

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

Appalachian Power Co.

:

Docket No. ER20-841-000

**MOTION TO INTERVENE AND COMMENTS
OF PJM INTERCONNECTION, L.L.C.**

Pursuant to Rules 212 and 214¹ of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”) and the Commission’s Combined Notice of Filings #1 issued on January 17, 2020,² PJM Interconnection, L.L.C. (“PJM”) submits this Motion to Intervene and comments in support of the PJM Transmission Owners’ January 17, 2020 filing³ to add a new Attachment M-4 (“Proposal”) to the PJM Open Access Transmission

PJM is the designated unaffiliated third-party verifier⁴ for the identification of CIP-014 facilities⁵ and plays a key role in the selection of CIP-014 Mitigation Projects (“CMPs”) under this proposed Attachment M-4. PJM supports the PJM Transmission Owners January 17 Filing and Attachment M-4 for the following reasons:

- Attachment M-4 is limited in its applicability to a finite list of existing critical CIP-014 stations and substations;

¹ 18 C.F.R. §§ 385.212 and 385.214 (2019).

² Combined Notice of Filing #1, Docket No. ER20-5-001, et al. (Jan. 17, 2020).

³ *Appalachian Power Co.*, Proposed Tariff Revisions to Add New Attachment M-4, Docket No. ER20-841-000 (Jan. 17, 2020) (“January 17 Filing”).

⁴ NERC Standard CIP-014-2, section B.R.2, each Transmission Owner must have an unaffiliated third party verify the risk assessment performed under Requirement R1. The verification may occur concurrent with or after the risk assessment performed under Requirement R1. PJM serves this role for each of the PJM Transmission Owners.

⁵ The term applies to critical transmission stations and substations identified pursuant to the North American Reliability Corporation (“NERC”) Reliability Standard CIP-014-2. Under NERC Reliability Standard CIP-014-2, the location of such transmission stations and substations and the consequences of their loss should damage occur are highly confidential.

- These projects are Supplemental Projects;⁶ however, applying the general transparency provisions of Tariff, Attachment M-3 process⁷ is not possible given the NERC requirements that require confidentiality;⁸
- The prompt resolution of these projects is in the public interest in order to mitigate the risk associated with the extended loss of a significant amount of load in the event of a loss of the subject CIP-14 facilities;
- PJM is capable of performing its role as proposed under the Attachment M-4 process and PJM's role provides important safeguards to consumers that are in the public interest; and
- A PJM stakeholder process is underway to develop criteria that will protect against creating CIP-014 facilities through future planning processes.

As described in more detail below, this Proposal offers the PJM Transmission Owners a means by which to submit to PJM confidential, potential and alternative solutions to eliminate a critical facility from the CIP-014 List, and then PJM is tasked with verifying the cost-effectiveness and efficacy of the solution. If accepted, Attachment M-4 will expedite the mitigation of a limited number of existing critical transmission stations and substations, and thus protect against widespread instability, uncontrolled separation, and the successive loss of system elements – each of which would result in significant electric service interruption.

⁶ Supplemental Projects are planned by the Transmission Owners and cost-allocated to the Zone in which the transmission facilities are located.

⁷ Tariff, Attachment M-3 was accepted by the Commission as providing additional detail and transparency by which Transmission Owners satisfy the requirements Order No. 890 in the planning of Supplemental Projects. *See Monongahela Power Co., et al.*, 162 FERC ¶ 61,129 (Feb. 15, 2018), *order on rehearing and compliance*, 164 FERC ¶ 61,217 (Sept. 26, 2018).

⁸ NERC Standard CIP-014-2, section B.R.2 requires each Transmission Owner to implement procedures, such as the use of nondisclosure agreements, for protecting sensitive or confidential information made available to the unaffiliated third party verifier and to protect or exempt sensitive or confidential information developed pursuant to this Reliability Standard from public disclosure. Consistent with CIP-014, section B.R.2, information about the existence and location of any CIP-014 facility is maintained as highly confidential by the Transmission Owner owning such facilities. Other than the Transmission Owner who owns the CIP-014 station or substation, such information is shared only with PJM, as the unaffiliated third party entity verifier.

I. MOTION TO INTERVENE

Under the Commission’s rules, intervention is appropriate where “[t]he movant has . . . an interest which may be directly affected by the outcome of the proceeding.”⁹ PJM, as a Commission-approved independent Regional Transmission Organization,¹⁰ is the transmission provider under, and the administrator of, the PJM Tariff as well as the regional planner and operator of the Transmission Facilities in the PJM Region.

On January 17, 2020, the PJM Transmission Owners filed revisions to the Tariff to add a new Attachment M-4 process for a limited, discrete subset of Supplemental Projects that are CIP-014 critical facilities. To ensure that an efficient or cost effective solution is selected to eliminate the facility from the list of CIP-014 facilities, under the proposed Attachment M-4, PJM will serve in an oversight role in the review, selection and oversight of CMPs. Therefore, PJM has an independent interest in this proceeding that no other party can represent adequately. PJM respectfully requests that the Commission grant this intervention and allow PJM to participate herein as a party with all rights attendant thereto.

II. CORRESPONDENCE AND COMMUNICATIONS

Correspondence and communications with respect to this filing should be sent to, and the parties request the Secretary to include on the official service list, the following:

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⁹ 18 C.F.R. § 385.214(b)(2)(ii) (2019).

¹⁰ *Pennsylvania-New Jersey-Maryland Interconnection*, 81 FERC ¶ 61,252 (1997), *reh’g denied*, 92 FERC ¶ 61,282 (2000), *PJM Interconnection, L.L.C.*, 101 FERC ¶ 61,345 (2002).

III. BACKGROUND

On January 17, 2020, the PJM Transmission Owners filed revisions to the Tariff to add a new Attachment M-4 process by which to plan a limited, discrete subset of Supplemental Projects¹¹ identified as CMPs. The stated purpose of the proposed Attachment M-4 is to provide for a process that will allow the Transmission Owners to develop and construct CMPs for a limited number of existing CIP-014 stations and substations over a five year period in order to reduce the criticality of such facilities so that they can be removed from the CIP-014 List. The applicability of the Proposal is limited to no more than 20 locations identified as highly critical from the existing list of CIP-014 facilities (dated September 30, 2018) and the duration of the Proposal is more than five years after the issuance date of a Commission order accepting the Attachment M-4 Proposal with a requested effective date of March 17, 2020.¹²

IV. COMMENTS IN SUPPORT

A. If Accepted, this Proposal Will Provide Significant Benefits to the Security of the PJM Transmission System Through a Process By Which Transmission Owners May “De-Criticalize” Certain CIP-014 Facilities Under the Oversight of PJM and Relevant State Commissions

PJM supports this Proposal as it affords the Transmission Owners the ability to further enhance the security of the grid by “de-criticalizing” certain CIP-014 stations and substations from the CIP-014 List in a prompt manner, with significant oversight from PJM. The Proposal specifies a significant role for PJM in the selection of the efficient and cost-effective solution and in

¹¹ There is no PJM criteria under the Amended and Restated Operating Agreement, Schedule 6, to allow PJM to plan CMPs under its regional transmission expansion planning (“RTEP”) process; thus, CMPs can only be developed as a Supplemental Project.

¹² Attachment M-4(d), *proposed*. Under the “sunset” provision, Attachment M-4 terminates five years after the issuance date of a Commission order approving this Proposal. The sunset provisions further provides that (i) CMPs under construction on the termination date shall proceed and continue to be subject to Attachment M-4(b) 8, 9, 10 and 11; and (ii) for CMPs for which the construction begins after the sunset date, the Transmission Owner must provide quarterly status briefings to the relevant state commission until the CMP is energized.

verifying the efficacy to the solution. Although the transparency provided for under the current Tariff, Attachment M-3 process¹³ cannot be provided given the NERC CIP-014 requirements, PJM's oversight role, as well as consultation with the relevant state commissions, provide significant protections that are in the public interest.

Thus, unlike Supplemental Projects developed under an open and transparent process through Tariff, Attachment M-3 for which PJM evaluates only whether the Supplemental Project proposed by the Transmission Owner will adversely impact the reliability of the system, under this Proposal PJM also is assigned a more active role of advising the Transmission Owner which solution, if any, proposed by the Transmission Owner would be the more efficient or cost effective project.

Specifically, the Proposal details under the CMP Process Steps at Attachment M-4(b), the following process by which PJM will review and assess a Transmission Owner's preferred and potential alternative means of eliminating a transmission station or substation from the CIP-014 List:

- A. **PJM Review.**¹⁴ Upon receiving the Preferred Solution and Potential Solutions from a Transmission Owner pursuant to Step 3 above, PJM (or consultants selected by PJM) shall evaluate those solutions. PJM shall report its findings to the Transmission Owner in writing and either:
 - (i) Advise that the Preferred Solution is the more efficient or cost effective solution from among the Preferred Solutions and Potential Solutions;
 - (ii) Suggest modifications to any of the Preferred Solution or Potential Solutions that will permit PJM to advise that one of them is the more efficient or cost effective solution; or

¹³ Tariff, Attachment M-3 was accepted by the Commission as providing additional detail and transparency regarding the process by which Transmission Owners plan Supplemental Projects. *See Monongahela Power Co., et al.*, 162 FERC ¶ 61,129 (Feb. 15, 2018), *order on rehearing and compliance*, 164 FERC ¶ 61,217 (Sept. 26, 2018).

¹⁴ Attachment M-4(b)4.A, *proposed*.

- (iii) Advise that a CMP solution not be pursued. PJM’s report of its findings shall include an explanation of the basis for its advice.

B. PJM Assessment and Verification.¹⁵ For any CMP project ultimately selected for construction by the Transmission Owner (“Proposed CMP”), PJM shall assess and verify (or explain its inability to verify) that the project:

- i. Will result in removal of one or more transmission stations or substations from the CIP-014 List;
- ii. Does not remove transmission station(s) or substation(s) from the CIP-014 List that would otherwise be removed from the list through the current Regional Transmission Expansion Planning Process under the Operating Agreement, Schedule 6 (“RTEP Process”);
- iii. Does not provide a solution to address a reliability, operational performance, market efficiency or public policy need that would otherwise be addressed through the current RTEP Process;
- iv. Will not result in another transmission station or substation being added to the CIP-014 List; and
- v. Does not result in reliability or operational performance criteria violations under the RTEP Process. PJM shall report its assessment of these factors to the Transmission Owner in writing.

Attachment M-4(b)4 further requires PJM to report its assessment of the above factors to the Transmission Owner in writing.¹⁶ More importantly, “[n]o CMP solution shall proceed to another step in the Attachment M-4 process until this Step 4 has been completed.”¹⁷ Attachment M-4(b)4 further provides that “[o]nce PJM and the Transmission Owner have agreed that the report is final, PJM’s report will be provided to the affected State Commission”¹⁸

¹⁵ Attachment M-4(b)4.B, *proposed*.

¹⁶ Attachment M-4(b)4.A and B *proposed*.

¹⁷ Attachment M-4(b)4.B *proposed*.

¹⁸ Attachment M-4(b)4 *proposed*.

In addition to PJM’s review, assessment and verification responsibilities, Attachment M-4 also provides for interim/periodic review by PJM, at its sole discretion, to verify the continuing validity of its findings and assessment under Attachment M-4(b)4.¹⁹ PJM is also authorized to consult with the state commissions outside Attachment M-4(b)5 with or without the relevant Transmission Owner.²⁰ Once Attachment M-4.B.5 is completed, the Transmission Owner is required to notify PJM in writing that the Proposed CMP will be constructed and identify the location and specifications of the Proposed CMP selected.²¹

In order to ensure that the public has an opportunity to challenge a particular investment associated with “de-criticalizing” a given CIP-014 facility, the Proposal provides that after notice of the existence of a CMP has been made public and the Transmission Owner seeks to include the costs of the CMP in its filed rates,²² the CMP is subject to the potential for challenge similar to the processes available to customers to challenge any other transmission facility for which rate recovery is sought.

Consequently, given the limitations attached to the planning of such facilities and the risks associated with not finding a means by which to address such vulnerabilities, PJM supports this Proposal as a just and reasonable approach by which the Transmission Owners, with PJM as the independent verifying entity, can plan and construct these subset of Supplemental Projects to mitigate the potential for a loss of a critical facility.

¹⁹ Attachment M-4(b)6 *proposed*.

²⁰ Attachment M-4(b)6 *proposed*.

²¹ Attachment M-4, section (b)4.B.7.A *proposed*.

²² Attachment M-4(b)11 *proposed*.

B. Stakeholder Concerns

As required pursuant to Tariff, section 9.1(b) and the Consolidated Transmission Owners Agreement (“CTOA”), section 7.3.2, the Transmission Owners provided the requisite notice (“August 12 Notice”) for this Proposal at the August 12, 2019 Planning Committee.²³ Following such notice and during the notice comment period, certain stakeholders brought a problem statement to the October 17, 2019 Planning Committee requesting a stakeholder process to consider whether the development of Tariff, Operating Agreement (“OA”), and Manual language is needed to address both the CMPs referenced in the August 12 Notice and future CIP-014 critical facilities. At the December 12, 2019 Planning Committee stakeholders endorsed a six-month Planning Committee Special Session to address the critical infrastructure oversight issue charge to address both existing and future CIP-014 critical facilities.²⁴ In addition, at the January 23, 2020 Members Committee, a stakeholder proposed a resolution (“January 23 Resolution”) for endorsement stating, among other things, that Attachment M-4 is not endorsed by the Members Committee.²⁵

²³ Pursuant to Tariff, section 9.1(a), the Transmission Owners have the exclusive and unilateral right to file pursuant to Section 205 of the Federal Power Act (“FPA”) to make Tariff revisions relating to the establishment and recovery of the Transmission Owners’ transmission revenue requirements or the transmission rate design under the PJM Tariff, including any Tariff provisions governing the recovery of transmission-related costs incurred by the Transmission Owners. Tariff, section 9.1(b) further provides if the Transmission Owners agree upon a change in accordance with Section 9.1(a), the Transmission Owners must consult with PJM and the PJM Members Committee “beginning no less than thirty (30) days prior to any Section 205 filing hereunder, but neither PJM (except as provided for in Section 9.3) nor the PJM Members Committee shall have any rights to veto or delay the Transmission Owners’ Section 205 filing.”

²⁴ The Planning Committee voted both the original issue charge and an alternative issue charge to eliminate consideration of CMPs of existing CIP-014 facilities from the problem statement and issue charge. The Planning Committee passed the original Issue Charge a vote of 84 Yes; 67 No; 4 Abstain = Pass (56%). The Planning Committee did not pass the alternative Issue Charge with a vote of 68 Yes; 83 No; 4 Abstain = Fail (45%).

²⁵ See Resolution at <https://pjm.com/-/media/committees-groups/committees/mc/2020/20200123/20200123-item-01-mc-resolution-revised-following-20191205-mc-clean.ashx>.

While PJM appreciates the stakeholders' efforts to bring forth a problem statement and the January 23 Resolution regarding the planning of both existing and future CIP-014 facilities, such initiatives need not and, indeed pursuant to section 9.1 of the Tariff,²⁶ cannot prevent the Transmission Owners from proceeding with their Proposal nor the Commission from considering the Proposal under section 205 of the FPA. Significant efforts have been undertaken to develop this Proposal, including numerous meetings with the state commissions, to agree upon a process that balances the need for confidentiality given the requirements of the CIP-014 standard and the states' desire for a more explicit oversight role for PJM in reviewing, assessing and verifying these CMPs.

The January 17 Filing is a pragmatic approach to 'de-criticalizing' this limited number of existing CIP-014 stations and substations as soon as possible because, if the Commission accepts the proposed revisions effective March 17, 2020 as requested,²⁷ it puts the Transmission Owners on the clock to submit to PJM for review, assessment and verification preferred and potential alternative solutions of a limited number of existing facilities that the Transmission Owners have determined must be addressed and underway within the five year period in which Attachment M- 4 will be in effect.


²⁶ See *supra* at 8, n. 23.

V. CONCLUSION

WHEREFORE, for the foregoing reasons, PJM respectfully requests that the Commission grant PJM leave to intervene with all the rights attendant thereto, consider these comments in support and accept the revisions to the PJM Tariff to add a new Attachment M-4 as proposed in the January 17 Filing.

Respectfully submitted,

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Dated: February 5, 2020

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on those parties on the official Service List compiled by the Secretary in these proceedings.

Dated at Audubon, Pennsylvania this 5th day of February, 2020.

/s/ Pauline Foley
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