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June 15, 2017

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426-0001

*Re: PJM Interconnection, L.L.C. Docket No. ER17-_____-000
Service Agreement No. 4722; Queue Position No. AC1-118*

Dear Secretary Bose:

Pursuant to section 205 of the Federal Power Act (“FPA”),¹ Part 35 of the rules and regulations of the Federal Energy Regulatory Commission (“Commission”),² and Part VI of the PJM Interconnection, L.L.C. (“PJM”) Open Access Transmission Tariff (“PJM Tariff”), PJM submits for filing an executed wholesale market participation agreement (“WMPA”) among PJM, Virginia Electric and Power Company (“VEPCO”) as wholesale market participant, and VEPCO as transmission owner, executed on May 17, 2017 (“VEPCO WMPA”). PJM is submitting the VEPCO WMPA for filing because VEPCO intends to engage in wholesale sales in the PJM markets from a generating facility connected to VEPCO’s distribution facilities. PJM requests an effective date of May 17, 2017, for this WMPA, which is designated as Original Service Agreement No. 4722, and attached to this filing.³

¹ 16 U.S.C. § 824d (2002).

² 18 C.F.R. part 35 (2013).

³ A copy of the VEPCO WMPA is included as Attachment A. Because the VEPCO WMPA being electronically filed with this transmittal letter contains electronic signatures and not the original signatures of the parties, copies of the sheets containing the original signatures are included as Attachment B to this transmittal letter.

I. BACKGROUND

A. PJM's WMPA Process

On February 22, 2006, the Commission issued the GSG Order,⁴ which held that the interconnection of a generator to non-jurisdictional distribution facilities is not, in and of itself, action regulated by the FPA.⁵ The Commission further stated that the distribution facilities become FERC jurisdictional once a wholesale transaction occurs on the system.⁶ This action would, therefore, render any subsequent interconnection to the relevant distribution facilities Commission jurisdictional.⁷

PJM routinely receives requests from generation developers seeking to interconnect at a distribution level, in order to participate in sales to the PJM markets. Where the relevant facilities are non-jurisdictional (because there exists no previously interconnected generator engaging in wholesale transactions), and, in light of the GSG Order, PJM developed the WMPA as a contractual means to address these requests and provide to all affected parties a process to enable PJM to properly track and study this category of generator interconnection, as well as to facilitate the generator's participation in PJM's organized wholesale markets. The WMPA also serves to establish important revenue and (if necessary) operational metering requirements in order to give PJM visibility to pay the generator for output and for potential operational security

⁴ See *PJM Interconnection, L.L.C.*, 114 FERC ¶ 61,191 (2006) ("GSG Order").

⁵ *Id.* at PP 14-16; see also *PJM Interconnection, L.L.C.*, 116 FERC ¶ 61,102, at P 19 (2006) (denying rehearing and clarification and noting the FPA denies the Commission jurisdiction "over facilities used in local distribution").

⁶ GSG Order at P 17.

⁷ See *id.* at PP 14, 17.

requirements. In rare instances, a non-jurisdictional interconnection could impact the integrated transmission system. The WMPA process allows PJM to ensure that this contingency is studied and corrected, if necessary.

The Commission has previously accepted a number of WMPAs in earlier filings involving other participants. The instant filing is in the same form as the earlier submittals.⁸

B. Description of the WMPA

The VEPCO WMPA facilitates VEPCO's participation in PJM's organized wholesale markets via wholesale sales from its 20 megawatt ("MW") Montross Solar Facility located in Montross, Virginia.⁹ The VEPCO WMPA indicates that VEPCO as wholesale market participant will have capacity interconnection rights in the amount of 13.2 MW commencing on June 1, 2020, and that nothing in the WMPA provides VEPCO as wholesale market participant with any rights with respect to the use of distribution facilities.¹⁰ It further provides for capacity interconnection rights on an interim basis during the time period from May 17, 2017, to May 31, 2020, (the "interim time period") in an amount not to exceed 13.2 MW.¹¹ Any interim capacity interconnection rights awarded during the interim time period will be dependent upon the

⁸ See, e.g., *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-2463-000 (Sept. 20, 2016); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16- 2299-000 (Sept. 8, 2016); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-1270-000 (Apr. 21, 2016); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-1133-000 (Apr. 18, 2016); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-1095-000 (Apr. 4, 2016).

⁹ VEPCO WMPA, Specifications §1.0.

¹⁰ *Id.* at Specifications §2.1.

¹¹ *Id.*

completion and results of an interim deliverability study, and will terminate on May 31, 2020.¹²

The Commission previously has accepted for filing WMPAs that grant similar interim capacity interconnection rights.¹³ The WMPA also provides that to the extent any portion of the Montross Solar Facility is not a capacity resource with capacity interconnection rights, such portion of the Montross Solar Facility is an energy resource, and that VEPCO as wholesale market participant will be permitted to sell energy into PJM's markets in an amount equal to the Montross Solar Facility's maximum output (20 MW), and that PJM reserves the right to limit injections in the event reliability would be affected by output greater than such quantity.¹⁴

Section 3.1 of the VEPCO WMPA establishes certain project-specific milestones, including the requirement that VEPCO as wholesale market participant enter into a two-party interconnection agreement with VEPCO as transmission owner in order to effectuate the WMPA.¹⁵ There are no charges or security requirements associated with the VEPCO WMPA.¹⁶

¹² *Id.*

¹³ See, e.g., *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-2463-000 (Sept. 20, 2016); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-1678-000 (June 29, 2016); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-416-000 (Dec. 28, 2015); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-20-000 (Nov. 2, 2015); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER15-2661-000 (Oct. 15, 2015); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER15-2608-000 (Oct. 2, 2015). The Commission similarly has accepted Interconnection Service Agreements ("ISA") that grant similar interim Capacity Interconnection Rights. See, e.g., *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-1895-000 (July 25, 2016); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-1078-000 (Apr. 26, 2016); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-353-000 (Jan. 11, 2016).

¹⁴ VEPCO WMPA, Specifications §2.1. See also *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-1679-000 (June 29, 2016) (accepting WMPA granting similar energy resource rights); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-1270-000 (Apr. 21, 2016) (same).

¹⁵ See *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-2299-000 (Sept. 8, 2016) (accepting WMPA with similar interconnection agreement requirement); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-1727-000 (July 1, 2016) (same); *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER16-1834-000 (June 30, 2016) (same).

¹⁶ VEPCO WMPA, §3.0.

II. THIS WMPA ESTABLISHES REASONABLE REQUIREMENTS TO ENABLE WHOLESALE TRANSACTIONS SUBJECT TO THE COMMISSION'S JURISDICTION

The instant WMPA is filed pursuant to the Commission's jurisdiction under section 205 of the FPA and the Commission's independent jurisdictional authority over wholesale sales of electric energy and related products in PJM's markets. These transactions plainly constitute regulated wholesale transactions pursuant to section 201(b)(1) of the FPA.¹⁷ Under the FPA, the Commission has broad jurisdiction to regulate the wholesale sale of electricity in interstate commerce.¹⁸ As noted above, the transactions will originate over facilities that are not Commission jurisdictional, namely the distribution facilities. In such circumstances, the Commission parses the transaction so as to apply its jurisdiction to only those aspects of the transaction that are Commission jurisdictional. For example, as discussed in Order No. 2003¹⁹ and other orders, the Commission applies this logic to determine jurisdiction over an interconnection on a facility used for both retail and wholesale transactions by segregating the jurisdictional transaction from the retail sales.²⁰ The Commission noted: "[W]here the

¹⁷ Specifically, the FPA applies "to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce." 16 U.S.C. § 824(b)(1).

¹⁸ See 16 U.S.C. § 824d(d) ("Unless the Commission otherwise orders, no change shall be made by any public utility in any such rate, charge, classification, or service, or in any rule, regulation, or contract relating thereto, except after sixty days' notice to the Commission and to the public.").

¹⁹ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 2001–2005 FERC Stats. & Regs., Regs. Preambles ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, 2001–2005 FERC Stats. & Regs., Regs. Preambles ¶ 31,160, *order on reh'g*, Order No. 2003-B, 2001–2005 FERC Stats. & Regs., Regs. Preambles ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, 2001–2005 FERC Stats. & Regs., Regs. Preambles ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Utils. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

²⁰ See Order No. 2003 at PP 803-05; see also *PJM Interconnection, L.L.C.*, 116 FERC ¶ 61,102, at P 22 ("Because no wholesale transaction is being conducted on ComEd's distribution facilities, we find there is no Commission-jurisdictional use of the facilities" Hence, a wholesale transaction would be a jurisdictional use.); *Detroit Edison Co. v. FERC*, 334 F.3d 48, 51 (D.C. Cir. 2003) (explaining that the Commission has jurisdiction "over all wholesale service," including wholesale transactions that occur over "local distribution" facilities).

‘distribution’ facilities have a dual use, i.e., the facilities are used for both wholesale sales and retail sales, the Final Rule applies to interconnections to these facilities *only for the purpose of making sales of electric energy for resale in interstate commerce.*”²¹ The Commission bifurcates the use of the facility and applies its jurisdiction only to the applicable transaction, the wholesale sale. Here, the generator’s use of, and taking of service over, the distribution facilities does not diminish the Commission’s independent jurisdiction to regulate the generator’s sale of energy and related products in PJM’s organized wholesale markets.

This logic is consistently applied in other areas of Commission jurisdiction as well. For example, the Commission applied similar reasoning when it determined it has jurisdiction to require transmission service over non-jurisdictional local distribution facilities in *Tex-La Electric Cooperative of Texas, Inc.*²² The Commission noted that it retained authority to order transmission service pursuant to section 211 of the FPA²³ regardless of any local distribution function of the facilities involved and “transmission *services* may encompass the use of *facilities* that in other contexts would be classified as distribution facilities.”²⁴ Similarly, in *Laguna Irrigation District*, the Commission noted that wholesale customers should be allowed the

²¹ Order No. 2003 at P 804; *accord* Order No. 2003-C at P 53.

²² *Tex-La Elec. Coop. of Tex., Inc.*, 67 FERC ¶ 61,019, at 61,055-56, *final order*, 69 FERC ¶ 61,269 (1994); *see also Laguna Irrigation Dist.*, 95 FERC ¶ 61,305, at 62,038-39 (2001), *aff’d sub nom. Pac. Gas & Elec. Co. v. FERC*, 44 Fed. Appx. 170 (9th Cir. 2002).

²³ 16 U.S.C. § 824j.

²⁴ *Tex-La Elec. Coop.*, 67 FERC ¶ 61,019, at 61,055-56 n.36 (emphasis added).

protection of section 210 of the FPA²⁵ based merely on the label attached to the facilities to which they interconnect.²⁶

Accordingly, since the WMPA addresses the terms and conditions necessary for the generator to make wholesale sales into the PJM markets, PJM applies the same reasoning as detailed above and believes that an agreement enabling such sales (the WMPA) similarly falls within the Commission's jurisdiction.

Should the Commission disagree and decide not to exercise its jurisdiction over the WMPA, PJM will, nonetheless, require execution of the WMPA by similarly-situated generators and transmission owners as a matter of contract. The matters addressed by the WMPA are essential to preserve the continued integrity of PJM's functions as a grid operator and market administrator and, as such, are properly deemed reasonable conditions of entry, like other Regional Transmission Organization membership requirements, for a generator electing to participate in PJM's voluntary markets.

III. THE WMPA APPLIES TO WHOLESALE SALES ONLY

PJM submits the WMPA for filing because the WMPA is a form of agreement not presently contained in either the PJM Open Access Transmission Tariff ("PJM Tariff") or the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. ("PJM Operating Agreement"). The WMPA applies only to wholesale transactions and is not intended to govern the actual physical interconnection of a generating facility to the distribution system. Therefore,

²⁵ 16 U.S.C. § 824i.

²⁶ *Laguna Irrigation Dist.*, 95 FERC ¶ 61,305, at 62,038-39.

it is immaterial whether the WMPA concerns a new interconnection to a distribution system or a pre-existing interconnection on a distribution system where the preexisting generator subsequently elects to participate in the PJM markets. The WMPA will be initiated for the purpose of facilitating the wholesale sale and not the interconnection. To date, generator market participants connecting to the distribution system have been receptive to the use of the WMPA as a means to facilitate future sales into the PJM markets and to support the state interconnection processes as well. Further, the WMPA allows a vehicle for PJM to examine the potential reliability impacts the interconnection may have on the grid.

As the GSG Order directs,²⁷ interconnection to the distribution system is not Commission-jurisdictional until wholesale sales begin on the system. Hence, the PJM Tariff would not apply to govern the terms and conditions of the physical interconnection, including the attachment of facilities and terms of use and charges for distribution service needed to afford the generator access to the PJM Transmission System. Again, PJM's interest is to ensure sufficient visibility and, where necessary, control over generation that is participating as a market seller²⁸ under the PJM Operating Agreement.²⁹

IV. THE WMPA DIFFERS FROM THE ISA IN NUMEROUS IMPORTANT ASPECTS

The WMPA is designed to have a similar format to the PJM interconnection service agreement ("ISA") in order to provide a manageable and familiar document for the participants.

²⁷ See GSG Order at P 14.

²⁸ See PJM Operating Agreement §1 (definition of "Market Seller").

²⁹ See *id.*, Schedule 1.

Unlike the ISA, however, the WMPA does not address matters involving the actual physical interconnection of the generator to the distribution system or any terms, conditions or charges related to any service provided by the distribution system to the generator. The WMPA contains many provisions also typically found in an ISA that govern the relationship between the generator and PJM. These provisions establish reasonable and necessary standards and qualifications, such as revenue quality metering, both to enable the generator to participate as a market seller in PJM's market and to allow PJM's system operations the necessary visibility to the generator for reliability purposes. However, the WMPA is not an ISA and is not intended as a substitute for an interconnection agreement between the owners of the interconnecting physical facilities.

More specifically, the WMPA differs from the ISA in several key respects. First, the WMPA does not contain any reference to attachment facilities necessary for the interconnection. The WMPA also does not reference network upgrades for the interconnection to the distribution facility. In limited circumstances, the feasibility study and/or the system impact study may conclude that there is a significant impact to other jurisdictional interconnections that are located on the nearest transmission system, or a possible impact to facilities that are located on a nearby Commission-jurisdictional distribution facility. If this were the case, the interconnecting generator could be required to fund network upgrades on the corresponding jurisdictional systems only. In the event additional upgrades were needed, the WMPA contains proposed language concerning "Responsibility for Network or Local Upgrades" in Article 3 of the WMPA. At the discretion of the parties, they may simply mark this section as "not applicable" or delete

the section from the WMPA in its entirety when this contract language is inapplicable (as it will be in the majority of cases).

Generally, the WMPA does not contain security requirements (with the limited exception as explained above) or construction requirements. The WMPA also makes no reference to reactive power requirements or construction of transmission owner interconnection facilities. These are the key components of the ISA that are not included in the WMPA because these ISA components are not relevant to the wholesale transactions.

V. WAIVER AND EFFECTIVE DATE

PJM requests that the Commission grant any and all waivers of the Commission's rules and regulations that are necessary for acceptance of this filing and the enclosed WMPA. Additionally, PJM requests a waiver of the Commission's sixty-day prior notice requirement to allow an effective date of May 17, 2017, for the VEPCO WMPA, as set forth in section 1.1 thereof. Waiver is appropriate because this effective date is consistent with the intent of the parties, as set forth in section 1.1 of the VEPCO WMPA.³⁰ Furthermore, the requested waiver is limited in scope and will result in no harm to third parties. Moreover, the Commission has allowed waivers of its prior notice requirements when supported by the facts that the filing is uncontested and does not change rates,³¹ and should do the same here. PJM also notes that, as

³⁰ If the Commission does not allow a December 22, 2016 effective date, PJM requests that the Commission grant the earliest effective date possible, and no later than January 24, 2017, one day after this filing. The Commission has allowed jurisdictional agreements to become effective one day after filing. *See Palo Duro Wind Interconnection Servs., LLC*, 149 FERC ¶ 61,205, at P 9 (2 14); *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,032, at P 49 (2013).

³¹ *See ISO New England, Inc.*, 116 FERC ¶ 61,308, at P 8 (2006); *see also Cent. Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at 61,338 (1992) (waiving prior notice requirement when uncontested filings do not change rates).

there are no charges or security requirements associated with the VEPCO WMPA or monies collected pursuant to this agreement, time-value refunds are not required.³² The Commission has granted similar waivers for other filings involving WMPAs.³³

VI. DOCUMENTS ENCLOSED

PJM encloses the following:

1. Transmittal Letter;
2. Attachment A: Original Service Agreement No. 4722; and
3. Attachment B: Copy of sheet containing original signatures.

VII. CORRESPONDENCE AND COMMUNICATIONS

All notices, communications or correspondences addressed to PJM regarding this matter should be directed to, and PJM requests that the Secretary include on the Commission's official service list, the following:³⁴

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³² See *ITC Midwest LLC*, 138 FERC ¶ 61,105, at P 14 (2012); see also *Lake Benton Power Partners LLC*, 146 FERC ¶ 61,095, at P 7 (2014).

³³ See *supra* note 8.

³⁴ To the extent necessary, PJM requests waiver of Rule 203(b)(3) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.203(b)(3), to permit all of the persons listed to be placed on the official service list for this proceeding.

VIII. SERVICE

PJM has served a copy of this filing upon the parties, as well as on the state utility regulatory commissions within the PJM region.

Respectfully submitted,



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State utility regulatory commissions within the PJM region