

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

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

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**Docket No. ER24-2045-000**

**Docket No. ER24-2045-002**

**PJM INTERCONNECTION, L.L.C.  
PARTIAL REQUEST FOR REHEARING**

Pursuant to section 313 of the Federal Power Act, 16 U.S.C. § 825l, and Federal Energy Regulatory Commission (“Commission”) Rule 713, 18 C.F.R. § 385.713, PJM Interconnection, L.L.C. (“PJM”) submits this Partial Request for Rehearing of the Commission’s July 24, 2025 order<sup>1</sup> accepting in part, and rejecting in part, PJM’s proposal to comply with the requirements of Order Nos. 2023 and 2023-A.<sup>2</sup>

In its May 16, 2024 compliance filing, as supplemented on October 29, 2024, PJM demonstrated that its Open Access Transmission Tariff (“Tariff”) already substantially complies with the Final Rule, as the Final Rule requires many of the same reforms that PJM had already implemented through its Interconnection Process Reform Task Force (“IPRTF”) reforms.<sup>3</sup> To the extent the Tariff does not already comply with the Final Rule, PJM either (1) demonstrated that it satisfied the Commission’s standard for an independent entity variation; or (2) requested Commission guidance on compliance with specific directives, including study delay penalties, to inform the compliance

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<sup>1</sup> *PJM Interconnection, L.L.C.*, 192 FERC ¶ 61,077 (2025) (“July 24 Order”).

<sup>2</sup> *Improvements to Generator Interconnection Procedures and Agreements*, Order No. 2023, 184 FERC ¶ 61,054, *limited order on reh’g*, 185 FERC ¶ 61,063 (2023), *order on reh’g & clarification*, Order No. 2023-A, 186 FERC ¶ 61,199, *errata notice*, 188 FERC ¶ 61,134 (2024), *appeals pending*, Petition for Review, *Advanced Energy United v. FERC*, Nos. 23-1282, et al. (D.C. Cir. Oct. 6, 2023). For purposes of this filing, PJM refers to Order No. 2023, as modified by Order No. 2023-A, as the “Final Rule.”

<sup>3</sup> *PJM Interconnection, L.L.C.*, Order Nos. 2023 and 2023-A Compliance Filing of PJM Interconnection, L.L.C., Docket No. ER24-2045-000 (May 16, 2024) (“May 16 Filing”); *PJM Interconnection, L.L.C.*, Submission of Responses to Data Request of PJM Interconnection, L.L.C., Docket No. ER24-2045-002 (Oct. 29, 2024) (“October 29 Filing”).

process.<sup>4</sup> The July 24 Order accepted many of PJM’s proposals as compliant with the Final Rule, and in some instances required further justification of PJM’s independent entity variation requests.<sup>5</sup> The Commission rejected other proposals, however, including PJM’s requests for independent entity variations regarding the Final Rule’s delayed interconnection study penalties.<sup>6</sup> The Commission ordered PJM to make a further compliance filing implementing the Final Rule’s study delay penalty provisions without providing any opportunity for further refinement of PJM’s requested independent entity variation,<sup>7</sup> as it did for other aspects of PJM’s compliance.

The Commission erred in dismissing PJM’s requests for independent entity variations—particularly for its study delay penalty proposal. In denying PJM the opportunity to further justify its requests for an independent entity variation for penalties—an opportunity it provided with respect to other proposals—the Commission departs, without explanation, from its declaration in the Final Rule that compliance obligations “*will be evaluated*” in accordance with the independent entity standard.<sup>8</sup> The Commission failed to grapple with the substance of PJM’s study delay penalty proposal, which was geared toward speeding up the interconnection process by employing realistic deadlines, limiting administrative burdens, and reducing litigation. Instead, the Commission provided only a reiteration of the Commission’s prior findings in the Final Rule.<sup>9</sup> The Commission’s failure to engage with the substance of the proposal reflects a

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<sup>4</sup> May 16 Filing at 14-73; October 29 Filing at 5-29, Attachment A.

<sup>5</sup> See, e.g., July 24 Order at PP 48-49, 92, 109, 121, 131, 163, 165, 327-28 (requiring further justification of compliance proposal under independent entity variation standard).

<sup>6</sup> *Id.* at P 219.

<sup>7</sup> *Id.* at P 222.

<sup>8</sup> See Order No. 2023 at P 10 (emphasis added).

<sup>9</sup> July 24 Order at P 221.

lack of reasoned decision-making. PJM seeks partial rehearing and clarification seeking that the Commission state its substantive views and provide specific guidance on PJM's proposal rather than forcing PJM to expend resources on a counter-productive "bring me another rock" exercise as it tries to craft a penalty regime consistent with its right to seek an independent entity variation.

## **I. BACKGROUND**

The Final Rule required all public utility transmission providers to revise their *pro forma* interconnection procedures to "ensure that interconnection customers are able to interconnect to the transmission system in a reliable, efficient, transparent, and timely manner," and to prevent undue discrimination.<sup>10</sup> The Commission recognized that transmission providers have already undertaken efforts to reform their interconnection queues, and noted that "compliance obligations that result from this [Final Rule] *will be evaluated* in light of the independent entity variation standard for [Regional Transmission Organizations ("RTOs")]."<sup>11</sup>

In its May 16 Filing, PJM explained that it was not proposing to revise the Tariff in this initial phase of its Order No. 2023 compliance, as it sought independent entity variations to retain its approved IPRTF Tariff as an integrated package.<sup>12</sup> Rather than adopting the Final Rule's penalty provisions for interconnection study delays, PJM sought an independent entity variation to implement a tailored alternative structure for study delay consequences that would better drive timely completion of studies.<sup>13</sup> In its October 29 Filing, PJM reiterated its hope to receive Commission guidance on the

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<sup>10</sup> *Id.* at P 3.

<sup>11</sup> Order No. 2023 at P 10 & n.9 (emphasis added) (citing Order No. 2003, 104 FERC ¶ 61,103, at P 26).

<sup>12</sup> May 16 Filing at 13.

<sup>13</sup> *Id.* at 57.

conceptual proposal before drafting Tariff provisions, but provided illustrative Tariff revisions that could be used to implement PJM’s proposed graduated consequences for study delays.<sup>14</sup> PJM requested an independent entity variation to allow it to use provisions such as the illustrative Tariff provisions to accomplish the Final Rule’s goal of promoting faster interconnection studies while not imposing the full administrative burden of the Final Rule’s penalties regime.<sup>15</sup>

The Commission summarily concluded in the July 24 Order that “because PJM does not propose Tariff revisions [for study delay penalties] that implement such penalties, [and] instead provides a conceptual proposal in its compliance filing for study delay penalties in the form of illustrative Tariff provisions,” PJM does not comply with the Final Rule.<sup>16</sup> As to PJM’s request for Commission guidance on its proposed penalty structure, the Commission offered “certain guidance,” which simply noted that the proposal was lacking the “necessary transparency and certainty required by Order No 2023,” and otherwise generally cited Order No. 2023 to conclude that PJM’s proposal “does not appear to accomplish” the objectives of the Final Rule.<sup>17</sup>

## **II. STATEMENT OF ISSUES AND SPECIFICATION OF ERRORS**

Consistent with Rules 203(a)(7) and 713(c) of the Commission’s regulations, 18 C.F.R. §§ 385.203(a)(7), 385.713(c), PJM provides the following Statement of Issues and Specification of Errors, with citations to applicable precedent:

**Rehearing Issue 1:** The Commission’s refusal to engage on the merits of PJM’s study delay penalties proposal, effectively depriving PJM of its right to seek independent entity variations from the *pro forma* Large Generator Interconnection

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<sup>14</sup> October 29 Filing at 26-27.

<sup>15</sup> *Id.* at 27.

<sup>16</sup> July 24 Order at P 220.

<sup>17</sup> *Id.* at P 221.

Procedures (“LGIP”) and Large Generator Interconnection Agreement (“LGIA”), was arbitrary and capricious and reflects a lack of reasoned decision making. *See* 5 U.S.C. § 706(2)(A); *Motor Vehicle Mfrs. Ass’n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983); *Firearms Regul. Accountability Coal., Inc. v. Garland*, 112 F.4th 507 (8th Cir. 2024); *Nat’l Parks Conservation Ass’n v. EPA*, 788 F.3d 1134 (9th Cir. 2015).

**Rehearing Issue 2:** It was arbitrary and capricious and lacking in reasoned decision making for the Commission to summarily reject PJM’s request for guidance and to refuse to consider PJM’s conceptual Tariff changes on the merits or provide Commission guidance on PJM’s proposal, especially given the complexity of crafting a study delay penalty regime that will not negatively affect PJM’s ability to process interconnection requests on a timely basis. The Commission provides no basis in the record for its failure to engage with PJM’s conceptual proposal. *See* 5 U.S.C. § 706(2)(A); *Motor Vehicle Mfrs. Ass’n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983); *Firearms Regul. Accountability Coal., Inc. v. Garland*, 112 F.4th 507 (8th Cir. 2024); *Nat’l Parks Conservation Ass’n v. EPA*, 788 F.3d 1134 (9th Cir. 2015).

### III. PARTIAL REQUEST FOR REHEARING

**A. *It Was Error for the Commission to Fail to Engage on the Merits and Provide Further Guidance to PJM, Thereby Effectively Denying PJM’s Right to Seek an Independent Entity Variation.***

The July 24 Order departs, without explanation, from the Commission’s commitment in the Final Rule to evaluate all RTO compliance proposals against the independent entity variation standard.<sup>18</sup> Beginning with Order No. 2003, the Commission has applied an independent entity variation standard to evaluate RTO proposals for deviations from the Commission’s *pro forma* LGIP and *pro forma* LGIA.<sup>19</sup> Application of the independent entity standard requires a showing that variations from a Commission order or final rule are “(1) . . . just, reasonable, and not unduly discriminatory or preferential; and (2) accomplish[] the purposes of the order from which

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<sup>18</sup> Order No. 2023 at P 10.

<sup>19</sup> *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103 (2003), *order on reh’g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh’g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh’g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff’d sub nom. Nat’l Ass’n of Regul. Util. Comm’rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

a variation is sought.”<sup>20</sup> As explained in the May 16 Filing and further supported in the October 29 Filing, PJM’s IPRTF Tariff accomplishes the objectives of the Final Rule to facilitate the ability of generator interconnection customers to connect to the grid in a reliable, efficient, transparent, and timely manner.<sup>21</sup>

The Commission’s statement in Order No. 2023 was unequivocal: “compliance obligations that result from this [Final Rule] *will be evaluated* in light of the independent entity variation standard for regional transmission owners.”<sup>22</sup> But the July 24 Order effectively denies PJM an opportunity to seek an independent entity variation for study delay penalties by refusing to engage with the merits of PJM’s alternative penalty proposal or provide meaningful guidance, thereby forcing a wasteful expenditure of resources as PJM attempts to discern what might be acceptable to the Commission. This represents an unexplained departure from the Commission’s longstanding commitment to evaluate the unique circumstances within each RTO’s footprint that may necessitate a departure from the confines of the *pro forma* LGIP. In departing from that course, the Commission was required to demonstrate that it had “examined the relevant considerations and articulated a satisfactory explanation for its action, including a rational connection between the facts found and the choice made.”<sup>23</sup>

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<sup>20</sup> *PJM Interconnection, L.L.C.*, 181 FERC ¶ 61,162, at P 2 (2022), *reh’g denied*, 184 FERC ¶ 61,006 (2023), *affirmed sub nom. Hecate Energy LLC v. FERC*, 126 F.4th 660 (D.C. Cir. 2025); *see Midcontinent Indep. Sys. Operator, Inc.*, 185 FERC ¶ 61,231, at P 9 (2023); *ISO New England Inc.*, 170 FERC ¶ 61,218, at P 26 (2020). This is in contrast to the “consistent with or superior to” standard which applies to non-RTOs, and which requires a non-RTO transmission provider to demonstrate why its proposal is consistent with or superior to the applicable *pro forma* requirements. *See Ariz. Pub. Serv. Co.*, 186 FERC ¶ 61,201, at P 13 (2024), *order on compliance*, 191 FERC ¶ 61,051 (2025); Order No. 2023-A at PP 47, 53.

<sup>21</sup> May 16 Filing at 5 & n.13 (citing Order No. 2023 at PP 45-46; Order No. 2023-A at PP 10, 45-46); October 29 Filing at 4-5.

<sup>22</sup> Order No. 2023 at P 10 (emphasis added) (citing Order No. 2003 at P 26).

<sup>23</sup> *Cent. Hudson Gas & Elec. Corp. v. FERC*, 138 F.4th 531, 534-35 (D.C. Cir. 2025).

Further, not only did the Commission fail to offer a satisfactory explanation for abandoning the independent entity variation standard for certain compliance obligations, it offered no explanation whatsoever. Such a “sharp and unexplained break” from the Commission’s commitment in the Final Rule is arbitrary and capricious and lacks reasoned decision-making.<sup>24</sup> The Commission should therefore grant rehearing of the July 24 Order and address PJM’s proposal on its merits in light of the independent entity variation standard.

***B. It Was Error for the Commission to Order Implementation of LGIP Provisions Without Consideration of PJM’s Proposals or Provision of Meaningful Guidance.***

With respect to PJM’s proposal on study penalties, the Commission compounds its error by failing to meaningfully respond to PJM’s alternative and issuing “certain” guidance that merely repeats the findings of the Final Rule.<sup>25</sup> Both the May 16 Filing and October 29 Filing indicated that PJM intended to pursue phased compliance with respect to study penalties based on Commission guidance in its order on compliance.<sup>26</sup> PJM explained that such guidance was necessary to inform PJM’s development of final Tariff provisions to govern interconnection study delay penalties in a timely manner that avoids excessive administrative burdens and ensures that a penalty regime is based on a realistic up-front assessment of a given Cycle’s complexity and projected timeline.<sup>27</sup> But rather

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<sup>24</sup> *Dominion Res., Inc. v. FERC*, 286 F.3d 586, 592 (D.C. Cir. 2002) (citing *ANR Pipeline Co. v. FERC*, 71 F.3d 897, 901 (D.C. Cir. 1995)).

<sup>25</sup> July 24 Order at P 308.

<sup>26</sup> May 16 Filing at 56-57; October 29 Filing at 7.

<sup>27</sup> May 16 Filing at 58.

than engage with PJM's proposals on penalties, the Commission simply ordered PJM to implement the provisions of the *pro forma* LGIP.<sup>28</sup>

PJM has a right to seek independent entity variations and the Commission is required to review those requests using the independent entity standard. Because the Commission did not engage on the merits of PJM's proposal or provide actual guidance, PJM has no clear direction to use in crafting a study delay penalties regime that would be acceptable to the Commission, consistent with its right to seek an independent entity variation. If the Commission is simply going to reject such requests by ordering an independent entity to comply precisely with the letter of the *pro forma* LGIP, there is no meaningful independent entity variation in this area. If, on the other hand, the Commission honors its commitment to consideration of independent entity variations, there is little use in the Commission providing no guidance and instead leaving the affected entity to guess at the Commission's substantive concern. In short, a "bring me another rock" answer to an independent entity variation request does not further anyone's objectives.

Failure to engage with PJM's proposal is plainly arbitrary and capricious and cannot be the product of reasoned decision-making. The Commission is required to "examine[] the relevant [considerations] and articulate[] a satisfactory explanation for its action[,] including a rational connection between the facts found and the choice made."<sup>29</sup> No such analysis occurred with respect to PJM's conceptual model for interconnection study delay penalties, and the Commission's purported "guidance" was far from a satisfactory explanation for denying PJM's requested independent entity

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<sup>28</sup> July 24 Order at P 222.

<sup>29</sup> *FERC v. Elec. Power Supply Ass'n*, 577 U.S. 260, 291 (2016).

variation. The Commission should therefore grant rehearing to properly consider PJM's conceptual proposal and provide meaningful guidance for incorporation into PJM's long-term compliance plan.

#### **IV. CONCLUSION**

For the reasons set forth above, PJM respectfully requests that the Commission grant partial rehearing of the July 24 Order.

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Respectfully submitted,

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Dated: August 25, 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, D.C., this 25th day of August 2025.

/s/ Elizabeth P. Trinkle  
Elizabeth P. Trinkle