



MC Legal Report
Summary of Significant Filings
and
Federal Energy Regulatory Commission (“Commission”) Orders
(July 17, 2017 – September 17, 2017)

COMMISSION ORDERS

On August 4, 2017, in Docket No. ER17-1834-000, the Commission issued an Order accepting the clean-up to the PJM Tariff, Schedule 12 – Appendix A for the Pennsylvania Electric Company, American Transmission Systems, Inc., and Virginia Electric and Power Company (VEPC) Zones to (i) historically correct and incorporate revisions previously accepted by the Commission as a result of overlapping filings and suspension of the effective dates for certain tariff records; and (ii) propose revising Schedule 12 – Appendix A to adjust the cost allocation for baseline upgrade b2729 to equal 100 percent, instead of 101 percent. The revisions are effective consistent with the effective dates requested and accepted by the Commission in the respective dockets.

On August 22, 2017, in Docket No. IN15-5-000, the Commission issued an Order approving the stipulation and consent agreement between the Commission’s Office of Enforcement, City Power Marketing, LLC (City Power) and K. Stephen Tsingas (Tsingas). The stipulation and consent agreement resolves the Commission’s claims against City Power and Tsingas for violations of section 222 of the Federal Power Act, the Commission’s Anti-Manipulation Rule, the Commission’s rule requiring truthful communications with (among others) the Commission and the Commission’s action captioned FERC v. City Power in the U.S. District Court for the District of Columbia. Pursuant to the agreement, Tsingas shall make a payment totaling \$2,720,000, consisting of \$1,300,000 to be disgorged to PJM and a penalty of \$1,420,000 payable to the U.S. Treasury; City Power was assessed a civil penalty payment of \$9,000,000 payable to the U.S. Treasury. Tsingas, and any person acting on his behalf during the period of this trading prohibition, shall be banned from engaging or participating (whether through consulting, advising, directing, or strategizing), directly or indirectly, in any trading transaction (whether physical or financial or virtual) within the Commission’s jurisdiction for three years from March 30, 2017.

On August 25, 2017, in Docket No. ER17-2066-000, the Commission issued an Order accepting two executed System Modification Reimbursement Agreements for Pseudo-Tie into the PJM Region Nos. 4751 and 4752 (PTR Agreements) between PJM and Southern Power Company (SPC). PJM submitted the PTR Agreements because PJM intends to charge SPC for its costs to perform studies of its models and other systems necessary to provide SPC with an estimate of the cost to effectuate a request to Pseudo-Tie its Rowan Unit 2 and Cleveland Unit 4 generating units into the PJM Region. The PTR Agreements are effective July 8, 2017, as requested.

COMMISSION FILINGS

On July 19, 2017, in Docket No. EL17-75-000, PJM submitted comments in response to the June 2, 2017 Petition for Declaratory Order of Advanced Energy Economy. PJM requests that the Commission clarify the role, if any, of states relative to retail customers that participate, either directly or indirectly, as supply side Energy Efficiency Resources in the PJM Capacity Market, as well as the role of the Kentucky Public Service Commission in regulating retail customer participation as Energy Efficiency Resources in PJM.

On July 31, 2017, in Docket No. ER16-372-005, PJM submitted amended language to its March 6, 2017 Compliance Filing. PJM submitted the proposed revisions to the PJM Tariff and the PJM Operating Agreement because after the submittal of the March 6 Compliance Filing, PJM staff realized that the proposed revisions are necessary to more accurately describe 1) how PJM intends to implement hourly offers, and 2) the calculation of its proposed penalty for Market Sellers that do not follow the applicable provisions of PJM Operating Agreement, Schedule 2 and PJM-approved Fuel Cost Policies.

On July 31, 2017, PJM submitted an Answer in response to the Sierra Club's Motion to Intervene and Petition for Rehearing of Order No. 202-17-2 issued on June 16, 2017 by the Secretary of Energy ("Secretary"). In the Order, the Secretary directs PJM to operate Dominion's Yorktown Units 1 and 2 as needed to maintain grid reliability on the Virginia Peninsula during certain peak periods until construction of certain transmission upgrades are completed.

On July 31, 2017, in Docket No. ER17-2191-000, PJM submitted amendments to PJM Operating Agreement, Schedule 12, and PJM RAA, Schedule 17, to update those lists to include new members, delete withdrawing members, reflect updates to the list of signatories to the PJM RAA, and reflect member corporate name changes. PJM requested an effective date of June 30, 2017 for these amendments.

On August 1, 2017, in Docket No. ER17-2218-000, PJM submitted proposed revisions to the PJM-MISO JOA to improve the administration and coordination of Pseudo-Ties between MISO and PJM by incorporating into the JOA standard definitions, rules, and responsibilities between the MISO and PJM. PJM requested an effective date of October 1, 2017 for these proposed revisions.

On August 2, 2017, in Docket No. ER17-2232-000, PJM submitted proposed revisions to the PJM Tariff, Part IV to (1) allocate upgrade costs to requests for transmission service in the same manner as all other projects in a queue; (2) eliminate the alternate queue process, and (3) eliminate the separate cost allocation process for projects less than \$5 million dollars. PJM requested the revisions become effective October 1, 2017.

On August 9, 2017, in Docket Nos. EL17-64-000 and EL17-65-000, PJM submitted comments in response to the Energy Storage Association (ESA) and the Renewable

Energy Systems and Invenergy Storage Development LLC (RESI) motions requesting settlement judge procedures in their complaint proceedings concerning the Regulation market. PJM does not oppose discussing some of the underlying issues that have been raised by ESA and RESI in the context of settlement discussions, but believes that such discussions are premature because within a month PJM intends to file revisions to the PJM Tariff and the PJM Operating Agreement that will amend the compensation structure of the Regulation market.

On August 11, 2017, in Docket No. ER17-2291-000, PJM submitted revisions to the PJM Tariff and PJM Operating Agreement (i) to clarify the requirements for Dynamic Transfers of generators, (ii) incorporate two pro forma Pseudo-Tie agreements, and (iii) incorporate a pro forma system modification reimbursement agreement for Pseudo-Ties into the PJM Region. PJM submitted the proposed modifications to provide PJM with a base standard for all Dynamic Transfers of generators into the PJM Region and to ensure there is consistency regarding the rules and requirements for Dynamic Transfers of generators. PJM requested the proposed modifications become effective as of November 9, 2017.

On August 14, 2017, in Docket No. ER17-1619-001, PJM submitted a response to the deficiency letter issued by the Commission on July 14, 2017 to PJM's proposed revisions to the PJM Operating Agreement, Schedule 6, section 1.5 that would exempt under certain circumstances from PJM's competitive proposal window process thermal reliability violations identified on existing transmission substation equipment that would be resolved with an upgrade to existing transmission substation facilities. Specifically, the Commission sought further information on how: (i) PJM will determine to open a competitive proposal window for such violations; and (ii) the proposal is consistent with Order No. 1000 if such projects are exempted from the competitive proposal window process and, yet, allocated on a regional basis.

On August 15, 2017, in Docket No. ER17-2073-000, PJM submitted a Limited Answer in response to the comments filed on behalf of the New York Power Authority (NYPA) on July 26, 2017 to clarify certain statements made by NYPA concerning PJM's filing of an unexecuted agreement to amend HTP's interconnection service agreement ("Amendment"), designated as Service Agreement No. 2536. PJM clarified that it filed the Amendment at the request of HTP.

On August 17, 2017, in Docket No. ER17-2320-000, PJM submitted proposed revisions to the PJM Operating Agreement, Schedule 1 and the identical provisions of the PJM Tariff, Attachment K-Appendix to allow meter correction data to be submitted for Pseudo-Tie generators and Dynamic Schedules. PJM is requesting an effective date of November 1, 2017.

On August 18, 2017, in Docket No. ER17-2332-000, PJM submitted proposed revisions to the PJM Tariff, Schedule 6A (Black Start Rate Schedule) to set forth a process in the PJM Tariff for establishing the initial revenue requirement and cost allocation for new

Black Start Units entering service. PJM is requesting an effective date of November 16, 2017.

On August 21, 2017, in Docket No. EL17-82-000, PJM submitted a Motion to Dismiss or, in the Alternative, Answer to the July 21, 2017 complaint of the Independent Market Monitor for PJM (IMM) which sought an order that PJM misapplied the PJM Tariff in granting a Competitive Entry Exemption from the Minimum Offer Price Rule to an unnamed Genco. PJM moved to dismiss the complaint as the IMM does not have authority to file a complaint under these circumstances, particularly against PJM. In the alternative, PJM answered that the Commission should deny the complaint because PJM acted in accordance with the PJM Tariff in granting Competitive Entry Exemption to Genco.

On August 21, 2017, in Case Nos. 15-1452 and 15-1454, PJM filed a Petition for Panel Rehearing in the U.S. Court of Appeals for the District of Columbia Circuit. In its Petition, PJM argued: the court's misapprehension of PJM's status as a Public Utility Under the Federal Power Act mistakenly implies lesser rights under Section 205; the court's factual misconceptions regarding the roles of PJM and stakeholders caused the court to misapply prior precedent; and the record does not support the court's determination that a lack of notice to interested parties nullified PJM's consent to the Commission's changes in the orders below.

On August 24, 2017, PJM and Dominion Virginia Electric Power Company (Dominion Energy Virginia) submitted a Report on Dominion's Yorktown Units 1 and 2 Operations in compliance with Order No. 202-17-2 issued on June 16, 2017, by the Secretary of Energy.

On August 24, 2017, PJM submitted an application for a 90-day renewal of Order No. 202-17-2 (the "Order") issued on June 16, 2017, by the Secretary of Energy ("Secretary"). In the renewal application, PJM seeks an order of the Secretary under Section 202 (c) of the FPA which provides: (i) an emergency continues to exist in the Commonwealth of Virginia due to a shortage of electric energy, a shortage of facilities for the generation of electric energy, and other causes, and that issuance of a renewal order will meet the emergency and serve the public interest; (ii) from September 14, 2017 to December 13, 2017, Dominion Energy Virginia is directed to operate Yorktown Units 1 and 2 as directed by PJM to maintain grid reliability or for other local area transmission issues; (iii) Dominion Energy Virginia shall continue to follow the dispatch methodology submitted by PJM on June 27, 2017, as required by the Order; and (iv) PJM and Dominion Energy Virginia shall report all dates on which Yorktown Units 1 and 2 are operated as well as the estimated emissions and water usage date associated with their operation to be submitted at least 14 days before the expiration of the renewal order.

On September 8, 2017, in Docket No. EL17-82-000, PJM submitted a limited answer to answers in this complaint brought by the IMM concerning PJM's granting of a Competitive Entry Exemption from the Minimum Offer Price Rule. In its response, PJM

addressed comments raised that (1) the IMM has authority to file a complaint against PJM; and (2) the Competitive Entry Exemption has been voided in light of the DC Circuit Court case in NRG v. FERC.

On September 12, 2017, in Docket Nos. ER17-2218-000 and ER17-2220-000, PJM and MISO (the RTOs) submitted a Motion for Leave to Answer and Answer to the protests and comments filed by several intervenors in response to the RTOs' concurrent filings on August 1, 2017 to revise the PJM-MISO JOA to improve the administration and coordination of pseudo-ties between the MISO Balancing Authority Area and the PJM Balancing Authority Area.