December 23, 2019

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

Re:  PJM Interconnection, L.L.C., Docket No. ER20-674-000
Allocation of Penalty Costs Associated with NERC Penalty Assessments

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act\(^1\) and Schedule 11 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”), PJM Interconnection, L.L.C. (“PJM”) requests the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) acceptance of the assignment to FirstEnergy Corp. (“FirstEnergy”) of the penalty costs for the alleged violation of North American Electric Reliability Corporation (“NERC”) reliability standards in the Notice of Penalty filed in FERC Docket No. NP19-3-000. PJM requests an effective date of March 29, 2019, for the assignment of the penalty costs. FirstEnergy authorized PJM to include a statement in this filing representing that FirstEnergy does not object to the assignment of such penalty costs.

I. BACKGROUND AND ASSIGNMENT OF PENALTY

Under Schedule 11 of the Operating Agreement, if NERC assesses a monetary penalty against PJM as the registered entity for an alleged violation of a NERC reliability standard, and the conduct of a PJM member contributed to the alleged reliability standard violation, then PJM

\(^1\) 16 U.S.C. § 824d.
may directly allocate such penalty costs or a portion thereof to the member provided that the following conditions have been satisfied:

1. the member received notice and an opportunity to fully participate in the underlying compliance monitoring and enforcement program proceeding;
2. the compliance monitoring and enforcement program proceeding produced a finding, subsequently filed with the Commission, that the member contributed, either in whole or in part, to the NERC reliability standards violation; and
3. NERC filed with FERC a root cause finding the member’s or members’ conduct as causing or contributing to the reliability standard violation charged against PJM as the registered entity.²

Schedule 11 of the Operating Agreement also requires that PJM file with the Commission any penalty costs allocated to the PJM member whose conduct contributed to the alleged violation of a reliability standard where PJM and the member agreed to such allocation.³

Each requirement in Schedule 11 to assign penalty costs has been satisfied. On July 15, 2016, PJM submitted a self-report to ReliabilityFirst Corporation (“ReliabilityFirst”) of a potential violation of NERC reliability standard TOP-004-2 R2 by PJM and FirstEnergy. On August 2, 2019, as required under Schedule 11 of the Operating Agreement, PJM sent a letter to FirstEnergy requesting that FirstEnergy participate in ReliabilityFirst’s compliance monitoring and enforcement proceeding for this potential violation.⁴ Both PJM and FirstEnergy participated in the compliance monitoring and enforcement proceeding, which ultimately resulted in the Notice

---

² PJM Operating Agreement, Schedule 11, §1.3(a).
³ Id. at §1.3(g).
⁴ Id. at §1.3(a)(1).
of Penalty filed by NERC with the Commission in FERC Docket No. NP19-3-000 on December 27, 2018. The Notice of Penalty: (1) assessed a $34,000 penalty against PJM as the registered entity responsible for the reliability standard at issue; (2) identified FirstEnergy as wholly responsible for the actions or omissions that caused or contributed to the alleged violation; and (3) identified the specific conduct of FirstEnergy that contributed to the alleged reliability standards violation charged against PJM as the registered entity. On January 25, 2019, the Commission issued a notice stating that FERC would not further review the Notice of Penalty. As a result, the penalty was affirmed by operation of law and became effective on January 28, 2019.

On February 14, 2019, PJM paid ReliabilityFirst $34,000 pursuant to a Notice of Monetary Penalty Payment Due issued to PJM on February 13, 2019, by ReliabilityFirst. In accordance with PJM Operating Agreement, Schedule 11, sections 1.3(b) and (h), PJM sent FirstEnergy an invoice for $34,000 on February 20, 2019. FirstEnergy paid the invoice on March 29, 2019. As required under PJM Operating Agreement, Schedule 11, section 1.3(g), PJM submits this filing to obtain the Commission’s acceptance of the assignment of the $34,000 penalty from PJM to FirstEnergy. If the Commission rejects the proposed assignment, PJM will refund to FirstEnergy the payment in full with interest calculated at the FERC authorized rate from the date of payment of the penalty by FirstEnergy in accordance with PJM Operating Agreement, Schedule 11, section 1.3(h).

---


6 Notice of Penalty at Attachment A.


8 See 18 C.F.R § 39.7(e)-(e)(1).
II. EFFECTIVE DATE

PJM requests an effective date of March 29, 2019, for the assignment of the penalty, which is the date on which FirstEnergy paid PJM the amount of the penalty. In accordance with PJM Operating Agreement, Schedule 11, section 1.3(h), FirstEnergy paid the penalty amount within 30 days of the notice required in section 1.3(b) rather than wait for Commission acceptance and pay later with interest. However, to the extent the Commission deems it necessary, PJM requests a waiver of FERC’s prior notice requirements and any other Commission regulations required to permit an effective date of March 29, 2019, for the assignment of the penalty.

III. DOCUMENTS ENCLOSED

Under PJM Operating Agreement, Schedule 11, section 1.3(g), any agreement between PJM and a PJM member to allocate penalty costs must be filed with and accepted by the Commission pursuant to Section 205 of the Federal Power Act. PJM is resubmitting Operating Agreement, Schedule 11, section 1.2, which is “Reserved for Future Use,” without any revisions to the section as part of this filing in order to both: (1) avoid filing and maintaining a rate schedule for the one-time payment from FirstEnergy to PJM for the penalty costs; and (2) satisfy the Commission’s eTariff requirement to submit a tariff record with all filings submitted pursuant to Section 205 of the Federal Power Act. However, as previously stated, PJM is not proposing any revisions to Operating Agreement, Schedule 11. Therefore, to the extent the Commission deems it necessary, PJM requests a waiver of any FERC rules or regulations to allow for this filing approach.

---

9 If the Commission rejects this notification, PJM will refund to FirstEnergy the payment in full with interest calculated at the FERC authorized rate from the date of payment of the penalty by FirstEnergy in accordance with PJM Operating Agreement, Schedule 11, section 1.3(h).
IV. CORRESPONDENCE AND COMMUNICATIONS

Correspondence and communications regarding this filing should be sent to the following individuals:

Craig Glazer  
Vice President–Federal Gov’t Policy  
PJM Interconnection, L.L.C.  
1200 G Street, N.W. Suite 600  
Washington, D.C. 20005  
(202) 423-4743  
craig.glazer@pjm.com

James M. Burlew  
Senior Counsel  
PJM Interconnection, L.L.C.  
2750 Monroe Boulevard  
Valley Forge Corporate Center  
Audubon, PA 19403  
(610) 666-4345  
james.burlew@pjm.com

V. SERVICE

PJM has served a copy of this filing on all PJM members and on all state utility regulatory commissions in the PJM region by posting this filing electronically. In accordance with the Commission’s regulations, PJM will post a copy of this filing to the FERC Filings section of its Web site, located at http://www.pjm.com/documents/ferc-manuals/ferc-filings.aspx, with a specific link to the newly filed document, and will send an e-mail on the same date as this filing to all PJM members and all state utility regulatory commissions in the PJM region alerting them of the filing and its availability on PJM’s website. PJM also serves the parties listed on the Commission’s official service list for this docket. Notwithstanding the foregoing, if the document is not immediately available by using the referenced link, it will be available within 24 hours of the filing. A copy of this filing will also be available on the Commission’s eLibrary Web site.

10 See 18C.F.R §§ 35.2(e) and 385.2010(f)(3).

11 PJM already maintains updates and regularly uses e-mail lists for all PJM members and affected state commissions.
located at http://www.ferc.gov/docs-filing/elibrary.asp in accordance with the Commission’s regulations and Order No. 714.

VI. CONCLUSION

Wherefore, for the foregoing reasons, PJM respectfully requests that the Commission accept the assignment of the penalty costs to FirstEnergy with an effective date of March 29, 2019.

Respectfully submitted,

Craig Glazer  
Vice President–Federal Gov’t Policy  
PJM Interconnection, L.L.C.  
1200 G Street, N.W.  
Suite 600  
Washington, D.C. 20005  
(202) 423-4743  
craig.glazer@pjm.com

James M. Burlew  
Senior Counsel  
PJM Interconnection, L.L.C.  
2750 Monroe Boulevard  
Valley Forge Corporate Center  
Audubon, PA 19403  
(610) 666-4345  
james.burlew@pjm.com