



**MC Legal Report**  
**Summary of Significant Filings, Legal Activity**  
**and**  
**Federal Energy Regulatory Commission (Commission) and Court Orders**  
**(November 7, 2020 – December 3, 2020)**

**ORDERS**

**On December 2, 2020**, the Commission issued an Order in the *Radford's Run Wind Farm L.L.C. v. PJM* complaint proceeding, Addressing Agreements Raised on Rehearing, Setting Aside Prior Order, In Part, and Directing Compliance (Order). In the Order, FERC grants rehearing to set aside the instruction that PJM resettle payments for Incremental Capacity Transfer Rights (ICTRs) resulting from the 2016 Base Residual Auction with a 2019/2020 Delivery Year and to rebill affected entities for that period. However, FERC directs PJM on compliance to explain and support its position on 2019/20 resettlement, including why a 2015 System Impact Study would not have been enough to make Radford's Run Wind Farm LLC "obligated to fund" ICTRs for purposes of the 2016 BRA. (EL18-183-001) (SP)

**On December 1, 2020**, the Commission issued an order accepting PJM's filing to permanently terminate ENERGIA Y SERVICIOS DEL ISTMO CENTROAMERICANO, S.A. DE C.V INC's (ENERGIA) PJM membership for payment defaults in accordance with Operating Agreement, section 15.1.6 (c) and 4.1(c). The Operating Agreement revisions to remove ENERGIA from the Schedule 12 Member list is effective as of December 16, 2020, as requested. (ER20-127) (SP)

**On November 23, 2020**, the Commission issued an order accepting filed revisions to the Tariff to permit PJM in limited circumstances to calculate Peak Market Activity to account for shifts in certain charges pursuant to "local, state or federal law." These revisions are in Attachment Q and relate solely to credit calculations for purposes of determining the credit/collateral required of a Market Participant. (ER20-2990) (Jess T)

**On November 19, 2020**, the Commission issued an order granting in part Shell Energy North America's (Shell) petition for declaratory order related to disputes between Shell and GreenHat Energy, LLC (GreenHat) regarding bilateral transfers of Financial Transmission Rights under the PJM Tariff. The Commission 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. The Commission, however, 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) (JH)

**On November 19, 2020**, the Commission issued a procedural (non-substantive) order denying several requests for rehearing of Order No. 2222, which directed RTOs to revise their tariffs to remove barriers to the participation of distributed energy resource aggregations. While the Commission will likely issue a substantive order in the future, parties who requested rehearing may now file petitions for review of Order No. 2222 with a federal appeals court. (RM18-9) (TD)

**On November 12, 2020**, the Commission issued an order accepting PJM's compliance filings submitted in accordance with the Commission's May 21, 2020 order regarding enhancements to price formation in PJM's Reserve Markets, as well as a forward-looking methodology for the energy and ancillary services offset in PJM's capacity market. The effective date for the revisions relating to implementation of reserve pricing is May 1, 2022, while the revisions relating to the energy and ancillary services offset is effective November 12,

2020. (EL19-58-002 and EL19-58-003) (TD & CL)

## FILINGS

**On December 1, 2020**, PJM submitted, consistent with the PJM Open Access Transmission Tariff, Schedule 7, section 11(E), its 2021 Informational Filing together with the 2021 Border Yearly Charge (BYC) Workbook as part of the annual updating process for the BYC. (ER19-2105) (PF)

**On November 30, 2020**, PJM submitted revisions to PJM Open Access Transmission Tariff (Tariff), Attachment Q; Tariff, Attachment K-Appendix, section 7.3, and the identical provisions of Amended and Restated Operating Agreement of PJM (Operating Agreement), Schedule 1, section 7.3; and Operating Agreement, section 15.1 to modify PJM's process for addressing the Financial Transmission Rights positions of a PJM Member that defaults on its payment obligations in the PJM Markets. PJM asks the Federal Energy Regulatory Commission to issue an order accepting its proposal by no later than January 29, 2021, with an effective date of February 1, 2021. (ER21-520) (JH)

**On November 25, 2020**, PJM submitted an informational filing in compliance with the Commission's directive in the June 9, 2015 Order to provide the Commission with information regarding the average net capacity revenues for groups of Capacity Performance Resources with varying levels of performance during Performance Assessment Intervals under (i) the actual Non-Performance Charge rate based on 360 intervals and (ii) higher and lower alternative Non-Performance Charge rates based on less than and greater than 360 intervals. (ER15-623 and EL15-29) (CL)

**On November 25, 2020**, PJM filed a Motion for Leave to Answer and Answer to request for clarification submitted by the New Jersey Board of Public Utilities on November 16, 2020. (EL16-49-005, EL18-1314-009 and EL18-178-005) (CL)

**On November 24, 2020**, PJM filed a motion for leave to answer and answer to the Comments of the Independent Market Monitor, in the proceeding initiated by PJM's October 20, 2020 Federal Power Act section 205 filing proposing clarifying revisions to PJM's economic planning process in the PJM Tariff, Attachment DD, section 15 and the PJM Operating Agreement, Schedule 6, section 1.5.7. (ER21-162) (MS)

**On November 24, 2020**, PJM submitted a compliance filing in accordance with the Commission's November 12, 2020 order on the forward looking energy and ancillary services offset. In this filing, PJM proposed revisions to Tariff, Attachment DD, section 5.14 to update the methodology for modeling energy revenues of nuclear resources. PJM requests a November 12, 2020 effective date. (EL19-58-004) (CL)

**On November 23, 2020**, PJM filed comments to the Commission's issued Notice of Inquiry for Equipment and Services Produced or Provided by Certain Entities Identified as Risks to National Security - Risks to Bulk Electricity CIP. (RM20-19) (JB)

**On November 23, 2020**, PJM submitted revisions to the PJM Tariff and PJM Operating Agreement pertaining to Station Power service, as directed by the Commission in a September 17, 2020 Order addressing a complaint and petition for declaratory order on the Station Power provisions, and opening an investigation under Federal Power Act, section 206. As directed, PJM is requesting an effective date of September 23, 2020. (EL20-56 & ER21-460) (JB)

**On November 19, 2020**, PJM filed comments in support of LS Power Development, LLC's (LS Power) waiver request filed on November 12, 2020 (Waiver Request). In the Waiver Request, LS Power seeks waiver of certain requirements of the PJM Open Access Transmission Tariff (Tariff) and the PJM Reliability Assurance

Agreement (RAA) related to the calculation of the equivalent demand forced outage rate (EFORd). The requested relief is identical to that recently granted to Virginia Electric and Power Company d/b/a Dominion Energy Virginia with respect to COVID-19 pandemic-related delays in returning certain generation facilities from outages. LS Power requests the Commission issue its order by November 27, 2020. (ER21-404) (SP)

**On November 18, 2020**, PJM submitted an errata to the pending filing pertaining to revisions to the Operating Agreement, section 18.17.6 to allow Transmission Owners to have access to real-time operational data, in graphical format through reliability or situational awareness software tools. The errata corrects an administrative error to the transmittal filing letter. (ER21-428) (Jess T)

**On November 17, 2020**, PJM filed revisions to the Operating Agreement, section 18.17.6 to allow Transmission Owners to have access to real-time operational data, in graphical format through reliability or situational awareness software tools. This additional access will provide the Transmission Owners with geospatial situational awareness to better understand real-time issues, in support of reliability operations. PJM also filed revisions to the Operating Agreement, section 18.17.7 to address three typographical errors to avoid confusion and ambiguity. (ER21-428) (Jess T)

**On November 16, 2020**, PJM submitted comments to the Commission's proposed policy statement on incorporating a state-determined carbon price into the wholesale electricity markets. (AD20-14) (CL)

**On November 13, 2020**, PJM submitted, in accordance with the Commission's October 15, 2020 order on compliance and addressing arguments on rehearing, a compliance filing concerning the Minimum Offer Price Rule as it will be applied to Capacity Resources with State Subsidies. (EL16-49, ER18-1314, and EL18-178) (CL)