

191 FERC ¶ 61,185
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Mark C. Christie, Chairman;
David Rosner, Lindsay S. See,
and Judy W. Chang.

Hickory Wind, LLC

Docket No. ER25-1594-000

ORDER DENYING WAIVER REQUEST

(Issued June 3, 2025)

1. On March 13, 2025, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure,¹ Hickory Wind, LLC (Hickory Wind) submitted a request for waiver of Part IV, Subpart A, section 36.2A.4 of PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff (Tariff) to permit PJM to make a determination that Hickory Wind's request to move the point of interconnection for its 78.65 MW wind project (Project) would not constitute a material modification. As discussed below, we deny Hickory Wind's waiver request.

I. Background

2. Part IV, Subpart A, section 36.2A.4 of the Tariff governs modifications to interconnection requests and sets forth the process by which an interconnection customer can request that PJM evaluate whether a modification to a project constitutes a material modification.² Specifically, Part IV, Subpart A, section 36.2A.4 states:

Prior to making any modifications other than those specifically permitted by Tariff, Part IV, Subpart A, sections 36.2A.1, 36.2A.3 and 36.2A.6, the Interconnection Customer may first request that the Transmission Provider evaluate whether such modification is a Material Modification. In response to the Interconnection Customer's request, the Transmission Provider shall evaluate the proposed modifications prior to making them and shall inform the

¹ 18 C.F.R. § 385.207(a)(5) (2024).

² PJM, Intra-PJM Tariffs, OATT, pt. IV, subpt A, § 36.2A.4 (Modification of Interconnection Request) (4.0.0).

Interconnection Customer in writing of whether the modification(s) would constitute a Material Modification. For purposes of this section 36.2A.4, any change to the Point of Interconnection (other than a change deemed acceptable under Tariff, Part IV, Subpart A, sections 36.1.5, 36.2.1, or 36.2A.1) or increase in generating capacity shall constitute a Material Modification. The Interconnection Customer may then withdraw the proposed modification or proceed with a new Interconnection Request for such modification.³

3. Hickory Wind states that the Project is a 78.65 MW wind generating facility located in La Salle County, Illinois. Hickory Wind states that, in 2022, the Project entered into a generator interconnection agreement (GIA) with Commonwealth Edison Company (ComEd) and PJM.⁴ Hickory Wind states that the point of interconnection in the GIA is 1.5 miles outside the Village of Cedar Point (Cedar Point).⁵ Hickory Wind states that the Project has acquired the necessary site control and land that reach the existing point of interconnection. Additionally, Hickory Wind states that it has made substantial investments in developing the Project, including building the substation, transmission line infrastructure, and other related facilities.

4. Hickory Wind states that on May 15, 2023, the Cedar Point Planning Commission enacted an amendment to Zoning Ordinance No. 163-B, which prohibited wind energy conversion systems and wind farms within the Cedar Point corporate limits or the property within 1.5 miles of Cedar Point's corporate limits (Cedar Point Ordinance).⁶ Hickory Wind explains that despite its development efforts, the Cedar Point Ordinance prevents the interconnection of its Project at the designated point of interconnection. Hickory Wind states that it filed a complaint against Cedar Point, challenging the validity of the Cedar Point Ordinance in the Circuit Court of the Thirteenth Judicial Circuit of the State of Illinois, but the Circuit Court granted summary judgment to Cedar Point, finding that the Cedar Point Ordinance was not impermissible exclusionary zoning. Hickory Wind states that, on September 29, 2023, the Project entered suspension.⁷

³ *Id.* Capitalized terms used but not otherwise defined in this order have the meanings ascribed to them in the Tariff.

⁴ Waiver Request at 2-3.

⁵ *Id.* at 3.

⁶ *Id.*

⁷ *Id.* at 4.

5. Hickory Wind states that after conducting an internal analysis using a power system simulator for engineering (PSSE), it proposed to PJM that Hickory Wind move its original point of interconnection to a new point of interconnection, removing all facilities from the Cedar Point ordinance boundary. Hickory Wind asserts that the move would not constitute a material modification under the Tariff.⁸ Hickory Wind states that, after a series of conversations, PJM informed Hickory Wind that moving the point of interconnection would not be permitted under the Tariff, and, if Hickory Wind wanted to continue developing its Project with a new point of interconnection, it would have to re-enter the interconnection queue.⁹

II. Waiver Request

6. Hickory Wind requests waiver of Part IV, Subpart A, section 36.2A.4 of the PJM Tariff to permit PJM to make a determination that Hickory Wind's request to move the point of interconnection for the Project would not constitute a material modification.¹⁰ Hickory Wind argues that its waiver request satisfies the Commission's criteria for granting waiver.

7. First, Hickory Wind asserts that it has acted in good faith in its efforts to develop its Project to date and the need for waiver is due to circumstances outside of Hickory Wind's control. Hickory Wind states that it has acquired site control for its Project and was prepared to construct, own, and interconnect its Project at the point of interconnection. Hickory Wind avers that after the enactment of the Cedar Point Ordinance, it took all reasonable actions, including litigating the validity of the ordinance to remedy the situation and maintain the existing point of interconnection in the GIA.

8. Second, Hickory Wind argues that the waiver request is limited in scope and does not relieve it of any other requirements established under the GIA. Hickory Wind asserts that waiver of Part IV, Subpart A, section 36.2A.4 of the Tariff will provide it with a one-time opportunity to permit PJM to determine that the move to a new point of interconnection, outside the Cedar Point Ordinance area, is not a material modification. Hickory Wind states that such a determination will allow it to continue to develop its Project.¹¹

⁸ *Id.* at 4-5.

⁹ *Id.* at 5-6.

¹⁰ *Id.* at 1, 6.

¹¹ *Id.* at 7.

9. Third, Hickory Wind asserts that the waiver request will address the concrete problem of interconnecting its Project to a point of interconnection. Hickory Wind states that interconnecting the Project at the original point of interconnection specified in the GIA is impossible due to the enactment of the Cedar Point Ordinance. Hickory Wind asserts that it appealed the validity of the Cedar Point Ordinance, but it was unsuccessful. Hickory Wind contends that waiver will permit PJM to determine that the move of the point of interconnection approximately two miles from the current point of interconnection specified in the GIA is not a material modification under the Tariff.¹²

10. Finally, Hickory Wind asserts that granting the waiver request will not have undesirable consequences and will not adversely affect third parties. Hickory Wind states that it performed studies similar to those performed by PJM, which indicate no adverse impacts on the bulk transmission system that will result from the move of the point of interconnection.¹³ Hickory Wind also states that it is not aware of any other generating facility interconnecting in the area that would be affected by the requested waiver. Hickory Wind further argues that because it would be obligated to construct the Project's interconnection facilities and substation regardless of the location, there will be no undesirable consequences from granting waiver.

III. Notice and Responsive Pleadings

11. Notice of Hickory Wind's waiver request was published in the *Federal Register*, 90 Fed. Reg. 13157 (Mar. 20, 2025), with interventions and protests due on or before April 3, 2025. PJM filed a timely motion to intervene and protest. On April 24, 2025, Hickory Wind filed a motion for leave to answer and answer.

A. PJM's Protest

12. PJM argues that the Commission should deny the waiver request. PJM contends that Hickory Wind's waiver request does not guarantee Hickory Wind the relief it ultimately seeks, which is to avoid having to submit a new interconnection request to reflect the necessary modifications to its Project.¹⁴ PJM asserts that Hickory Wind's waiver request asks the Commission to predicate waiver of the Tariff on an outcome that is speculative.¹⁵ PJM explains that even if the Tariff provisions are waived, and PJM conducts a material modification analysis of Hickory Wind's proposed alternative point

¹² *Id.*

¹³ *Id.* at 8.

¹⁴ PJM Protest at 1.

¹⁵ *Id.* at 5.

of interconnection, the likely result will be that the request constitutes a material modification requiring Hickory Wind to withdraw its Project.¹⁶

13. PJM states that, after the Cedar Point Ordinance was enacted, Hickory Wind contacted PJM requesting to change the point of interconnection. PJM explains that it informed Hickory Wind that moving the point of interconnection would require ComEd to “essentially redo the entire engineering of Project,” and “would constitute as a different project,” and would require Hickory Wind to withdraw and re-enter the interconnection queue.¹⁷ Moreover, PJM states that it explained to Hickory Wind that it is bound by the terms and conditions of the Tariff, noting that the proposed change in the point of interconnection constitutes a new project than what was studied and would require a new interconnection request.¹⁸

14. PJM states that Part IV, Subpart A, section 36.2A.4 of the Tariff describes the process by which an interconnection customer may ask PJM to evaluate whether a modification to a project constitutes a material modification.¹⁹ PJM explains that if it determines that the requested change is a material modification, the interconnection customer must withdraw the proposed change or proceed with a new interconnection request for the modification.²⁰ However, PJM further explains that the material modification analysis in Part IV, Subpart A, section 36.2A.4 does not apply to changes to the point of interconnection.²¹ Therefore, PJM asserts that the Tariff does not provide exceptions or permit it to bypass the Tariff requirement even in the event of unforeseen circumstances, such as changes in local zoning ordinances.²²

15. PJM further argues that the waiver request fails to satisfy the Commission’s criteria for granting waiver.²³ First, PJM argues that Hickory Wind has failed to

¹⁶ *Id.* at 5-6.

¹⁷ *Id.* at 2.

¹⁸ *Id.* at 3 (citing Waiver Request, Ex. D at 7 (Jan. 21, 2025 email from D. O’Connor, PJM, to G. Butera, UKA North America LLC)).

¹⁹ *Id.*

²⁰ *Id.* at 4.

²¹ *Id.*

²² *Id.*

²³ *Id.* at 5.

demonstrate that it acted in good faith because Hickory Wind does not explain why its waiver request should overcome the Tariff's explicit requirement that changes to the point of interconnection constitute a material modification.²⁴ PJM argues that the waiver request makes no mention of this requirement, but instead asks the Commission to presuppose that Hickory Wind's additional studies are sufficient to show that moving the point of interconnection would not constitute a material modification. PJM also asserts that Hickory Wind has made no effort to demonstrate that its alternative point of interconnection is outside the jurisdiction of the Cedar Point Ordinance.²⁵

16. Second, PJM contends that the waiver request is not limited in scope because it would provide Hickory Wind an unfair advantage over other interconnection customers that complied with the Tariff or that have been terminated for failure to do so.²⁶ PJM argues that, rather than requesting a one-time waiver of a limited Tariff provision, Hickory Wind also asks the Commission to conclude that the likely outcome of PJM's analysis will be that Hickory Wind's proposal is not a material modification.

17. Third, PJM asserts that Hickory Wind fails to demonstrate that the waiver request addresses a concrete problem that needs to be resolved.²⁷ PJM explains that the Tariff does not permit changes to the point of interconnection after an interconnection service agreement (ISA) has been executed because ComEd has already performed the facilities study for the physical interconnection work to accommodate the interconnection request.²⁸ PJM states that it has already explained to Hickory Wind that the requested point of interconnection change results in a fundamentally different project requiring restudy.²⁹ PJM states that Hickory Wind makes speculative claims that it has performed studies similar to those performed by PJM, but offers no evidence to demonstrate it will not have to eventually submit a new interconnection request if waiver is granted.³⁰ PJM argues that granting waiver will almost certainly leave Hickory Wind in the same

²⁴ *Id.* at 5-6.

²⁵ *Id.* at 6.

²⁶ *Id.* at 7.

²⁷ *Id.* at 7-8.

²⁸ *Id.* at 8.

²⁹ *Id.*

³⁰ *Id.* at 8-9.

position it is now, with a changed point of interconnection that constitutes a material modification, requiring Hickory Wind to withdraw its Project.

18. Finally, PJM contends that granting the waiver request will have undesirable consequences.³¹ PJM states that it is entitled to enforce its clear Tariff requirements, and allowing the Project to circumvent the specified rules would be contrary to efficient queue administration and fundamentally unfair to other interconnection customers that follow the requirements of the Tariff.³²

B. Hickory Wind's Answer

19. Hickory Wind argues that, contrary to PJM's arguments, it has met the Commission's standard for waiver. First, Hickory Wind reiterates that it has acted in good faith. Hickory Wind states that it has made substantial efforts and investments toward development of the Project and has taken all reasonable and appropriate actions to complete development at the original point of interconnection before filing the waiver request.³³ Hickory Wind also clarifies that its proposed alternative point of interconnection is located outside the Cedar Point Ordinance area.³⁴

20. Second, Hickory Wind argues that its waiver request is limited in scope because it is a one-time waiver of a single Tariff provision that would permit PJM to evaluate whether Hickory Wind's request to shift the point of interconnection along the same transmission line constitutes a material modification. Hickory Wind states that it finds itself in a "catch 22" because, since a point of interconnection move is a material modification under the Tariff, PJM cannot perform a study; but PJM argues that because the study has not been performed, Hickory Wind's showing is insufficient to warrant granting waiver.³⁵

21. Third, Hickory Wind disputes PJM's argument that the requested waiver will not resolve Hickory Wind's problem. Hickory Wind states that it has performed PSSE studies using PJM's base case data and believes that the point of interconnection change will not constitute a material modification. Hickory Wind states that PJM, on the other

³¹ *Id.* at 9.

³² *Id.*

³³ Hickory Wind Answer at 2.

³⁴ *Id.*

³⁵ *Id.* at 3.

hand, has not performed any studies and simply assumes without study that the requested point of interconnection move, if studied, would constitute a material modification.³⁶

22. Finally, Hickory Wind argues that its technical studies support its belief that the proposed point of interconnection change will not create any tangible adverse impacts for third parties.³⁷ Hickory Wind states that, while PJM argues that it is undesirable for it to deviate from a strict application of its Tariff, PJM itself has sought waiver of its Tariff many times.³⁸ Hickory Wind notes that the Commission has established a framework for evaluating such waiver requests and determining when waiver is appropriate to grant relief from strict application of a tariff.

IV. Discussion

A. Procedural Matters

23. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2024), PJM's timely, unopposed motion to intervene serves to make it a party to this proceeding.

24. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2024), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept Hickory Wind's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

25. We deny Hickory Wind's request for waiver of Part IV, Subpart A, section 36.2A.4 of the Tariff to permit PJM to make a determination that Hickory Wind's request to change the point of interconnection for its Project would not constitute a material modification. The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as

³⁶ *Id.* at 4.

³⁷ *Id.*

³⁸ *Id.* at 4-5.

harming third parties.³⁹ We find that the circumstances of Hickory Wind's waiver request do not satisfy these criteria.

26. Specifically, we find that Hickory Wind has not demonstrated that its request for waiver of Part IV, Subpart A, section 36.2A.4 of the Tariff will address a concrete problem. While we acknowledge Hickory Wind's assertions that it has worked to develop its Project at the current point of interconnection to date and that the need for waiver is due to circumstances outside of its control, it is not clear that granting Hickory Wind's waiver request will resolve the problem it identifies. Under the Tariff, changes to the point of interconnection after an ISA has been executed are considered a material modification (with certain limited exception not relevant here). Even if the Commission were to waive this Tariff requirement to allow PJM to assess whether the change to Hickory Wind's point of interconnection constitutes a material modification, PJM has indicated that the likely result of PJM's analysis would be that the change constitutes a material modification. Accordingly, the requested waiver would be unlikely to alter the conclusion that the change to the point of interconnection is a material modification. Therefore, we find that Hickory Wind has failed to demonstrate that its waiver request would address an identified concrete problem.

The Commission orders:

Hickory Wind's waiver request is hereby denied, as discussed in the body of this order.

By the Commission. Commissioner Rosner is concurring with a separate statement attached.

(S E A L)

Carlos D. Clay,
Deputy Secretary.

³⁹ See, e.g., *Citizens Sunrise Transmission LLC*, 171 FERC ¶ 61,106, at P 10 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Hickory Wind, LLC

Docket Nos. ER25-1594-000

(Issued June 3, 2025)

ROSNER, Commissioner, *concurring*:

1. I concur in today’s order denying Hickory Wind LLC’s (Hickory) requested waiver because I agree that Hickory has not satisfied the Commission’s waiver criteria.¹

2. I write separately, however, to highlight the latest disappointing outcome to result from an antiquated interconnection process: a project ready to provide badly needed generation must now start over despite having entered PJM’s queue nearly *nine years ago*.

3. Consider the facts: Hickory entered PJM’s queue in 2016.² *Six years later*, in 2022, it executed a generator interconnection agreement with PJM and the local transmission owner, ComEd. Since then, Hickory acquired land and commenced construction, including work on a substation and other facilities.³ Despite these efforts, a local zoning ordinance enacted in 2023—*seven years* after Hickory first requested interconnection service—now prevents Hickory from using its original point of interconnection to the grid. Hickory proposed to resolve this zoning conflict by moving the project’s point of interconnection less than two miles away. PJM’s response was that Hickory’s alternative location would require re-study, and that Hickory must submit a new interconnection request, placing the project all the way at the back of the line.⁴

4. This story may well have ended differently if PJM had fully embraced the efficiencies of new technologies that use automation to reduce the time to study—and

¹ *Hickory Wind, LLC*, 191 FERC ¶ 61,185, at PP 25-26 (2025).

² Transmittal at 2-3.

³ *Hickory Wind, LLC*, 191 FERC ¶ 61,185 at P 3.

⁴ PJM Protest at 6 (Hickory’s “proposed alternative POI locations ‘constitut[e] a fundamentally different project’ that would require restudy,” and Hickory “therefore must withdraw the project and, if it chooses to proceed with the new POI, submit a new Interconnection Request.”).

notably in this case, re-study—projects.⁵ To be clear, the Commission has approved rules restricting modifications to projects after an interconnection agreement has been signed for good reasons. Principally, this practice is intended to protect other project developers based on the assumption that there will be delays and uncertainty during the weeks to months that it takes to re-study a changed project. But this assumption is increasingly becoming an outdated one that grid operators and transmission owners have the tools to overcome. These new automation tools reduce the time it takes to study an interconnection cluster from years (or months or weeks for re-studies) to days.⁶

5. Put simply, innovation has the potential to rescue us from the stagnation that has afflicted interconnection queues across the country. Although today's victim is a wind project in PJM, backlogged queues are fuel-neutral, plaguing generation of every type, and affecting grid operators in many regions. I recently highlighted how grid operators are beginning to use automation to drastically reduce system impact study—and re-study—times without compromising accuracy and with no need for additional regulation from this Commission.⁷ There is also the prospect of further expanding the suite of automation tools to encompass not just power flow studies, but the full range of studies

⁵ Letter from David Rosner, Comm'r, FERC, to Manu Asthana, President and CEO, PJM Interconnection (Mar. 17, 2025), <https://www.ferc.gov/media/commissioner-rosner-letter-pjm-interconnection-automation-letter> (stating that MISO's SUGAR automation application reproduced a two-year manual study of a large interconnection cluster in ten days and arrived at largely similar results).

⁶ See, e.g., MISO, *MISO's Benchmarking of Pearl Street SUGAR*, at 4 (Apr. 15, 2025), <https://cdn.misoenergy.org/20250422%20IPWG%20Item%2003c%20MISOs%20Benchmarking%20of%20Pearl%20Street%20SUGAR691554.pdf> ("The benchmarking study demonstrates that SUGAR is a reliable tool for power flow simulation, matching more than 99% of constraints identified by MISO's current software."); MISO Interconnection Process Working Group, *SUGAR Implementation* (Mar. 4, 2025), <https://cdn.misoenergy.org/20250304%20IPWG%20Item%2005%20SUGAR%20Implementation682016.pdf>; Amazon Web Servs., *Generation Interconnection Simulation*, <https://aws.amazon.com/energy-utilities/solutions/generation-interconnection-simulation/> (last visited June 3, 2025); GridUnity, *Southwest Power Pool Selects GridUnity for Interconnection Life Cycle Management* (Feb. 26, 2024), <https://www.gridunity.com/resources/southwest-power-pool-selects-gridunity-for-interconnection-life-cycle-management>.

⁷ See, e.g., Letter from David Rosner, Comm'r, FERC, to Manu Asthana, President and CEO, PJM Interconnection (Mar. 17, 2025).

required in each phase of the generator interconnection process needed to ensure that new resources can safely connect to the grid.

6. Additionally, automation efficiencies are not limited to faster technical studies. They extend to more boring—but essential—workflow management systems, through automated queue management platforms. These solutions provide centralized, integrated, and fully transparent dashboards that allow grid operators, transmission owners, and interconnection customers to avoid cumbersome, error-prone email-based processes, which risk a single miscommunication setting a project back years, as happened to another PJM project in *Urban Grid*.⁸ Finally, artificial intelligence has the potential to further accelerate and enhance the suite of available interconnection automation tools, and I am glad that PJM recently announced its plans to explore that possibility.⁹

7. Here, with automated study processes, PJM might have been able to give Hickory a GIA *years* sooner, perhaps allowing the project to be in operation today. Even if not, with a more automated process, PJM might have been able to assess Hickory's proposal to change its point of interconnection without significant delay or harm to other interconnection customers, and without requiring Hickory to start all over.

8. Today, more than ever, we cannot afford to leave any available tool in the toolbox, especially one as promising as interconnection automation. I urge PJM and grid operators across the country to fully leverage the potential of automation to improve all phases of the interconnection process, alongside other efforts to make queues faster and more efficient. I am confident that the Commission will continue to support such initiatives. As I have said before, consumers deserve nothing less.

For these reasons, I respectfully concur.

David Rosner
Commissioner

⁸ See *Urban Grid Solar Projects, LLC*, 189 FERC ¶ 61,208 (2024) (Rosner, Comm'r, concurring), <https://www.ferc.gov/news-events/news/e-5-commissioner-rosner-concurrence-regarding-urban-grid-solar-projects-v-pjm>.

⁹ See, e.g., PJM, *PJM, Google & Tapestry Join Forces To Apply AI To Enhance Regional Planning, Generation Interconnection* (Apr. 10, 2025), <https://insidelines.pjm.com/pjm-google-tapestry-join-forces-to-apply-ai-to-enhance-regional-planning-generation-interconnection/>.