



MC Legal Report
Summary of Significant Filings, Legal Activity and
Federal Energy Regulatory Commission (Commission) and Court Orders
(October 7 – November 5, 2021)

ORDERS

On October 29, 2021, in Docket No. ER19-2105-003, the Commission issued an Order by the Chief Judge partially granting the PJM Transmission Owners' and the Merchant Transmission Facility Parties' October 21, 2021 motion requesting to suspend the procedural schedule in the **Border Rate** docket and to shorten the motion's answer period. Because a potentially comprehensive offer of settlement was filed on October 7, 2021 in this docket and the motion was unopposed, the abeyance ordered in this matter suspends all procedural dates and runs until the Presiding Judge issues a report or certification of settlement in this proceeding.

On October 25, 2021, in Docket No. ER21-2877-000, the Commission issued an order accepting PJM's compliance filing to revise certain pre-auction deadlines related to the **Market Seller Offer Cap**. In this order, the Commission also granted PJM's requested waiver to delay the upcoming BRA (and subsequent impacted BRAs) by 55 days.

On October 22, 2021, in Docket No. ER21-2771-000, the Commission issued a letter order accepting the PJM filing of revisions to Tariff, Attachment P (**Form of Interconnection Construction Service Agreement (ICSA)**) to (1) add language to Tariff, Attachment P, section 1 to account for circumstances when an ICSA supersedes an already-effective ICSA, and (2) restructure Tariff, Attachment P, Appendix 2, section 14.1.1 to clarify when ICSAs terminate upon completion of construction. The tariff revisions became effective as of October 26, 2021.

On October 22, 2021, in Docket No. ER21-2822-000, the Commission issued a letter order accepting the filing by Commonwealth Edison Co. of revisions/modifications to PJM Tariff, Attachment H-13 to include a **Wholesale Distribution Charge for battery storage operator Sterling Rail LLC**. The tariff revisions became effective as of September 3, 2021.

On October 20, 2021, in Docket No. ER21-1844-001, the Commission issued a letter order accepting PJM's compliance filing to the July 2, 2021 order making revisions to OATT, Att. DD, section 6.8(a) concerning updates to the **Capital Recovery Factor calculation**.

On October 20, 2021, in Docket No. ER21-2770-000, the Commission accepted PJM's filing of revisions to the Tariff to provide that requests for longer duration **Non-Firm Point-to-Point Transmission Service** will not preempt previously granted shorter duration Non-Firm PTP requests, effective October 25, 2021.

On October 20, 2021, in Docket No. ER21-2724-001, the Commission issued an Order accepting **PPL's Motion for Interim Rates**. The **interim Settlement Rates** shall remain in effect pending Commission consideration of the Settlement and will be subject to refund or surcharge, with interest, pending the outcome of the proceeding.

On October 7, 2021, in Docket No. ER21-2640-000, the Commission accepted PJM proposed revisions to PJM OA, Schedule 12 to reflect the termination of: (i) Ozark International, Inc.; and (ii) Krayn Wind, LLC (together referred to as the "Entities in Default"), as PJM Members in accordance with PJM OA, section 4.1 (c). PJM's determination to seek **termination of the Entities in Default** as PJM Members is the result of their PJM OA, section 11.3.1 (a) defaults following the Entities in Default's breach of their obligations to complete the 2020 Member recertification requirements listed in Manual 33, section 3.1.11. PJM requested an effective date of October 11, 2021 for the revisions.



FILINGS

On Oct. 29, 2021, in Docket No. EL21-78-000, PJM filed an answer to the Market Monitor's comments in response to FERC's June 17, 2021 order to show cause regarding the ability of Market Sellers to avoid being subject to **parameter-limited offers**. In this answer, PJM further explains that the existing rules requiring PJM to commit resources based on lowest total system production cost remains just and reasonable.

On November 2, 2021, in Docket No. ER22-324-000, PJM submitted for filing a **Notice of Cancellation of Network Integration Transmission Service Agreements** among PJM, PJM Settlement, Inc., and **Allegheny Electric Cooperative, Inc.** PJM requests a cancellation effective date of January 1, 2022.

On November 2, 2021, in Docket No. ER22-330-000, PJM submitted for filing a **Notice of Cancellation of Network Integration Transmission Service Agreement** among PJM, PJM Settlement, Inc., and **AEP Energy Partner, Inc.** PJM requests a cancellation effective date of January 1, 2022.

On October 22, 2021, in Docket No. EL21-103-000, PJM submitted an answer to a complaint filed by **SOO Green HVDC Link ProjectCo, LLC** (SOO Green). PJM argued that SOO Green had failed to satisfy its burden to demonstrate that the Tariff is unjust and unreasonable in applying PJM's **external capacity requirements** to all external resources, including SOO Green's proposed HVDC transmission line. PJM further argued that SOO Green's proposed alternative to the external capacity requirements is unduly discriminatory, would eliminate comparability among internal and external Capacity Resources, and would adversely affect PJM's ability to maintain reliability.

On October 22, 2021, in Docket No. ER21-2524-001, PJM filed an errata to PJM's July 27, 2021 compliance filing (July 27 Filing) to amend revisions to the PJM Tariff, section 4.2 submitted to comply with Order No. 676-I. In Order No. 676-I, the Commission amended its regulations to incorporate by reference, with certain exceptions, the **NAESB WEQ Version 003.2 Standards**. In this errata filing, PJM seeks align the PJM Tariff changes included in the July 27 Filing with the Commission's revisions to the regulatory text pursuant to an Errata Notice issued by the Commission on March 3, 2020. Also, PJM requests the effective date of the proposed Tariff revisions be changed from October 27, 2021, to an indeterminate effective date (12/31/9998) for the Tariff record.

On October 21, 2021, in Docket No. ER22-172-000 PJM filed proposed revisions to the PJM Tariff, section 7.3 to align **cure periods** applicable to Transmission Customer payment and credit defaults, with the parallel provisions in the PJM OA, section 15.1.5 applicable to PJM Member defaults. PJM requested an effective date of December 21, 2021 for the proposed revisions.

On October 21, 2021, in Docket No. ER16-561-000, PJM submitted an informational filing to provide the **2022 annual budget of the Consumer Advocates of PJM States, Inc.**

On October 18, 2021, in Docket No. ER22-135-000, PJM submitted proposed revisions to PJM Tariff, Schedule 12- to incorporate cost responsibility assignments for 25 **baseline upgrades** included in the recent update to the Regional Transmission Expansion Plan approved by the PJM Board of Managers on September 22, 2021. PJM requested an effective date of January 16, 2022, which is 90 days after the date of this filing to allow a 30 day comment period.

On October 14, 2021, in Docket No. ER13-198-008, PJM submitted an answer to a motion to reject and protest filed in response to PJM's September 1, 2021 updated compliance filing to clarify its response to the Commission's Order No. 1000 compliance directives regarding the **Designated Entity Agreement**.



On October 14, 2021, in Docket Nos. EL19-47-002, EL19-63-002, and ER21-2444-001, PJM filed an Answer to the Market Monitor's Motion for Clarification to explain that the existing **unit-specific Market Seller Offer Cap rules** allow Capacity Market Sellers of resources located in Pennsylvania to include emission **allowance** costs associated with RGGI when calculating the Net ACR value for the upcoming Base Residual Auction.

On October 12, 2021, in Docket No. EL21-91-000, PJM filed a response to the Commission's August 10, 2021 order on PJM's filing in Docket No. ER21-1636-000, which instituted a show cause proceeding under section 206 of the Federal Power Act (the "Show Cause Order") to determine whether the existing rates in PJM's Tariff for generating units providing Black Start Service remain just and reasonable. In compliance with the Show Cause Order, PJM's response demonstrates why the **Black Start payment provisions** of its Tariff remain just and reasonable and not unduly discriminatory or preferential.

On October 12, 2021, in Docket No. RM21-17-000, PJM submitted Initial Comments to the Commission's July 15, 2021 Advance Notice of Proposed Rulemaking (**ANOPR**) considering the potential need for reforms or revisions to existing regulations to improve the electric regional transmission planning and cost allocation and generator interconnection processes and inviting comments on the potential reforms and responses to the specific questions posed in the ANOPR.

On October 8, 2021, in Docket No. ER21-1635-002, PJM filed reply comments to comments filed by the Independent Market Monitor for PJM in response to PJM's September 9, 2021 compliance filing in the proceeding to revise the PJM Open Access Transmission Tariff, Schedule 6A addressing the requirements and rates for units providing **Black Start Service**.

On October 8, 2021, in Docket No. ER19-2105-005, PJM submitted comments to the **Offer of Settlement** filed by the Settling Parties on October 7, 2021. PJM's **Border Rate** comments are intended to provide context for its support of the Offer of Settlement.

On October 8, 2021, in Docket No. ER21-2774-001, PJM submitted an **amendment** to its August 26, 2021 filing of Tariff revisions to revise cost allocation responsibility for certain baseline upgrades included in the update to the **Regional Transmission Expansion Plan** approved by the PJM Board of Managers on July 29, 2021 (August 26 Filing). The amendment seeks to **correct an error in the upgrade description for baseline upgrade b3317**. PJM requested an effective date of November 24, 2021, which is consistent with the effective date requested in the August 26 Filing.

On October 7, 2021, in Docket No. ER19-2105-005, PJM submitted, on behalf of settling parties, a settlement agreement that resolves comprehensively all issues set for hearing regarding the rate for Point-to-Point transmission service at the Border of PJM for delivery to neighboring regions (**Border Rate**). The Border Rate settlement includes revisions to Tariff, Schedule 7, to be implemented effective January 1, 2020.