021**, PJM filed its Application under Section 204 for an order authorizing the incurrence of debt instruments in an aggregate principal amount of \$200 million. PJM requested a June 1, 2021 effective date for the Application. (ES21-42)

**On April 27, 2021**, PJM filed an answer to the April 22, 2021 Protest filed by the IMM regarding the proposed **Real Time Value Market Rules**. PJM's Answer reiterates that the proposed rules discourage market sellers from overusing Real Time Values and explains that referrals to the Commission for suspected market manipulation are the appropriate avenue for guarding against the misuse of Real Time Values. (ER21-1591)

**On April 27, 2021**, PJM filed an answer to the April 12, 2021 protest filed jointly by the Long Island Power Authority and Neptune Regional Transmission System, LLC (Protest), and the April 12, 2021 Comments filed by Exelon Corp. (Comments). The Protest and Comments were filed in response to PJM's March 22, 2021 Response to the Commission's February 18, 2021 Deficiency Letter, issued in response to PJM's December 23, 2020 filing to amend Schedule 12-Appendix and Schedule 12-Appendix A of the OATT to provide updated **Annual Cost Allocations** for Regional Facilities and Necessary Lower Voltage Facilities and Lower Voltage Facilities included in the PJM regional transmission expansion plan. (ER21-726-001)

**On April 26, 2021**, PJM filed post-technical conference comments on Resource Adequacy in the Evolving Electricity Sector related to MOPR. (AD21-10)

**On April 19, 2021**, PJM submitted the annual informational filing on penalties for unreserved use of the transmission system and late studies. (ER15-994)





**On April 16, 2021**, PJM submitted comments to the Motion for Adoption of a Protective Order by the **New England Power Pool** to urge FERC to avoid an overly broad ruling and indicate its intention to decide discovery disputes involving independent consultant data on a case-by-case basis. (ER21-1637)

**On April 15, 2021**, PJM filed initial comments in the proceeding in which the Commission will host a technical conference to address Climate Change, Extreme Weather and Electric System Reliability. The Technical Conference was held on **June 1-2, 2021**. (AD21-13)

**On April 13, 2021**, PJM submitted a Motion for Leave to Answer and Answer to several comments and protests filed on PJM's March 1, 2021 responses to the Commission's December 22, 2020 deficiency letter in the Effective Load Carrying Capability (**ELCC**) proceeding. (ER21-278)

**On April 12, 2021**, PJM submitted an answer in response to **Jackson** Generation, LLC's complaint against PJM regarding a unit-specific MOPR floor price determination. (EL21-62)

**On April 12, 2021**, PJM submitted an informational filing in compliance with the Commission's April 15, 2019 order. In this informational filing, PJM provided updated cost components (labor, equipment, and material costs) for the Reference Resource's Gross Cost of New Entry. (ER19-105-000 and ER19-105-001)