

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**PJM Interconnection, L.L.C.**

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**Docket No. ER25-712-000**

**MOTION FOR LEAVE TO ANSWER, ANSWER, AND  
RESPONSE TO NRDC REQUEST FOR CLARIFICATION  
OF PJM INTERCONNECTION, L.L.C.**

PJM Interconnection, L.L.C. (“PJM”), pursuant to Rules 212 and 213 of Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure,<sup>1</sup> submits this Motion for Leave to Answer and Answer (“Answer”) to the requests for rehearing or clarification of the Commission’s February 11, 2025 order<sup>2</sup> accepting PJM’s December 13, 2024 filing<sup>3</sup> to modify Part VII of its Open Access Transmission Tariff (“Tariff”).<sup>4</sup> In this filing, PJM also responds to the Motion for Clarification filed by the NRDC.

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<sup>1</sup> 18 C.F.R. §§ 385.212, 385.213.

<sup>2</sup> *PJM Interconnection, L.L.C.*, 190 FERC ¶ 61,084 (2025) (“February 11 Order”). Requests for rehearing were filed by: American Clean Power Association, Solar Energy Industries Association, Advanced Energy United, and MAREC Action (together, “CEA”); Environmental Law & Policy Center (“ELPC”); Invenegy Renewables LLC and Bottlebrush Storage LLC (together, “Invenegy”); Natural Resources Defense Council (“NRDC”); Office of Ohio Consumers Counsel (“OCC”); Sierra Club, Appalachian Voices, NRDC, and the Sustainable FERC Project (together, “PIOs”). NRDC and PIOs also sought clarification of the February 11 Order. *PJM Interconnection, L.L.C.*, Request for Rehearing of the Clean Energy Associations, Docket No. ER25-715-001 (Mar. 13, 2025) (“CEA Rehearing Request”); *PJM Interconnection, L.L.C.*, Request for Rehearing of the Environmental Law & Policy Center, Docket No. ER25-715-001 (Mar. 13, 2025) (“ELPC Rehearing Request”); *PJM Interconnection, L.L.C.*, Request for Rehearing of Invenegy Renewables LL and Bottlebrush Storage LLC, Docket No. ER25-715-001 (Mar. 13, 2025) (“Invenegy Rehearing Request”); *PJM Interconnection, L.L.C.*, Request for Clarification or in the Alternative Rehearing of the Natural Resources Defense Council, Docket No. ER25-715-001 (Mar. 13, 2025) (“NRDC Rehearing Request”); *PJM Interconnection, L.L.C.*, Request for Rehearing to Protect Ohioans from the Cost of Uneconomic Electricity Facilities by Office of the Ohio Consumers’ Counsel, Docket No. ER25-715-001 (Mar. 13, 2025) (“OCC Rehearing Request”); *PJM Interconnection, L.L.C.*, Request for Rehearing and Clarification of Sierra Club and Appalachian Voices, Docket No. ER25-715-001 (Mar. 13, 2025) (“PIOs Rehearing Request”).

<sup>3</sup> *PJM Interconnection, L.L.C.*, Tariff Revisions for Reliability Resource Initiative, Docket No. ER25-712-000 (Dec. 13, 2024) (“RRI Filing”).

<sup>4</sup> Capitalized terms not otherwise defined herein have the meanings set forth in the Tariff or in the RRI Filing.

The RRI Filing involved targeted reforms to PJM’s Tariff, Part VII interconnection procedures to allow a one-time reliability-based expansion of the eligibility criteria for Transition Cycle #2. Under this expansion, a limited number of additional resources will be able to enter Transition Cycle #2 to help rapidly address PJM’s near-term reliability challenges. PJM in the RRI Filing and a subsequent answer demonstrated that the proposed Tariff reforms are just, reasonable, not unduly discriminatory or preferential, as well as appropriate and necessary to address near-term resource adequacy concerns in PJM.<sup>5</sup> The Commission accepted the RRI Filing in a lengthy and well-reasoned order. Since that order was issued, PJM has received applications from close to 100 projects totaling 26.6 gigawatts (“GW”) of natural gas, battery storage, hybrid, nuclear, wind, and solar nameplate capacity to enter Transition Cycle #2 under the RRI procedures, further demonstrating the viability of the RRI process.

## **I. MOTION FOR LEAVE TO ANSWER**

PJM moves for leave to answer certain portions of the rehearing requests identified here. While the Commission’s regulations generally prohibit answers to requests for rehearing, the Commission will waive this prohibition and accept such an answer when it provides information that assists the Commission in its decision-making process or clarifies the record, including when it addresses issues raised for the first time on rehearing.<sup>6</sup> This Answer satisfies these criteria, and PJM therefore requests that the Commission accept this response.

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<sup>5</sup> See RRI Filing at Part III; *PJM Interconnection, L.L.C.*, Motion for Leave to Answer and Answer of PJM Interconnection, L.L.C., Docket No. ER25-712-000 at 5-22 (Jan. 23, 2025) (“January 23 Answer”).

<sup>6</sup> *Nev. Hydro Co.*, 178 FERC ¶ 61,218, at P 12 (2022) (allowing answer to request for rehearing on the basis that it addresses “new information presented on rehearing, and provide[s] useful information that has assisted the Commission’s consideration” of the issues before it); *Green Island Power Auth.*, 168 FERC ¶ 61,033 at P 37 (2019) (permitting answer that will assist the Commission in its decision-making); *Trans-Pecos Pipeline, LLC*, 157 FERC ¶ 61,081 at P 6 (2016) (allowing an answer to a rehearing request because it

## II. BACKGROUND

A complete background of the RRI Filing and the events leading up to the RRI Filing is found in the RRI Filing and the January 23 Answer. As PJM explained in those filings, the combined effect of thermal generation retirements and their replacement by intermittent renewable resources with low completion rates at present, differing policy issues at the state and federal levels, and greatly increased load growth, have given rise to resources adequacy concerns.<sup>7</sup> The RRI Filing balances the demand for additional Capacity Resources with the need not to disrupt the processing of Interconnection Requests already eligible for Transition Cycle #2 (“Legacy Transition Cycle #2 Projects”).

In approving the RRI Filing, the Commission found that it “represents a just and reasonable and not unduly discriminatory approach to addressing PJM’s near-term resource adequacy concerns. PJM has authority to evaluate and maintain resource adequacy through its capacity market, as well as to manage its interconnection queue.”<sup>8</sup>

In addition, NRDC has filed a Request for Clarification concerning fuel type changes; PJM responds in this filing to that Motion.

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“provides information that has assisted in our decision-making process”). In this case, the new information includes ELPC’s claim raised for the first time that allowing PJM to apply its RRI scoring criteria is contrary to the Private Non-Delegation Doctrine. ELPC Rehearing Request at 3, 10-11. This Answer also provides information concerning other arguments that will clarify the issues and assist the Commission in its decision-making. In addition, because this Answer is focused and limited to a few issues, the fact that PJM does not respond to a specific argument raised by parties on rehearing is not a concession that such argument is correct.

<sup>7</sup> RRI Filing at 9, 14-15; January 23 Answer at 3.

<sup>8</sup> February 11 Order at P 53 (citation omitted).

### III. ANSWER

#### A. *Contrary to Parties' Claims, the Commission Properly Found the RRI Filing to Be Just and Reasonable and Not Unduly Discriminatory.*

Several of the rehearing requests argue that the Commission erred in accepting the RRI Filing, asserting that PJM did not demonstrate the RRI proposal will result in a sufficient number of projects applying to enter Transition Cycle #2 under the RRI procedures (i.e., that less than 50 projects will apply), such that the projects that do apply will be able to “queue jump” over other projects to enter Transition Cycle #2.<sup>9</sup> Parties requesting rehearing also argue that the proposal is skewed towards thermal generation or is unduly discriminatory in favor of large generators.<sup>10</sup> These claims lacked merit when they were raised in these parties’ protests, and the number and attributes of the RRI applications PJM received further demonstrates the error of these claims.

PJM explained in the RRI Filing that it had good cause to expect it would receive RRI applications from projects of various sizes, locations, fuel types, and technologies representing a substantial amount of capacity.<sup>11</sup> PJM also demonstrated,<sup>12</sup> and the Commission found,<sup>13</sup> that the RRI process will not result in queue jumping.

PJM’s expectation that more than 50 projects would seek to enter Transition Cycle #2 through the RRI process has proven to be correct, rendering moot the concerns that fewer projects would apply. The RRI Application window opened on

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<sup>9</sup> CEA Rehearing Request at 24; ELPC Rehearing Request at 9-10; Invenergy Rehearing Request at 10-11; PIOs Rehearing Request at 15-18.

<sup>10</sup> Invenergy Rehearing Request at 11-12, 27; PIOs Rehearing Request at 10.

<sup>11</sup> RRI Filing at 22 & Attachment C (Affidavit of Mr. Donald Bielak on Behalf of PJM Interconnection, L.L.C. (“Bielak Aff.”)) ¶ 21.

<sup>12</sup> RRI Filing at 49-52.

<sup>13</sup> February 11 Order at PP 242-43.

February 28, 2025, and closed on March 14, 2025.<sup>14</sup> During that period, PJM received 94 applications totaling 26.6 GW of nameplate capacity, far more than the 51-project threshold for the scoring criteria to apply.<sup>15</sup> This included 47 uprate projects, in which existing facilities are modified so they can generate more electricity. These uprate projects, including additions to natural gas, nuclear, battery storage, and wind facilities, are anticipated to come on-line by 2030.<sup>16</sup> The 94 applications also included 47 “new build” projects,<sup>17</sup> many of which are battery storage facilities being added to existing generating sites but also include natural gas, hybrid, nuclear, and solar facilities. These results, evidencing a diverse group of resources that applied under the RRI procedures, defeat claims that the RRI process will favor large, thermal generators at the expense of renewable projects. The fact is that projects of different sizes and fuel types applied and will be subject to evaluation under the Tariff’s RRI criteria; combined with the large number of applications under the RRI process, this demonstrates the claims that an insufficient number of projects would apply are false.<sup>18</sup>

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<sup>14</sup> See Megha Tiwari and Christina Catalano, *IPS Special Session – Reliability Resource Initiative*, PJM Interconnection, L.L.C., 6 (Feb. 2025), <https://www.pjm.com/-/media/DotCom/committees-groups/subcommittees/ips/2025/20250211-special/item-02---ips-special-session---reliability-resource-initiative-education.pdf>.

<sup>15</sup> *Reliability Resource Initiative Draws 94 Applications*, PJM Interconnection, L.L.C., (Mar. 21, 2025), <https://insidelines.pjm.com/reliability-resource-initiative-draws-94-applications> (“Inside Lines Report”). Some parties may claim this constitutes new information not appropriate to raise on rehearing, but unlike the claims raised by ELPC for the first time in its rehearing request, this information was not available prior to the issuance of the February 11 Order. See *infra* note 19.

<sup>16</sup> Inside Lines Report.

<sup>17</sup> *Id.*

<sup>18</sup> While the Commission generally will reject arguments or evidence raised for the first time on rehearing, it will allow such arguments or evidence when, as here, the information was not available at the time the Commission’s order was issued. *PJM Interconnection, L.L.C.*, 187 FERC ¶ 61,135, at P 33 (2024) (rejecting argument raised for the first time on rehearing, stating “[m]atters that have not previously been raised by any participant in the proceeding may be raised in a rehearing request only when based on matters not available for consideration by the Commission at the time of the final decision or final order”). In this case, the results of the RRI application process were available only after the application window closed on March 14, 2025, after the issuance of February 11 Order.

***B. The Commission Should Reject ELPC's Request for Rehearing as Procedurally Improper and Its Private Non-Delegation Doctrine Argument as Without Merit.***

ELPC claims that the Commission approving the RRI Filing and allowing PJM to determine which projects qualify to move forward under the RRI provisions of the Tariff violates the Private Non-Delegation Doctrine.<sup>19</sup> In addition to being procedurally improper and ELPC being unable to demonstrate that it is aggrieved by the February 11 Order,<sup>20</sup> the cases cited by ELPC, *Alpine* and *Oklahoma*, do not support its arguments.<sup>21</sup> ELPC ignores the established roles that Regional Transmission Organizations (“RTOs”) play in developing tariff mechanisms and administering their own tariffs, subject to the Commission’s acceptance or approval of RTO tariff filings and its authority to reject such filings.

Before reaching the merits of ELPC’s arguments, such as they are, PJM notes that ELPC improperly raises its non-delegation argument for the first time on rehearing, and provides no basis for its failure to raise this issue in its earlier pleading. There is no new evidence or change in circumstances that justifies ELPC’s failure to advance this argument

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<sup>19</sup> ELPC Rehearing Request at 3, 10-12.

<sup>20</sup> The Commission should reject ELPC’s request for rehearing because ELPC has not demonstrated that it is aggrieved by the February 11 Order, which is a fundamental requirement for seeking rehearing of a Commission order under Federal Power Act (“FPA”), section 313. 16 U.S.C. § 824*l*. ELPC does not develop generating facilities and has neither Legacy Transition Cycle #2 Project nor RRI Projects and therefore cannot claim to be aggrieved by the February 11 Order accepting the RRI Filing. An interest in the outcome of the case is very different from whether an entity is actually aggrieved by the order. See *Atl. Coast Pipeline, LLC*, 180 FERC ¶ 61,059, P 10 (2022) (“This conclusion accords with NGA section 19(a), which provides that only a party that has been aggrieved by a Commission order may file a request for rehearing. To establish aggrievement, a party must demonstrate, among other things, a concrete injury that is fairly traceable to the Commission’s action.” (citation omitted)).

<sup>21</sup> See ELPC Rehearing Request at 3, 10-11 (citing *Alpine Sec. Corp. v. Fin. Indus. Regul. Auth.*, 121 F.4th 1314, 1325 (D.C. Cir. 2024) (“*Alpine*”); *Okla. v. U.S.*, 62 F.4th 221, 229 (6th Cir. 2023) (“*Oklahoma*”), cert. denied, 144 S. Ct. 2679 (2024)).

earlier. The Commission has rejected arguments in similar circumstances,<sup>22</sup> and should do so here.

As to the merits of ELPC’s claims, the cases ELPC cites on the Private Non-Delegation Doctrine do not support ELPC’s argument that the Commission’s approval of the RRI Filing is contrary to the Private Non-Delegation Doctrine. In fact, given the Commission’s authority over RTO tariffs and the breadth of the Commission’s oversight over RTOs, the cases stand for the opposite proposition—that the Commission’s acceptance of the RRI Filing does not violate the Private Non-Delegation Doctrine. In *Alpine*, the United States Court of Appeals for the District of Columbia Circuit reversed the decision of the district court, which declined to issue a preliminary injunction enjoining the Financial Industry Regulatory Authority (“FINRA”) from taking action to preclude Alpine Securities Corporation from engaging in trading with no opportunity for Securities and Exchange Commission (“SEC”) review.<sup>23</sup> The court held that:

For a delegation of governmental authority to a private entity to be constitutional, the private entity must act only “as an aid” to an accountable government agency that retains the ultimate authority to “approve[], disapprove[], or modif[y]” the private entity’s actions and decisions on delegated matters.<sup>24</sup>

The court also stated private delegation is constitutional when the federal agency “‘exercise[s] authority and surveillance’ over the private entity.”<sup>25</sup>

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<sup>22</sup> *PJM Interconnection, L.L.C.*, 187 FERC ¶ 61,135, at P 33 (rejecting argument and stating the Commission looks with disfavor rejecting on matters raised for the first time on rehearing, also stating “[m]atters that have not previously been raised by any participant in the proceeding may be raised in a rehearing request only when based on matters not available for consideration by the Commission at the time of the final decision or final order”); *Wabash Valley Power Ass’n*, 174 FERC ¶ 61,051, at P 39 (2021) (rejecting argument raised for the first time on rehearing).

<sup>23</sup> *Alpine*, 121 F.4th at 1318, 1324.

<sup>24</sup> *Alpine*, 121 F.4th at 1325 (quoting *Sunshine Anthracite Coal Co. v. Adkins*, 310 U.S. 381, 388, 399 (1940)).

<sup>25</sup> *Alpine*, 121 4th at 1325 (citing *Ass’n of Am. R.Rs. v United States Dep’t of Transp.*, 896 F.3d 539, 546 (D.C. Cir. 2018); *Oklahoma*, 62 F.4th at 228-29).

In *Oklahoma*, the United States Court of Appeals for the Sixth Circuit affirmed a district court dismissal of a claim that allowing the private Horseracing Integrity and Safety Authority (“HISA”) to implement a national, uniform set of integrity and safety rules for horseracing violated the Private Non-Delegation Doctrine. The court held that the relevant agency—the Federal Trade Commission (“FTC”)—exercised adequate oversight over HISA, such that the delegation to HISA was constitutional.<sup>26</sup> The court found that a private entity may permissibly aid a federal agency that retains authority over the implementation of federal law.<sup>27</sup> The court also found that the fact HISA “wields materially different power from the FTC, yields to FTC supervision, and lacks the final say over the content and enforcement of the law [are] all tried and true hallmarks of an inferior body.”<sup>28</sup>

Applying these criteria to PJM and the Commission confirms that nothing in the Commission’s approval of the RRI Filing constitutes an improper delegation of authority. PJM and other RTOs function as aids to the Commission, as the Commission recognized in Order Nos. 2000 and 2000-A.<sup>29</sup> RTOs wield materially different power than the Commission, must yield to Commission supervision, and lack final say over the content

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<sup>26</sup> *Oklahoma*, 62 F.4th at 225.

<sup>27</sup> *Oklahoma*, 62 F.4th at 228-29.

<sup>28</sup> *Oklahoma*, 62 F.4th at 229. ELPC also cites to *Carter v. Carter Coal Co.*, 298 U.S. 238, 311 (1936) (“*Carter*”). ELPC Rehearing Request at 3, 13. The Court here was addressing whether a board comprised of coal producers and miners could set maximum labor hours that would be imposed on other coal producers and miners. *Carter*, 298 U.S. at 310-11. The language cited by ELPC, ELPC Rehearing Request at 13, makes clear the Court’s concern was with the delegation of authority to “private persons whose interests may be and often are adverse to the interests of others in the same business.” *Carter*, 298 U.S. at 311. However, PJM is an independent RTO that is not “in the same business” as any generator or potential RRI applicant.

<sup>29</sup> The Commission in Order Nos. 2000 and 2000-A recognized the value RTOs can provide to the Commission, stating “the existence of a properly structured RTO would reduce the need for Commission oversight and scrutiny, which would benefit both the Commission and the industry.” *Regional Transmission Organizations*, Order No. 2000, 89 FERC ¶ 61,285, 1996–2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,089, at 31,027 (1999), *order on reh’g*, Order No. 2000-A, 90 FERC ¶ 61,201, 1996–2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,092, at 31,383 (2000), *petitions for review dismissed sub nom. Pub. Util. Dist. No. 1 v. FERC*, 272 F.3d 607 (D.C. Cir. 2001).

and enforcement of the law—all of which are “tried and true hallmarks of an inferior body.”<sup>30</sup> PJM must file with the Commission any Tariff revisions it wishes to make pursuant to FPA sections 205 or 206,<sup>31</sup> and those filings are subject to Commission review and approval. A party can file a complaint pursuant to FPA section 206 if it believes PJM’s actions in implementing its Tariff are unjust, unreasonable, unduly discriminatory or preferential, and under FPA section 206 the Commission may institute an investigation of PJM’s practices on its own motion.

Moreover, RTOs have clear authority to administer their own Tariffs.<sup>32</sup> In the case of PJM and its interconnection process and rules, PJM has the authority to review Interconnection Requests to ensure the required information is provided, including reviewing deposit amounts and Site Control showings, and to reject Interconnection Requests that do not meet the requirements specified in the Tariff.<sup>33</sup> Allowing PJM to apply the RRI scoring criteria to applications is no different than these functions.<sup>34</sup>

As a policy matter, the ELPC argument has implications that are far beyond any semblance of sound regulation. Were ELPC’s argument to be granted, the Commission

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<sup>30</sup> *Oklahoma*, 62 F.4th at 229.

<sup>31</sup> 16 U.S.C. §§ 824d & 824e.

<sup>32</sup> See Order No. 2000 at 31,108 (indicating that an RTO will “be the sole provider of transmission service and sole administrator of its own open access tariff. Included in this is the requirement that the RTO have the sole authority for the evaluation and approval of all requests for transmission service including requests for new interconnections”).

<sup>33</sup> See Tariff, Part VII, Subpart C, section 306 & Part VIII, Subpart B, section 403.

<sup>34</sup> Further, contrary to claims by ELPC, Invenergy, and NRDC (ELPC Rehearing Request at 4-6; Invenergy Rehearing Request at 36-37; NRDC Rehearing Request 7-8), allowing PJM to apply the RRI criteria to applications does not infringe on state jurisdiction over resource procurement. As the Commission correctly stated, “PJM’s RRI proposal is aimed at facilitating the timely interconnection of new resources and falls squarely within its authority to manage the interconnection queue.” February 11 Order at P 75. The Commission further found that PJM’s RRI proposal “neither mandates nor prohibits the development of any particular generating facility, and it neither authorizes nor requires the adoption of a specific mix of generation resources.” *Id.* at P 76.

would not be able to simply approve public utility tariffs of any sort but instead would become the administrator of public utility service by the entities which it regulates. This is not consistent with the role that Congress envisioned---namely to oversee and regulate public utility rates, terms and conditions to determine if they are just and reasonable, as opposed to actually taking on those functions itself. Because there is no merit to ELPC's claim that the Private Non-Delegation Doctrine has been violated, the Commission should reject it.

***C. Invenenergy's Claims as to Timing of PJM's Review of the Legacy Transition Cycle #2 Applications Are Inaccurate.***

Invenenergy asserts that "PJM stated that it would complete its review of the legacy [Transition Cycle #2] applications by mid-March 2025 (subject to minor modifications) and that it would review the RRI Project Applications during that review period," but, Invenenergy claims, PJM has now indicated the RRI application review period will not begin until March 17, 2025.<sup>35</sup> Invenenergy has misconstrued PJM's statements. What PJM said was:

Once the Application period for Legacy Transition Cycle #2 projects ends, there will be a period during which PJM will review those Applications. Based on this timeline, PJM *expects* to complete the Legacy Transition Cycle #2 Application review by mid-March 2025, *although the actual completion date may be earlier or later than this, depending on the number of Applications received*. PJM requests an effective date of December 14, 2024, for this filing, to allow Project Developers that may be eligible to participate under these enhanced procedures to submit the Applications to PJM, and for PJM to have time to process these Applications, prior to the start of the Transition Cycle #2 Phase I studies.<sup>36</sup>

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<sup>35</sup> Invenenergy Rehearing Request at 32 (quoting RRI Filing at 20-21).

<sup>36</sup> RRI Filing at 20-21 (emphasis added) (citations omitted).

At the time it made the RRI Filing, PJM did not know how many Legacy Transition Cycle #2 Projects would submit applications or how long it would take to process those applications. As a result, the statement quoted above is not a commitment to complete review of the Legacy Transition Cycle #2 Projects' applications by a date certain in mid-March. Also, while PJM committed to review the RRI Project applications during the same period it reviewed the Legacy Transition Cycle #2 applications, PJM did not state that it would process the Legacy Transition Cycle #2 or RRI Project applications by a specific time.

In the event, the RRI process and applications did not affect the timing of Transition Cycle #2. Once PJM started reviewing the Legacy Transition Cycle #2 Projects' applications and had a firm handle on the time processing them would require, PJM revised its posted timeline on February 18, 2025. This update was provided even before PJM started receiving RRI applications. As a result, the RRI projects were processed in parallel with the Legacy Transition Cycle #2 Projects immediately after the RRI submission window closed, utilizing personnel overtime to complete them on the same timeline as the Legacy Transition Cycle #2 Projects so as not to affect the overall Transition Cycle #2 timing. Accordingly, Invenergy's claims that PJM failed to meet a commitment to finishing its review of the applications associated with Transition Cycle #2 within a specified time should be rejected.

***D. OCC and PIOs Raise Issues that Are Beyond the Scope of the RRI Filing.***

OCC argues the Commission erred by failing to adopt its proposed cost metric requirement and requirements for cost transparency.<sup>37</sup> PIOs request that the Commission

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<sup>37</sup> OCC Rehearing Request at 6-15.

clarify the factors it considered in approving the RRI Filing to provide insight as to how the Commission will act in response to future filings.<sup>38</sup>

Both OCC's and PIOs' requests involve issues beyond the scope of the RRI Filing rather than focusing on the justness and reasonableness of the RRI Filing. OCC proposed that PJM include a 'cost metric' as a criterion.<sup>39</sup> The OCC filing toggles between describing a 'cost metric' as one focused on the developer's project cost in some places in its filing and as one focused on network upgrade costs in other parts of its filing. As to the cost of Network Upgrades associated with RRI Projects, this cannot be known until PJM studies the RRI Projects along with the Legacy Transition Cycle #2 Projects as part of Transition Cycle #2 Phases I, II and III, so there will be nothing to report at the time the RRI Projects are initially selected. As to overall Project Developer costs, OCC overlooks the fact that these projects, once completed, will compete against other resources in PJM's energy and Capacity markets. As a result, their cost recovery is not guaranteed as might occur in a non-market environment. For these reasons, the metrics proposed by OCC do not provide a basis for rejection of PJM's filing on rehearing.

With regard to the PIOs' request for clarification, the February 11 Order represents the Commission's determination, based on the record before it, that the RRI Filing is just and reasonable. Any sort of guidance as to how the Commission will handle future filings is more properly provided in a policy statement or rulemaking and does not bear on whether

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<sup>38</sup> PIOs Rehearing Request at 4.

<sup>39</sup> *PJM Interconnection, L.L.C.*, Office of the Ohio Consumers' Counsel's Limited Protest to Protect Ohio Electricity Consumers, Docket No. ER25-712-000, at 6-7 (Jan. 8, 2025).

the RRI Filing itself is just and reasonable,<sup>40</sup> and therefore the Commission should reject this argument.

***E. The Commission Should Reject NRDC's Request for Clarification of the Fuel Change Restrictions as Inconsistent with the Intent and Structure of the RRI Filing.***

NRDC requests that the Commission clarify that the prohibition against a RRI Project Developer taking unilateral steps to change its fuel type before the conclusion of the tenth consecutive Delivery Year does not prevent a RRI Project Developer from changing its fuel type through PJM's existing multilateral process.<sup>41</sup> As PJM specifically stated in the RRI Filing, its intention was to bar all fuel type changes (as well as changes to an RRI Project's Maximum Facility Output and Capacity Interconnection Rights) to protect against gaming and ensure RRI Projects perform as expected.<sup>42</sup> NRDC has not provided support for its request to allow fuel type changes notwithstanding the record PJM developed as to its concerns with gaming should fuel type changes or changes to an RRI Project's Maximum Facility Output and Capacity Interconnection Rights be allowed for RRI Projects.

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<sup>40</sup> As stated in the RRI Filing, the RRI proposal affects only the Transition Period and therefore is not subject to or affected by Order No. 2023. RRI Filing at 47.

<sup>41</sup> NRDC Rehearing Request at 4-5. NRDC points to the fact that while Tariff, Part VII, Subpart C, section 306(E)(6) states that a Project Developer cannot take unilateral steps to change its fuel type during this period, the filing letter (RRI Filing at 34-36) states that there is a prohibition against the Project Developer changing its fuel type during this period. NRDC requests rehearing of this aspect of the February 11 Order to the extent the Commission determines that no fuel changes are allowed during the 10-year period. NRDC Rehearing Request at 4-5.

<sup>42</sup> RRI Filing at 35-36; Bielak Aff. ¶ 34.

The whole point of the RRI proposal was to obtain firm commitments to develop projects *as submitted* in return for those projects being added to Transition Cycle #2 and scored based on their attributes and ability to meet certain goals. Allowing fuel changes or changes to Maximum Facility Output and Capacity Interconnection Rights for projects that were scored and accepted as RRI Projects based on their submitted applications would erode the very goal of allowing to be added to Transition Cycle #2 known ‘shovel ready’ projects that meet PJM’s reliability needs in the short term.

PJM recognizes that the Tariff language referenced by NRDC may need clarification, and will submit, at the Commission’s direction, a compliance or other filing to remove the word “unilaterally” from this section with the intention of making clear that all fuel type changes (as well as changes to an RRI Project’s Maximum Facility Output and Capacity Interconnection Rights) are prohibited to protect against gaming and ensure RRI Projects perform as expected. On the other hand, for the reasons already stated in the record previously, the Commission should not adopt an interpretation that is contrary to this intent.

#### IV. CONCLUSION

For the reasons stated above, PJM respectfully requests that the Commission accept this Answer, reject the requests for rehearing of the February 11 Order, and affirm its findings made in that order.

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Dated: March 28, 2025

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC, this 28th day of March 2025.

/s/ David S. Berman

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