

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

PPL Electric Utilities Corp.,)
PJM Interconnection, L.L.C.)

Docket No. ER21-2282

**ANSWER OF THE ORGANIZATION OF PJM STATES, INC.
IN SUPPORT OF MOTION FOR EXTENSION OF TIME
AND REQUEST FOR EXPEDITED TREATMENT
OF THE AMERICAN CLEAN POWER ASSOCIATION**

Pursuant to Rule 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, the Organization of PJM States, Inc. (“OPSI”),¹ respectfully submits this answer in support of the American Clean Power Association’s (“ACP”) motion requesting an extension of time to submit comments and protests in this proceeding.² On July 12, 2021, OPSI filed a timely doc-less intervention and is therefore a party to this proceeding.

OPSI is a not-for-profit inter-governmental organization of 14 utility regulatory agencies with separate jurisdictions either wholly or partly in the service area of PJM, a Commission-approved regional transmission operator (“RTO”). PJM operates the high-voltage electric transmission grid and wholesale electricity market within its service area. OPSI’s activities include, but are not limited to, coordinating data or issues analyses and policy formulation related to PJM, its operations, its Independent Market Monitor, and related Commission matters.

¹ Approved on July 12, 2021, and adopted by OPSI’s Board of Directors.

² Motion for Extension of Time and Request for Expedited Treatment of ACP, Docket No. ER21-2282 (July 7, 2021) (“Motion”).

I. COMMENTS

On June 30, 2021, the Wednesday immediately preceding a federal holiday, the PJM Transmission Owners (“TO’s”) submitted a filing under section 205 of the Federal Power Act³ (“Proposal”) proposing revisions to the PJM Tariff to provide Transmission Owners with the option to elect to fund the capital cost of Network Upgrades necessary to accommodate generator interconnections.⁴ In its Motion, ACP seeks a seven day extension to the current deadline for initial comments, from July 21, 2021 to July 28, 2021, indicating the PJM TO’s do not oppose such an extension. With good cause the Commission has legal authority to extend the time for filing initial comments of protests.⁵

OPSI strongly urges the Commission to grant an extension of time for filing initial comments or protests in this matter, and to extend the deadline by a minimum of the seven days that ACP seeks. Given the gravity and complexity of the PJM TOs’ Proposal, the Commission has cause to extend the time for filing comments or protests substantially longer than a mere seven days. The Proposal contains drastic changes to the existing PJM interconnection process including but not limited to revenue requirements and rate treatment which, if granted, would significantly impact all PJM stakeholders.

The Proposal would apply to all future PJM Network Upgrades and even cites an existing \$4.9 billion worth of Network Upgrades currently in PJM’s interconnection queue, to which the Proposal would apply if granted. This does not include all future Network Upgrades required for future additions to the PJM interconnection queue. Such substantial financial matters require additional time than currently provided for filing initial comments and protests in this matter.

³ 18 C.F.R. § 385.212 (2020).

⁴ PJM Tariff Revisions to Implement Transmission Owners’ Funding of Network Upgrades, Docket No. ER21-2282 (June 30, 2021) (“Proposal”).

⁵ Fed. R. Civ. P. 6(b)(1)(A).

Further, the Proposal purports to rely on questionable legal authority, and merits a meticulous parsing by the Commission – including extensive discovery – before it issues a final ruling. Specifically, the Proposal cites PJM’s Tariff at Section 9.1(a)⁶ as providing authority to be filed under Section 205 of the FPA. Section 9.1(a) grants Section 205 filing rights to the PJM TOs “for any changes in or relating to the establishment and recovery of the Transmission Owners’ transmission revenue requirements or the transmission rate design under the PJM Tariff,” and further states that “such [Section 205] filing rights shall also encompass any provisions of the PJM Tariff governing the recovery of transmission-related costs incurred by the Transmission Owners.” However, the Proposal raises complex issues of fact and law regarding ownership of the Network Upgrades, the changing of that ownership, and whether PJM TOs should be granted a right to elect to receive higher revenue requirements for projects they do not yet own or control. The Commission must ensure it provides adequate time to develop a record to verify that an appropriate nexus exists between the Proposal and Section 9.1(a) before proceeding under Section 205 of the FPA. Finally, the Proposal cites *Ameren*⁷ as providing authority to grant the proposal, but that case never reached a finding on the merits – at any level of litigation – similar to those raised in this proceeding. The Commission must therefore ensure it provides adequate time to determine the relevance of *Ameren*.

As noted, the PJM TO’s elected to file their Proposal on the Wednesday before the 4th of July which the federal government recognized as a holiday on Monday, July 5th. This timing, whether intentional by the PJM TO’s or not, frustrates the ability of interested parties to fully utilize the existing time for filing comments and protests as many offices closed in observation of the holiday. In contrast, the interest TO’s may have in any new Network Upgrades that come

⁶ PJM Open Access Transmission Tariff, Section 9.1(a) (“OATT”).

⁷ *Ameren Servs. Co. v. FERC*, 880 F.3d 571 (D.C. Cir. 2018).

into service – and thus, out of the reach of the Proposal – during the litigation of this proceeding are outweighed by the importance of developing a complete record prior to a Commission ruling. This provides more cause for the Commission to grant an extension of time.

The issues presented by the Proposal require substantial time for stakeholders and interested parties to fully develop responses in order that the Commission have an adequate record upon which to rule. Should the time for filing comments or protests not be extended, OPSI, and likely other interested parties, will not be able to provide a full response in initial comments or protests and the record will suffer accordingly.

II. CONCLUSION

Wherefore, OPSI respectfully requests that the Commission grant ACP's Motion and use Commission discretion to extend the current July 21, 2021 deadline for filing initial comments and protests by a minimum of seven days.

Respectfully Submitted,

/s/ Gregory V. Carmean

Executive Director

Organization of PJM States, Inc.

700 Barksdale Road, – Suite 1

Newark, DE 19711

Tel 302-266-0914

Email: greg@opsi.us

Dated: July 12, 2021

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. Section 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

s/s Gregory V. Carmean
Executive Director
Organization of PJM States, Inc.
700 Barksdale Road - Suite 1
Newark, DE 19711
Tel: 302-266-0914

Dated at Newark, Delaware this July 12, 2021.