

179 FERC ¶ 61,104
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

May 13, 2022

In Reply Refer To:
PJM Interconnection, L.L.C.
Docket No. EL19-58-011

PJM Interconnection, L.L.C.
2750 Monroe Boulevard
Audubon, PA 19403

Attention: Chenchao Lu

Dear Mr. Lu:

1. On February 18, 2022, PJM Interconnection, L.L.C. (PJM) submitted revisions to the PJM Open Access Transmission Tariff (Tariff) to restore the historical energy and ancillary services revenue offset (E&AS Offset) for use in PJM's capacity market, in compliance with the December 22, 2021 Order on Voluntary Remand.¹ As discussed below, we accept the proposed revisions,² to be effective November 12, 2020, and require PJM to file, within 15 days of the date of this order, revised tariff records to correct apparent errors in the proposed revisions.³

¹ Transmittal at 1 (citing *PJM Interconnection, L.L.C.*, 177 FERC ¶ 61,209 at P 2 (2021) (Remand Order)).

² See the appendix for a list of eTariff records accepted in this order.

³ PJM states that it is submitting multiple versions of eTariff records to incorporate compliance changes in the versions of those Tariff records that became effective after November 12, 2020. PJM explains that to ensure that the Tariff reflects all Commission-accepted revisions since November 12, 2020, PJM is filing revised versions of Tariff, Attachment DD, section 5.14, effective on November 12, 2020, August 1, 2021, and September 28, 2021; Tariff, Attachment DD, section 6, effective on November 12, 2020; and Tariff, Attachment DD, section 6.8, effective on July 2, 2021. Transmittal at 6.n.19.

2. PJM explains that on May 21, 2020, the Commission found PJM's reserves market unjust and unreasonable and accepted PJM's proposed replacement rate.⁴ PJM states that the Commission found that implementation of the replacement rate would render PJM's historical E&AS Offset unjust and unreasonable and directed PJM to submit a compliance filing adopting a forward-looking E&AS Offset.⁵ PJM states that it submitted that compliance filing on August 5, 2020, and the Commission accepted PJM's proposed forward-looking E&AS Offset, effective November 12, 2020.⁶

3. PJM states that on December 22, 2021, on voluntary remand from the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), the Commission affirmed in part, and reversed in part, the determinations in the May 2020 Order.⁷ PJM states that the Commission found that because of the reversals, there was insufficient evidence to support the Commission's Federal Power Act section 206 directive to switch the E&AS Offset from historical to forward-looking.⁸ PJM states that the Commission directed PJM to submit a compliance filing to restore the historical E&AS Offset, effective November 12, 2020.⁹

4. PJM states that, in compliance with the Commission's directive, PJM is revising its capacity market rules to restore the use of a historical E&AS Offset for all Reliability Pricing Model (RPM) auctions going forward and limiting the effectiveness of the forward-looking option only to RPM auctions for the 2022/2023 delivery year, which is the only delivery year for which RPM auctions using the forward-looking E&AS Offset were conducted.¹⁰ PJM states that it is updating Tariff, Attachment DD, section 5.10(v), to specify that the historical E&AS Offset will be used to determine the net cost of new entry starting with the 2023/2024 delivery and going forward,¹¹ and the forward-looking

⁴ *Id.* at 1 (citing *PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,153 (2020) (May 2020 Order)).

⁵ *Id.* at 2 (citing May 2020 Order, 177 FERC ¶ 61,209 at P 308).

⁶ *Id.* (citing *PJM Interconnection, L.L.C.*, 173 FERC ¶ 61,134, at P 3 (2020)).

⁷ *Id.* (citing *Am. Mun. Power, Inc. v. FERC*, No. 20-1372 (D.C. Cir. Aug. 23, 2021)).

⁸ *Id.* (citing Remand Order, 177 FERC ¶ 61,209 at P 46).

⁹ *Id.* at 3 (citing Remand Order, 177 FERC ¶ 61,209 at P 47).

¹⁰ *Id.* 4.

¹¹ *Id.* at 4-5 (citing PJM, Intra-PJM Tariffs, OATT, OATT ATT DD.5.10, OATT ATTACHMENT DD.5.10 Auction Clearing Requirements (30.0.0), § 5.10(v),

E&AS Offset was used to determine net cost of new entry for the 2022/2023 delivery year.¹² PJM states that, with these revisions and a November 12, 2020 effective date, the Tariff will properly reflect the applicable E&AS Offset used in auctions for each delivery year.

5. PJM states that as part of its compliance with the Commission's directive and to ensure that the Tariff properly reflects the rules applicable to each capacity auction conducted after November 12, 2020, PJM is also revising provisions related to determining Minimum Offer Floor Price (MOPR) floor offer prices.¹³ PJM states that it is revising only the MOPR provisions accepted in Docket No. ER21-2582, which are effective starting with the 2023/2024 delivery year and set forth in Tariff, Attachment DD, section 5.14(h-2). PJM explains that it is revising the rules for determining the E&AS Offset used for MOPR floor offer prices for each resource type and restoring the prior historical approaches as they existed prior to the May 2020 Order. PJM states that because the effectiveness of the prior iterations of the MOPR set forth in sections 5.14(h) and 5.14(h-1) ends with the 2022/2023 delivery year, PJM is not revising the application of the forward-looking E&AS Offset in those sections.

6. Finally, PJM states that it is revising Tariff, Attachment DD, sections 6.8(d) and (d-1), to clarify that the historical E&AS Offset will be used to determine avoidable cost rates starting with the 2023/2024 delivery year and going forward, while the applicability of the forward-looking E&AS Offset is limited to the 2022/2023 delivery year.¹⁴

7. PJM states that to mitigate against the risk of delaying the Base Residual Auction for the 2023/2024 delivery year, scheduled for June 8, 2022, PJM urges the Commission to expeditiously accept this compliance filing.¹⁵

<http://etariff.ferc.gov/TariffSectionDetails.aspx?tid=1731&sid=304057> (proposed to be effective Nov. 12, 2020)).

¹² *Id.* at 5 (citing PJM, Intra-PJM Tariffs, OATT, OATT ATT DD.5.10, OATT ATTACHMENT DD.5.10 Auction Clearing Requirements (30.0.0), § 5.10(v-1), <http://etariff.ferc.gov/TariffSectionDetails.aspx?tid=1731&sid=304057> (proposed to be effective Nov. 12, 2020)).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 3.

8. Notice of PJM's filing was published in the *Federal Register*, 87 Fed. Reg. 10,779 (Feb. 25, 2022), with interventions and protests due on or before March 10, 2022. No comments or protests were filed.

9. In the Remand Order, the Commission directed PJM to submit a compliance filing to remove the forward-looking E&AS Offset from its Tariff and return to the prior historical E&AS Offset. PJM states that it is revising the MOPR provisions accepted in Docket No. ER21-2582, which are effective starting with the 2023/2024 delivery year and set forth in Tariff, Attachment DD, section 5.14(h-2), including the rules for determining the E&AS Offset used for MOPR floor offer prices for each resource type and restoring the prior historical approaches as they existed prior to the May 2020 Order.¹⁶ Except for the errors described below, we find that PJM has complied with this directive by submitting Tariff revisions that restore the prior historical approaches as they existed prior to the May 2020 Order.

10. PJM did not restore properly the Tariff language that existed prior to the May 2020 Order in the subsequently revised version of Attachment DD, sections 5.14(h-2)(B) & (C). Specifically, section 5.14(h) in the version effective November 12, 2020, filed to comply with the May 2020 Order,¹⁷ contains a sentence that corresponds to two sentences in Tariff, Attachment DD, sections 5.14(h-2)(4)(B) & (C), that became effective September 29, 2021.¹⁸ In the version of Tariff, Attachment DD, sections 5.14(h-2)(B) & (C), that PJM in this filing proposes to be effective September 28, 2021,¹⁹ the revisions to that sentence were not properly incorporated. To correspond to the historical approach, that sentence should read:

¹⁶ Transmittal at 5.

¹⁷ PJM, Intra-PJM Tariffs, OATT, OATT ATT DD.5.14, OATT ATTACHMENT DD.5.14 Clearing Prices and Charges (28.1.0), § 5.14(h), <http://etariff.ferc.gov/TariffSectionDetails.aspx?tid=1731&sid=286344> (effective Nov. 12, 2020)

¹⁸ PJM, Intra-PJM Tariffs, OATT, OATT ATT DD.5.14, OATT ATTACHMENT DD.5.14 Clearing Prices and Charges (28.1.0), § 5.14(h-2)(B)&(C), <http://etariff.ferc.gov/TariffSectionDetails.aspx?tid=1731&sid=295189> (effective September 29, 2021).

¹⁹ PJM, Intra-PJM Tariffs, OATT, OATT ATT DD.5.14, OATT ATTACHMENT DD.5.14 Clearing Prices and Charges (34.2.0), § 5.14(h-2)(4)(B), <http://etariff.ferc.gov/TariffSectionDetails.aspx?tid=1731&sid=304060> (proposed to be effective September 28, 2021).

Documentation for net revenues also may include, as available and applicable, plant performance and capability information, including heat rate, start-up times and costs, forced outage rates, planned outage schedules, maintenance cycle, fuel costs and other variable operations and maintenance expenses, and ancillary service capabilities.

For section 5.14(h-2)(B) the change needed is to delete “capacity factors,” and for section 5.14(h-2)(C) the changes needed are to revise “must” to “may” and also to delete “capacity factors.” We therefore require PJM to file, within 15 days of the date of this order, a revised Tariff to make these changes.

11. We accept PJM’s compliance filing, to become effective November 12, 2020, subject to PJM making a further compliance filing to correct apparent errors, within 15 days of the date of this order, as discussed above. We also accept the Tariff records that incorporate compliance changes in the versions of those Tariff records that became effective after November 12, 2020. Specifically, we accept the revised versions of Tariff, Attachment DD, section 5.14, effective on November 12, 2020, August 1, 2021, and September 29, 2021; Tariff, Attachment DD, section 6, effective on November 12, 2020; and Tariff, Attachment DD, section 6.8, effective on July 2, 2021. We note that PJM submitted revisions to Tariff, Attachment DD, section 5.14, with a requested effective date of September 28, 2021, that appears to be an error, because the eTariff record that is being revised became effective September 29, 2021, by operation of law and was not effective on September 28, 2021. Accordingly, we accept that eTariff record effective September 29, 2021, and direct PJM to reflect the September 29, 2021 effective date in its compliance filing.

By direction of the Commission. Commissioner Danly is dissenting with a separate statement attached.
Commissioner Phillips is not participating.

Debbie-Anne A. Reese,
Deputy Secretary.

Appendix

Tariff records accepted effective November 12, 2020:

PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, [OATT ATT DD.5.10, OATT ATTACHMENT DD.5.10 Auction Clearing Requirements \(30.0.0\)](#)

PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, [OATT ATT DD.5.14, OATT ATTACHMENT DD.5.14 Clearing Prices and Charges \(34.0.0\)](#)

PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, [OATT ATT DD.6, OATT ATTACHMENT DD.6. MARKET POWER MITIGATION \(25.1.1\)](#)

Tariff record accepted effective Jun 1, 2021:

PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, [OATT ATT DD.6.8, OATT ATTACHMENT DD.6.8 Avoidable Cost Definition \(2.0.0\)](#)

Tariff record accepted effective August 1, 2021:

PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, [OATT ATT DD.5.14, OATT ATTACHMENT DD.5.14 Clearing Prices and Charges \(34.1.0\)](#)

Tariff record accepted subject to a further compliance filing effective September 29, 2021:

PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, [OATT ATT DD.5.14, OATT ATTACHMENT DD.5.14 Clearing Prices and Charges \(34.2.0\)](#)

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.

Docket No. EL19-58-011

(Issued May 13, 2022)

DANLY, Commissioner, *dissenting*:

1. I dissent from this order.¹ As I have said before, I object to the process by which the instant filing has come before the Commission and I dissent on the merits.²

2. We find ourselves here, yet again, as a result of the Chairman's direction to the FERC Solicitor's Office to seek voluntary remand of orders pending appeal without the knowledge or acquiescence of his fellow Commissioners, which at least violated long-standing Commission practice and may have been unlawful.³ On the merits, this order implements profound changes to fundamental aspects of the market administered by PJM Interconnection, L.L.C. (PJM) by restoring the historical E&AS Offset and does so recklessly, absent the benefit of additional briefing or supplementation of the record as to the consequences of these changes, especially in light of PJM's numerous other recent tariff revisions.

¹ *PJM Interconnection, L.L.C.*, 179 FERC ¶ 61,104 (2022).

² See *PJM Interconnection, L.L.C.*, 177 FERC ¶ 61,209, at P 2 (2021) (Danly, Comm'r, dissenting (Jan. 20, 2022)) (arbitrarily reversing certain past Federal Power Act section 206, 16 U.S.C. § 824e, findings, including reverting the forward-looking energy and ancillary services offset (E&AS Offset) to a backward-looking approach, over the objections of PJM and third parties, without any new evidence to support those findings) (Voluntary Remand Order), *order granting clarification*, 178 FERC ¶ 61,085 (2022) (Danly, Comm'r, dissenting). Then-Commissioner Glick had supported as a "lone bright spot"—"[t]he forward-looking E&AS Offset adopted in [the] proceeding" stating it "should help reduce the adverse impacts on consumers by reducing capacity market revenue to reflect some of the increases in revenue earned through the energy and ancillary services markets . . . a step, albeit a small one, in the right direction." *PJM Interconnection, L.L.C.*, 173 FERC ¶ 61,123 (2020) (Glick, Comm'r, dissenting at P 22) (citation omitted).

³ *PJM Interconnection, L.L.C.*, 177 FERC ¶ 61,209 (Danly, Comm'r, dissenting at PP 1-8).

3. Worse still, this order on compliance will not be the end. The order identifies several errors in PJM's submission that will require yet another compliance filing and another order in a proceeding that the Commission never should have initiated in the first place.⁴ Meanwhile, a separate PJM compliance filing, with an October 1, 2022 implementation date, remains pending in another sub-docket.⁵

4. PJM's next base residual auction is scheduled for June 8, 2022. These protracted, unnecessary proceedings have caused unacceptable delays in PJM's auction schedule.⁶ We can only hope there will be no further delays. How can anyone expect a market to function correctly and efficiently in the face of the uncertainty the Commission has created over the last year? We cannot continue to take actions that will delay PJM's auctions or throw its market rules into further chaos. Amidst such uncertainty, the promised benefits of the market will be diminished and will eventually be lost. PJM's ability to ensure resource adequacy will be imperiled. Prices will rise and reliability will suffer. We cannot continue down this road and keep telling ourselves that the resulting rates are just and reasonable.

For these reasons, I respectfully dissent.

James P. Danly
Commissioner

⁴ *PJM Interconnection, L.L.C.*, 179 FERC ¶ 61,104 at PP 1, 9-11.

⁵ *PJM Interconnection, L.L.C.*, Transmittal, Docket No. EL19-58-012, at 12 (filed Feb. 22, 2022) (compliance filing implementing revisions to the reserve market rules).

⁶ *PJM Interconnection, L.L.C.*, Transmittal, Docket No. EL19-58-011, at 3 (filed Feb. 18, 2022); *see also PJM Interconnection, L.L.C.*, 178 FERC ¶ 61,122 (2022) (Danly, Comm'r, concurring).

Document Content(s)

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