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June 9, 2025

**Via eFiling**

Secretary Sherri Lewis  
New Jersey Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625-0350

**RE: Response to Motion for Declaratory Guidance By The Jersey Central Power & Light Company On Current Project Development Schedule, or, Alternatively, For Modification of Current Project Schedule  
Docket No. Q020100630**

Dear Secretary Lewis:

Please find enclosed the above-cited response filed on behalf of PJM Interconnection, L.L.C.

Please feel free to contact us with any questions.

Sincerely,

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Cc: Service List (via email)

IN THE MATTER OF DECLARING TRANSMISSION TO SUPPORT OFFSHORE WIND A PUBLIC  
POLICY OF THE STATE OF NEW JERSEY

DOCKET NO. QO20100630

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**PJM INTERCONNECTION, L.L.C.'S  
RESPONSE TO JERSEY CENTRAL POWER & LIGHT CO.'S MOTION FOR  
DECLARATORY GUIDANCE ON CURRENT PROJECT DEVELOPMENT  
SCHEDULE,  
OR, ALTERNATIVELY, FOR MODIFICATION OF CURRENT PROJECT  
SCHEDULE;  
DOCKET NO. QO20100630**

**CERTIFICATE OF SERVICE**

I certify that I have caused the above-captioned motion to be served by electronic mail on those persons on the service list filed with the motion.

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June 9, 2025

**BEFORE THE  
NEW JERSEY BOARD OF PUBLIC UTILITIES**

<b>IN THE MATTER OF DECLARING TRANSMISSION TO SUPPORT OFFSHORE WIND A PUBLIC POLICY OF THE STATE OF NEW JERSEY</b>	<b>MOTION  DOCKET NO. QO20100630</b>
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**RESPONSE TO MOTION FOR  
DECLARATORY GUIDANCE BY  
PJM INTERCONNECTION, L.L.C.**

**TO THE HONORABLE BOARD:**

PJM Interconnection, L.L.C. (“PJM”) respectfully submits this response to the Motion for Declaratory Guidance or, Alternatively, for Modification of Current Project Schedule (“Motion”) filed by Jersey Central Power & Light Company (“JCP&L”) in the above-captioned docket on May 23, 2025.<sup>1</sup>

PJM is the federally-regulated regional transmission organization for all or portions of 13 States and the District of Columbia in the Mid-Atlantic Region. PJM is an independent entity, separate from the companies that own electric generation and transmission facilities, that has been authorized by the Federal Energy Regulatory Commission (“FERC”) to provide electricity transmission service and administer the bulk power system in its region.

As relevant here, FERC requires PJM to engage in regional transmission planning to identify system needs for transmission facilities including transmission facilities to support a State’s public policy-related needs. That process is regulated by PJM’s governing documents and tariffs—FERC-approved documents carrying the force of federal law. PJM has an interest in

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<sup>1</sup> In a May 30, 2025 submission, PJM requested a one-week extension to respond.

ensuring that it can fulfill its responsibilities in accordance with federal law and the filed-rate doctrine.

The State of New Jersey formally requested that PJM implement its FERC-approved State Agreement Approach (“SAA”) planning process<sup>2</sup> to assist the State of New Jersey in achieving its offshore wind-related public policy goals. Pursuant to FERC-filed and accepted agreements between the New Jersey Board of Public Utilities (“Board” or “NJ BPU”) and PJM<sup>3</sup>:

(i) PJM convened a competitive solicitation at the NJ BPU’s direction to identify transmission solutions – to be integrated into the PJM RTEP – that would enable New Jersey’s public policy goals; (ii) PJM and the NJ BPU jointly analyzed the 80 proposals submitted in response to the competitive solicitation; (iii) NJ BPU issued an order in this docket in which it selected a series of transmission facilities to accommodate the delivery of offshore wind to New Jersey customers (“NJ-Selected SAA Projects”)<sup>4</sup>; and (iv) the PJM Board of Managers (“PJM Board”) approved additions to the PJM RTEP that included the NJ-Selected SAA Projects and the cost allocation assignments associated with those projects. As a result, the NJ-Selected SAA Projects are today in PJM’s planning models. Therefore, today and into the future, PJM plans the transmission

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<sup>2</sup> The SAA process, which is set forth in Schedule 6, section 1.5.9 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., provides a formal mechanism by which PJM’s regional transmission expansion planning (“RTEP”) process can respond to a request from one or more states that PJM develop transmission facilities that would assist them in implementing their public policy goals. States that elect to voluntarily sponsor transmission facilities identified pursuant to the SAA process agree to pay 100 percent of the costs associated with such facilities.

<sup>3</sup> In furtherance of New Jersey’s request that PJM implement the SAA process, PJM and the Board entered into two FERC-filed and accepted agreements: (i) the State Agreement Approach Study Agreement, as amended, designated as Rate Schedule FERC No. 5890 (*see* FERC Docket Nos. ER21-689 and ER23-593) and (ii) the State Agreement Approach Agreement, as amended, designated as Rate Schedule FERC No. 49 (*see* FERC Docket Nos. ER22-902 and ER23-775).

<sup>4</sup> The NJ-Selected SAA Projects include the Larrabee Tri-Collector Solution, which was jointly submitted by JCP&L and Mid-Atlantic Offshore Development, LLC, as well as onshore grid upgrade projects, awarded to JCP&L and other developers, to enable the capacity injection afforded by the Larrabee Tri-Collector Solution.



system and developers interconnect to the transmission system in reliance on these NJ-Selected SAA Projects being built.

Following the PJM Board’s approval of the incorporation of the NJ-Selected SAA Projects into the PJM RTEP, PJM issued to each of the selected developers, including JCP&L, a Designated Entity Agreement (“DEA”) as required by PJM’s governing documents.<sup>5</sup> Although not acknowledged in the Motion, the JCP&L DEA is a FERC-filed and accepted rate. PJM filed the JCP&L DEA on September 13, 2023 in FERC Docket No. ER23-2831. FERC accepted the JCP&L DEA on October 31, 2023. No entity sought rehearing of the order accepting the JCP&L DEA and no entity appealed FERC’s order. The JCP&L DEA is designated Service Agreement No. 7061 in PJM’s Service Agreement Tariff.

The Motion acknowledges that the JCP&L DEA “provides milestone dates for the ‘Acquisition of All Necessary Federal, State, County, and Local Site Permits’ . . . and for ‘Required Project In-Service Dates[.]’” Motion at P 2. And the JCP&L DEA further provides in Schedule E, Paragraph 11 that “[t]he Milestone Dates set out in Schedule C, Development Schedule, to this Agreement are limited to the Project. At the time Transmission Provider determines that any Milestone Dates will no longer be required to be met, Transmission Provider shall promptly advise Designated Entity and work with Designated Entity to revise such Milestone Dates.” The milestones specified in the JCP&L DEA are “the current DEA schedule commitments” about which the Motion seeks guidance. Motion, Prayer for Relief at PP 11, 12, and 13.

Consistent with the FERC-accepted JCP&L DEA, the Motion acknowledges that JCP&L would have to “pursue with PJM extending milestones . . . as set forth in Schedule C of the

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<sup>5</sup> JCP&L attached the DEA that governs its NJ-Selected SAA Project components as Exhibit A to its Motion (“JCP&L DEA”).

DEA[.]” Motion, Prayer for Relief at P 13. And to be more precise, pursuant to the FERC-filed rate, JCP&L must work with PJM to “revise such Milestone Dates” “[a]t the time [PJM] determines that any Milestone Dates will no longer be required to be met” and notice is given by PJM of that determination. JCP&L DEA, Schedule E, P 11.

The Motion appears to request clarity about facts that, if shared with PJM, could be relied upon by PJM to determine whether any Milestone Dates require revision consistent with the terms of the JCP&L DEA. It is important that the Board provide its perspective on these issues because, as described above, the Board requested that PJM plan the projects at issue in this proceeding pursuant to the State Agreement Approach. If New Jersey’s plans for the NJ-Selected SAA Projects change at some point in time, that is a material fact that could impact all of the projects’ scope and timetable. For this reason, and consistent with the PJM/Board cooperation and coordination that is at the heart of the State Agreement Approach that both PJM and the Board utilized in planning these projects, direction from the Board is an important data point for both PJM and JCP&L relative to the future of the NJ-Selected SAA Projects. For this reason, PJM supports the overall JCP&L request for guidance from the Board as that guidance is in the interests of New Jersey consumers who pay 100 percent of the costs associated with the NJ-Selected SAA Projects.

Importantly, as a legal matter, changes to the projects’ scope and timelines can only be ultimately effectuated in accordance with federal law and with the rights and responsibilities under the SAA and DEA. PJM observes that there does not appear to be any controversy about PJM’s and JCP&L’s respective obligations to abide by the terms of the DEA and their continued intent to do so.

PJM welcomes clarity and guidance from the Board, and advances the legal points outlined herein to avoid outcomes in this proceeding that contravene the obligations of JCP&L, PJM, or the Board under the State Agreement Approach process (and related FERC-filed and accepted agreements) or the JCP&L DEA, or that otherwise result in relief foreclosed by the filed rate doctrine and preempted by federal law.

Once filed with and accepted by FERC, a service agreement (including one like the DEA which is itself a *pro forma* agreement under PJM's Open Access Transmission Tariff, or the State Agreement Approach agreements entered into here) has the force of federal law, akin to a statute or regulation. *See Mississippi Power & Light Co. v. Mississippi ex rel. Moore*, 487 U.S. 354, 373 (1988); *Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953, 966-67 (1986). FERC-filed service agreements and tariffs have federally preemptive force. *Entergy Louisiana, Inc. v. Louisiana Pub. Serv. Comm'n*, 539 U.S. 39, 47 (2003); *PPL Energyplus, LLC v. Solomon*, 766 F.3d 241, 253 (3d Cir. 2014) (FERC-approved tariffs "'issued pursuant to [Congressional] authority have no less preemptive effect than federal statutes'"). This principle "has an 'expansive reach.'" *George E. Warren LLC v. Colonial Pipeline Co.*, 50 F.4th 391, 395 (3d Cir. 2022). A FERC-approved tariff or agreement's preemptive power extends to all terms and conditions of that tariff or agreement. *See Nantahala*, 476 U.S. at 966.<sup>6</sup>

While PJM encourages the Board to provide the requested guidance, the Board should do so in a manner that is consistent with the established mechanism to modify the State Agreement Approach agreements or JCP&L DEA according to their terms. Any guidance inconsistent with these filed rates would undermine the Federal Power Act's scheme for regulating transmission

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<sup>6</sup> The principle that a filed tariff has the force of federal law is sometimes called the "filed rate doctrine." The "rate" that must be given preemptive effect is not limited to "prices or volumes of purchases"; it extends to all substantive aspects of the tariff. *Nantahala*, 476 U.S. at 966.

project construction through the FERC-accepted DEA and the State Agreement Approach. *See Hughes v. Talen Energy Mktg., LLC*, 578 U.S. 150, 163-65 (2016); *see also Mississippi Power & Light Co. v. Mississippi ex rel. Moore*, 487 U.S. 354, 370-74 (1988); *Nantahala*, 476 U.S. at 966-69.

PJM appreciates the Board's consideration of this Response.

Respectfully submitted,

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