



MC Legal Report
Summary of Significant Filings, Legal Activity
and
Federal Energy Regulatory Commission (“Commission”) Orders
(November 20, 2017 – January 14, 2018)

ORDERS

On November 21, 2017, in Docket No. ER18-143-000, the Commission issued an Order accepting PJM’s revisions to clarify and make consistent the limitation of claims provisions of the PJM Tariff, Part I, section 10.4 and the PJM Operating Agreement, section 15.6. The revisions are effective on December 23, 2017.

On November 22, 2017, in Docket Nos. ER17-725-000, -001, and -002, the Commission issued an Order accepting, subject to the outcome of the pending rehearing request in Docket No. EL15-67-000, revisions to the PJM Tariff, Schedule 12 – Appendix and Schedule 12-Appendix A to reflect the 2017 annual updates for cost responsibility assignments for Regional Facilities and Necessary Lower Voltage Facilities included in the PJM Regional Transmission Expansion Plan (RTEP). The revisions are effective as of January 1, 2017. The Commission also denied the requests for clarification, or in the alternative rehearing.

On November 29, 2017, in Docket No. ER18-182-000, the Commission issued an Order accepting PJM’s filing of amendments to the PJM Operating Agreement, Schedule 12, and RAA, Schedule 17, to update those lists to include new members, delete withdrawing members, reflect updates to the list of signatories to the RAA, and reflect member corporate name changes. The effective date for these amendments is September 30, 2017, as requested.

On December 1, 2017, in Docket No. EL17-75-000, the Commission issued an Order on petition for declaratory order. In its order, the Commission granted in part, and denied in part, the petition of Advanced Energy Economy (AEE) seeking declaratory rulings. In its order the Commission finds that it has exclusive jurisdiction over the participation of Energy Efficiency Resources (EERs) in wholesale markets; that Relevant Electric Retail Regulatory Authorities (RERRAs) may not bar, restrict, or otherwise condition the participation of EERs in wholesale electricity markets unless the Commission expressly gives RERRAs such authority; and that Order No. 719 does not provide for a RERRA to exercise an opt-out, bar or restrict the sale into the wholesale electricity markets of EERs originating in their state or local area.

On December 1, 2017, in Docket No. ER18-17-000, the Commission issued an Order dismissing as moot PJM’s October 2, 2017 request for limited waiver of certain provisions of the PJM Tariff, the parallel provisions in the RAA, and any other conforming provisions regarding the participation of certain EERs in the Third

Incremental Auction for the 2018/2019 Delivery Year, the Base Residual Auction for the 2021/2022 Delivery Year, and subsequent RPM Auctions until offering guidance on EER participation in PJM's capacity market. The Commission said the waiver request is moot in light of an order it issued concurrently in Docket No. EL17-75-000 providing guidance on EER.

On December 5, 2017, in Docket No. ER18-180-000, the Commission issued an Order accepting revisions to the PJM Operating Agreement, Schedule 6, section 1.5 to extend the timeframe for the short-term project proposal windows from 30 to 60 days under PJM's Order No. 1000 regional transmission expansion planning process. The modification reflects the changes made to PJM's RTEP competitive solicitation process memorialized in PJM Manual 14B and new PJM Manual 14F. The revisions became effective January 1, 2018.

On December 7, 2017, in Docket No. ER18-71-000, the Commission issued an Order accepting PJM's revisions to the PJM Tariff, PJM Operating Agreement and RAA incorporating previous revisions that would otherwise not be reflected due to the overlapping timing of certain filings. Additionally, PJM corrected a few non-substantive, ministerial errors made in the revisions of prior filings. The effective dates for the revisions are the effective dates from the prior filings.

On December 8, 2017, in Docket No. ER13-535-000, the Commission issued an Order on remand concerning PJM's December 2012 Minimum Offer Price Rule (MOPR) modifications (Dec 2012 MOPR Filing). On remand, the Commission found that, in light of the United States Court of Appeals for the District of Columbia Circuit opinion in the *NRG* case and given the Commission continues to find the Dec 2012 MOPR Filing as it was initially proposed is not just and reasonable, PJM must make a compliance filing within 30 days to reinstate the MOPR provisions that were in effect prior to the Dec 2012 MOPR Filing.

On December 13, 2017, in Docket No. ER18-262-000, the Commission issued an Order accepting PJM's revisions to the PJM Tariff allowing PJM to use the same Balancing Ratio value for the upcoming May 2018 Base Residual Auction (BRA) that PJM used for the May 2017 BRA while PJM completes a stakeholder process to design a more permanent Balancing Ratio calculation method. The effective date is January 8, 2018.

On December 13, 2017, in Docket No. ER18-175-000, the Commission issued an Order accepting revisions to the PJM Tariff, Part VI, section 204.3A to correctly reflect the previously agreed upon deposit fee structure for System Impact Studies. The revisions are effective as of December 26, 2017, as requested.

On December 13, 2017, in Docket No. ER18-183-000, the Commission issued an Order accepting PJM's *pro forma* Dynamic Schedule Agreement, effective December 29, 2017 as requested.

On December 18, 2017, in Docket No. ER18-252-000, the Commission issued an Order accepting PJM's revisions to the PJM Tariff and PJM Operating Agreement incorporating rules around offer capping of Market Sellers' Sell Offers when such Market Sellers update their offers intraday after their resources have been committed in PJM's energy markets. The revisions are effective January 3, 2018.

On December 21, 2017, in Docket No. EL18-34-000, the Commission issued an Order instituting a section 206 proceeding, commencing paper hearing procedures and establishing a refund effective date. In its order, the Commission found that PJM's practices regarding the pricing of fast-start resources may be unjust and unreasonable because the practices do not allow prices to reflect the marginal cost of serving load. As a result, the Commission instituted a section 206 investigation to examine PJM's Tariff and practices to determine whether PJM should be required to revise the PJM Tariff to: (1) allow relaxation of fast-start resources' economic minimum operating limits by up to 100 percent; (2) not limit its fast-start pricing practices to block-loaded resources; (3) consider fast-start resources within dispatch in a way that is consistent with minimizing production costs, subject to appropriate operational and reliability constraints; (4) modify pricing logic to allow commitment costs for fast-start resources to be reflected in prices; (5) include in the definition of a fast-start resource a minimum run time requirement; and (6) include in the definition of a fast-start resource a start-up time requirement.

On December 29, 2017, in Docket Nos. ER17-2218-000 and ER47-2220-000, the Commission issued an Order accepting, subject to condition, the PJM-MISO JOA revisions submitted to improve the administration and coordination of pseudo-tied resources. The Commission directed PJM and MISO to submit a compliance filing modifying the PJM-MISO JOA, section 4.1.3 to change the word "to" to "and," change "BA" to "Balancing Authority" and change "the" to "a" within 30 days of the date of this order. The revisions are effective October 1, 2017, as requested.

On January 8 2018, in Docket No. ES18-10-000, the Commission issued an Order authorizing PJM Settlement to: (1) guarantee obligations of PJM in an amount not to exceed \$177.4 million; and (2) provide a line of credit to PJM in an amount not to exceed \$158.1 million. The Commission granted PJM Settlement's request for all necessary waivers of the Commission's competitive bidding requirements set forth in section 34.2 of the Commission's regulations, 18 C.F.R. § 34.2. The authorization is effective February 1, 2018 through January 31, 2020.

On January 8 2018, in Docket No. ES18-9-000, the Commission issued an Order authorizing PJM to: 1) issue a \$150 million unsecured promissory note to PNC Bank pursuant to a revolving line of credit extended by PNC Bank to PJM (PNC Bank Line of Credit); and 2) provide a line of credit to PJM Settlement not to exceed PJM's available capacity on the PNC Bank Line of Credit. The Commission granted PJM's request for all necessary waivers of the Commission's competitive bidding requirements set forth in section 34.2 of the Commission's regulations, 18 C.F.R. § 34.2. The authorization is effective February 1, 2018 through January 31, 2020.

FILINGS

On November 27, 2017, in Docket Nos. ER15-623-000 and EL15-29-000, pursuant to the Commission's June 9, 2015 order, PJM submitted an informational filing on the use of 30 hours as the number of Performance Assessment Hours.

On November 28, 2017, in Docket No. EL18-26-000, PJM submitted a Motion to Dismiss the Complaint and Fast Track Processing of EDF Renewable Energy, Inc. (EDF Complaint) against PJM and to postpone the date upon which answer to the Complaint otherwise would be due. EDF brought the EDF Complaint against three neighboring regional transmission organizations - PJM, MISO and SPP - alleging that the Affected System procedures set forth in the RTOs' tariffs and joint operating agreements are no longer just and reasonable and are unduly discriminatory and preferential.

On November 29, 2017, PJM submitted the attached application for a 90-day renewal of Order No. 202-17-4 requesting an order of the Secretary of Energy under Section 202 (c) of the Federal Power Act which provides: (i) that an emergency continues to exist in the North Hampton Roads area of Virginia due to a shortage of electric energy and a shortage of facilities for the generation and transmission of electric energy and that issuance of a renewal Order will meet the emergency and serve the public interest; (ii) from December 13, 2017 to March 13, 2018, Dominion Energy Virginia is directed to operate Yorktown Units 1 and 2 as directed by PJM as needed to maintain grid reliability or for other local area transmission issues; (iii) the limitations on operations ensure, to the maximum extent practicable, consistency with applicable laws and regulations, and the reporting requirements for operations and estimated emissions ensure transparency of implementation; (iv) consistent with the dispatch methodology submitted by PJM on June 27, 2017, good utility practice and the PJM Tariff, PJM and Dominion Energy Virginia shall exhaust all reasonably and practically available resources including demand response and identified behind-the-meter generation resources to the extent that such resources address maintenance of grid reliability, prior to operating Yorktown Units 1 and/or 2; (v) Dominion Energy Virginia shall continue to follow the dispatch methodology submitted by PJM on June 27, 2017; (vi) PJM and Dominion Energy Virginia shall report all dates on which Yorktown Units 1 and/or 2 are operated as well as the estimated emissions and water usage date for those dates within ten (10) business days of such operation; and (vii) in the event that the outage schedule or estimates change from those presented in the renewal application, within ten (10) business days PJM and Dominion Energy Virginia shall also provide updated outages schedules and associated Yorktown Units 1 and 2 emission estimates.

On December 1, 2017, in Docket No. ER18-71-000, PJM submitted an errata to its October 12, 2017 ministerial clean-up filing in order to make corrections to Attachment B of the filing. Attachment B is a PDF document providing the history of redlined language from the prior source filings. None of the revisions are substantive.

On December 1, 2017, PJM submitted a Motion for Leave to Answer and Answer to Public Service Electric and Gas Company's request for rehearing of the Commission's Order issued on October 6, 2017 in Docket No. ER17-905-002. In the October 6 Order, the Commission accepted New York Independent System Operator, Inc.'s ("NYISO") and PJM's joint filing in this docket of proposed revisions to the PJM-NYISO JOA primarily addressing interchange scheduling and Market-to-Market coordination at the ABC and JK Interfaces upon the termination of the Con Edison 1000 MW Wheel on April 30, 2017.

On December 4, 2017, in Docket No. EL18-26-000, PJM submitted an answer in response to the EDF Complaint. PJM requests that the Complaint be summarily dismissed and, if not summarily dismissed, PJM requests, that the Complaint be dismissed with prejudice as regards PJM.

On December 5, 2018, in Docket No. ER18-87-000 and ER18-87-001, PJM submitted a letter requesting to extend by 30 days the PJM-requested date by which the Commission issues an Order. PJM is requesting the date be changed from January 15, 2018 to February 14, 2018. PJM is not requesting a modified effective date for the proposed tariff revisions. PJM continues to request an effective date of April 1, 2018.

On December 6, 2017, in Docket No. ER18-87-000, PJM submitted an answer to the protests and comments filed by various parties in response to PJM's October 17, 2017 filing. In its answer, PJM clarifies certain issues raised in the protests and comments, specifically: (a) PJM explains that it negotiated a transition period with the affected parties and will memorialize same in the PJM Manuals if the Commission accepts the PJM proposal; (b) addresses the need for elimination of the mileage requirement; (c) explains how the proposal is consistent with Commission precedent; and (d) otherwise addresses issues raised by protestors.

On December 7, 2017, in Docket No. ER17-2291-001, PJM submitted responses to the Commission's November 7, 2017 request for additional information regarding PJM's proposed revisions to the PJM Operating Agreement and PJM Tariff, filed on August 11, 2017, as part of an ongoing effort 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 requests the Commission accept its revisions effective November 9, 2017, as originally requested.

On December 8, 2017, in Docket Nos. ER17-775-000, 001 and 002, PJM submitted a Notice Concerning the Implementation Date of 5-Minute Settlements from February 1, 2018 to April 1, 2018. PJM explained that, while the PJM information technology system changes necessary to support 5-minute settlements are in the final stages of development, the shift in timing is to ensure PJM and its market participants have adequate time to test the new software between PJM and each market participant's own information platforms and to address any issues prior to implementation.

On December 8, 2017, in Docket Nos. ER18-136-000 and ER18-137-000, MISO and PJM submitted a Motion for Leave to Answer and Answer in response to comments filed by various parties to MISO and PJM's proposed revisions to the PJM-MISO JOA submitted in the identical October 23, 2017 filings. The proposed revisions to the PJM-MISO JOA were submitted to provide for a phased resolution of certain concerns involving overlapping congestion charges that affect pseudo-tied generation in MISO and PJM.

On December 8, 2017, in Docket Nos. ER17-2218-001 and ER17-2220-001, PJM and MISO submitted a joint motion for answer and answer to the comments filed by Entergy Services, Inc. on November 20, 2017 regarding PJM and MISO's responses on October 30, 2017 to the deficiency letter issued by the Commission related to PJM and MISO's proposed revisions to the PJM-MISO JOA to improve the administration and coordination of pseudo-ties between the PJM Balancing Authority Area and MISO Balancing Authority Area filed on August 1, 2017.

On December 11, 2017, in Docket No. ER17-1567-001, PJM submitted a compliance filing pursuant to the Commission's November 9, 2017 order accepting in part and rejecting in part PJM's compliance filing and directed additional compliance (November 9 Order) regarding the revisions to the PJM Operating Agreement and the parallel provisions of the PJM Tariff PJM filed on May 8, 2017 pertaining to the offer cap rule to comply with the requirements of Order No. 831. In its November 9 Order, the Commission. In accordance with the Commission's November 9 Order, PJM is submitting revisions to the PJM Operating Agreement, Schedule 1, sections 6.4 and 1.10 and the parallel provisions of PJM Tariff, Attachment K-Appendix. As provided in the November 9 Order, the Commission will establish an effective date for the provisions in a subsequent order.

On December 11, 2017, in Docket No. ER18-86-000, PJM submitted an answer in response to various financial participants' protests to PJM's proposal for allocating uplift to Up-to Congestion Transactions. In its answer, PJM requests the Commission reject the protests and approve its filing.

On December 12, 2017, in Docket No. ER17-2212-001, PJM submitted a withdrawal of PJM's Motion to Intervene Out-of-Time and Request for Rehearing of the Commission's Letter Order issued on September 22, 2017. The Commission issued an errata order on November 8, 2017 removing the requirement for the Duke Energy Ohio to execute a PJM Interconnection Service Agreement, which made the rehearing request moot.

On December 15, 2017, in Docket Nos. ER18-459-000 and ER18-460-000, PJM and Ohio Valley Electric Corporation (OVEC) jointly submitted for filing revisions to the PJM Tariff, PJM Operating Agreement, RAA and TOA to reflect the integration of OVEC into PJM as of March 1, 2018. PJM and OVEC have requested that the rates, terms and conditions for transmission service that are described in these revisions be made effective March 1, 2018.

On December 15, 2017, in Docket No. ER17-1138-002, PJM submitted a compliance filing pursuant to the Commission's November 17, 2017 order regarding PJM's revisions to the PJM Tariff and RAA to: (1) establish pseudo-tie requirements for new external resources that wish to participate in PJM's forward capacity auctions; and (2) a transition period with deliverability requirements to allow for existing pseudo-tie resources that had previously cleared a forward capacity auction to comply with the new requirements. Consistent with the Commission's order, PJM requested an effective date of May 9, 2017.

On December 19, 2017, in Docket Nos. EL17-36-000, EL17-32-000, and ER17-367-001, PJM submitted an answer to the motion to supplement the record and supplement of the indicated parties dated December 4, 2017. In its Answer, PJM disputes the indicated parties' arguments regarding seasonal capacity resources.

On December 19, 2017, in Docket Nos. ER18-459-000 and ER18-460-000, PJM and OVEC jointly submitted an errata to the December 15, 2017 transmittal letter to correct an error on page 7 which incorrectly references the current members of PJM Cone Area 3.

On December 20, 2017, in Docket No. ER18-489-000, PJM submitted a request for a one-time waiver of certain deadlines in PJM Tariff, Attachment DD, section 5.14(h)(5) to permit sellers that submitted requests for a categorical exemption to the MOPR for Sell Offers in the February 2018 Third Incremental Auction, and sellers of resources not previously subject to the MOPR, to submit requests for unit-specific MOPR exceptions/exemptions. PJM requested expedited action - a ruling on or before January 22, 2018, and a shortened comment period - comments due January 3, 2018.

On December 20, 2017, in Docket Nos. ER17-1016-001 and -002, PJM, the Illinois Commerce Commission, and Exelon Corporation on behalf of Commonwealth Edison Company and Baltimore Gas and Electric Company ("BGE") (collectively, "Settling Parties") filed a Settlement Agreement to resolve all issues on the allocation of \$1.159 million of Mid-Atlantic Power Pathway project abandonment costs by BGE associated with baseline upgrades b0512.33 and b0512.43. Concurrently, the Settling Parties also filed a motion to implement interim rates, waive answer period, and request for expedited treatment of revisions to the PJM Tariff, Schedule 12-Appendix for baseline projects b0512.33 and b0512.43 as agreed to by the Settling Parties. The Settling Parties requested the settlement rates be put into effect on an interim basis pending the Commission's consideration of the Settlement Agreement and requested the revisions be effective on an interim basis as of May 1, 2017 and implemented on January 1, 2018.

On December 20, 2017, in Docket No. ER18-484-000, PJM submitted revisions to the PJM Operating Agreement, section 18.17, to permit PJM Transmission Owners to have additional access to confidential generator data needed for system restoration. PJM requested the proposed revisions become effective as of February 19, 2018.

On December 22, 2017, in Docket No. ER18-88-001, PJM submitted responses to the deficiency letter issued by the Commission on November 22, 2017 regarding PJM's October 17, 2017 proposed revisions to PJM Operating Agreement, Schedule 1 and the parallel sections of the PJM Tariff, Attachment K-Appendix to reduce the number of bidding points at which Incremental Offers, Decrement Bids, and Up-to Congestion Transactions may be submitted by market participants.

On December 29, 2017, in Docket No. ER18-579-000, PJM submitted proposed revisions to the PJM Tariff, Schedule 12 - Appendix and Schedule 12 - Appendix A to update its annual cost responsibility for Regional Facilities and Necessary Lower Voltage Facilities. PJM requested the revisions be effective as of January 1, 2018.

On January 3, 2018, in Docket No. ER18-579-001, PJM supplemented its December 29, 2017 annual update filing, which included proposed amendments to the PJM Tariff, Schedule 12 - Appendix and Schedule 12-Appendix A to update PJM's annual cost responsibility for Regional and Necessary Lower Voltage Facilities and Lower Voltage Facilities (December 29 Filing). In this supplemental filing, PJM submitted revised sheets for Tariff, Schedule 12 - Appendix A to include updates to solution-based DFAX allocations for baseline upgrades that are expected to go in-service in 2018. PJM requested the revisions be effective as of January 1, 2018, which is the effective date requested in the December 29 Filing.

On January 4, 2018, in Docket No. ER17-2218-002, PJM submitted minor ministerial revisions to PJM-MISO JOA, section 4.1.3 to comply with the directives set forth in the Commission's Order issued on December 29, 2017 related to improving the administration and coordination of pseudo-tied resources. PJM requested that the proposed revisions be accepted with an effective date of October 1, 2017, which is the same effective date originally requested and approved by the Commission.

On January 5, 2018, in Docket No. ER18-614-000, PJM submitted revisions to the PJM Tariff, Schedule 12 - Appendix A to incorporate cost responsibility assignments for new baseline upgrades included in the recent update to the RTEP approved by the PJM Board of Managers on December 6, 2017, including its first interregional transmission projects (Targeted Market Efficiency Projects) between PJM and Midcontinent Independent System Operator, Inc. under the PJM-MISO JOA. PJM requests the revisions become effective on April 5, 2018, which is 90 days after the date of this filing to allow a 30-day comment period.

On January 9, 2018, in Docket No. ER13-535-006, PJM submitted a compliance filing modifying certain PJM Tariff sections pursuant to the Commission's December 8, 2017 order on remand (Remand Order) concerning PJM's MOPR. In the Remand Order, the Commission directed PJM to submit a compliance filing with revised tariff sheets reflecting its rejection of PJM's December 2012 MOPR Filing. The revisions are effective December 8, 2017 in accordance with the Remand Order.

On January 9, 2018, in Docket No. ER18-614-001, PJM submitted an errata to revise the January 5, 2018 filing (January 5 Filing) to correct (i) certain cost estimates in the cost responsibility summary sheets; and (ii) the cost allocation responsibility for b2976 from the DEOK to AEP Zone. PJM requested an effective date of April 5, 2018, which is consistent with the effective date requested in the January 5 Filing.

On January 11, 2018, in Docket No. ER17-2291-001, PJM submitted a Motion for Leave to Answer and Answer to the protest of American Municipal Power, Inc. on December 28, 2017 and comments of Cogentrix Energy Power Management, LLC on December 22, 2017. The protests and comments were filed in response to PJM's filing on December 7, 2017 responding to the deficiency letter issued by the Commission on November 7, 2017 which sought additional information concerning the proposed revisions to the PJM Tariff and PJM Operating Agreement submitted by PJM on August 11, 2017 seeking to, among other things, incorporate two pro forma Pseudo-Tie agreements into the PJM Tariff.

On January 11, PJM submitted to the Secretary of Energy a Report on Virginia Electric Power Companies, Yorktown Units 1 and 2 operations in compliance with Order No. 202-18-2.