

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

Allegheny Electric Cooperative, Inc., <i>et al.</i>	)	
v.	)	Docket No. EL07-56-000
PJM Interconnection, LLC	)	
 Organization of PJM States, Inc.	 )	
v.	)	Docket No. EL07-58-000
PJM Interconnection, LLC	)	(Consolidated)

**JOINT MOTION OF JOINT COMPLAINANTS AND THE  
ORGANIZATION OF PJM STATES, INC. TO DEFER  
COMMISSION ACTION ON COMPLAINTS**

On September 13, 2007, the Commission issued the Sunshine Act Meeting Notice and agenda for its meeting to be held on September 20, 2007. Included on the agenda is consideration of the above-captioned complaint proceeding. Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”), 18 C.F.R. § 385.212 (2007), the identified Joint Complainants<sup>1</sup> in Docket No. EL07-56-000 and the Organization of PJM States, Inc., the complainant in Docket No. EL07-58-000 (“OPSI”) ( collectively “Movants”) hereby file this Motion requesting that the Commission defer action on the complaints pending in the above-referenced proceeding. In support of this Motion, Movants state as follows:

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<sup>1</sup> The following Joint Complainants join in the filing of this motion: Allegheny Electric Cooperative, Inc.; Borough of Chambersburg, Pennsylvania; District of Columbia Office of the People’s Counsel; Indiana Office of Utility Consumer Counselor; Maryland Office of People’s Counsel; Office of the Attorney General of Virginia, Division of Consumer Counsel; Office of the Ohio Consumers’ Counsel; ; Old Dominion Electric Cooperative; Pennsylvania Office of Consumer Advocate; the PJM Industrial Customer Coalition; Southern Maryland Electric Cooperative, Inc.; and the State of Delaware, Division of the Public Advocate. No Joint Complainant raised an objection or opposition to the filing of this Motion.

## I. BACKGROUND

On April 17, 2007, a complaint was filed against PJM in Docket No. EL07-56-000 by a group of electric cooperatives, municipal utilities, state consumer advocates and industrial customers.<sup>2</sup> On April 23, 2007, OPSI, on behalf of itself and nine individual state regulatory commissions, also filed a complaint against PJM. While the specific requests for relief differ somewhat, both complaints requested that the Commission take action to address alleged and possible violations by PJM of Attachment M to its Open Access Transmission Tariff (“OATT”) regarding the independence and operation of its Market Monitoring Unit (“MMU”).<sup>3</sup> On May 3, 2007, PJM filed separate answers to the complaints, denying the allegations set forth therein and opposing the relief sought.

On May 18, 2007, the Commission issued an order consolidating the complaint proceedings; granting fast-track processing; propounding data requests on PJM and its current Market Monitor, Joseph Bowring; and deferring action on the OPSI request for interim relief.<sup>4</sup> Responses to the requests were filed by PJM and Mr. Bowring on June 12, 2007. On July 2, 2007, PJM filed a response to Mr. Bowring’s submission. Mr. Bowring, OPSI and the Joint Complainants filed responses to PJM’s response on July 9, 2007; July 17, 2007; and July 27, 2007, respectively.

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<sup>2</sup> *Complaint of Allegheny Electric Cooperative, Inc., Borough of Chambersburg, Pennsylvania; Cities and Towns of Hagerstown, Thurmont and Williamsport, Maryland; District of Columbia Office of the People’s Counsel, Illinois Citizens Utility Board; Indiana Office of Utility Consumer Counsel; Maryland Office of the People’s Counsel; New Jersey Division of Rate Counsel; Office of the Attorney General of Virginia, Division of Consumer Counsel; Office of the Ohio Consumers’ Counsel; Old Dominion Electric Cooperative; Pennsylvania Office of Consumer Advocate; PJM Industrial Customer Coalition; Southern Maryland Electric Cooperative, Inc.; State of Delaware, Division of the Public Advocate for a Show Cause Order, on a Fast-Track Basis and Request for Shortened Response Time* (“Joint Complaint”).

<sup>3</sup> *Complaint Requesting Fast Track Processing and Motion for Interim Relief* (“OPSI Complaint”).

<sup>4</sup> *Allegheny Electric Cooperative, Inc., et al.*, 119 FERC ¶ 61,165 (2007).

On August 2, 2007, PJM filed a unilateral Offer of Settlement and Explanatory Statement (“Settlement Offer”). Relevant to this proceeding, PJM submitted a unilateral Offer of Settlement to purporting to resolve forward looking structural issues pending in this proceeding, and requested that if comments on the Settlement indicated remaining concerns, the Commission direct expedited settlement procedures before a Settlement Judge and resolve any issues that remain at the end of the settlement process, without further proceedings.

Initial Comments contesting the Settlement Offer were filed on August 22, 2007. In their Initial Comments, both the Joint Complainants and OPSI stated their opposition to PJM’s Settlement Offer and requested that the Commission reject the offer outright. The complainants also expressed their willingness to enter into settlement negotiations (OPSI requested that the ongoing settlement discussions be allowed to continue) and requested that the Commission establish evidentiary hearing procedures with full discovery rights. OPSI further requested that the Commission grant its request for interim relief.

On August 28, 2007, representatives of the Joint Complainants, PJM, OPSI and the PJM supplier and generator sectors engaged in informal settlement discussions coordinated by OPSI. The parties arranged for further discussions and are meeting today.

On September 4, 2007, PJM filed Reply Comments in which it requested that the Commission institute formal settlement proceedings before a Settlement Judge. PJM also requested that the Commission issue an initial policy order confirming matters as set forth by PJM in its Reply Comments.

On September 12, 2007, the Joint Complainants and OPSI each filed answers to PJM's Reply Comments. Both complainants requested that the Commission permit ongoing settlement discussions to continue and reject PJM's request for an initial guidance order. Additionally, OPSI reiterated its request for interim relief and the Joint Complainants requested that the Commission direct commencement of discovery procedures with appointment of an Administrative Law Judge to resolve any discovery disputes.

## **II. MOTION TO DEFER COMMISSION ACTION**

While there has been progress on some issues, the parties to this proceeding have not reached agreement and there are continuing settlement discussions in progress. There is consensus that continuing informal settlement discussions would be beneficial among the signatories to this motion. Since the initial settlement meeting on August 28, 2007, PJM has provided the meeting participants with responses to questions that have clarified matters raised by PJM's Settlement Offer. The Movants believe that additional time is needed in order to explore the issues further and to determine whether the matters in the complaints can be resolved through settlement. Given the ongoing informal settlement discussions coordinated by OPSI and the interest by the signatories below in continuing these settlement discussions, the Movants respectfully request that the Commission defer any action on the complaints for 30 days in order to permit the parties to continue to attempt to resolve some or all of the matters in dispute.

Good cause exists to grant this Motion. A settlement of some or all of the issues raised in the complaints would reduce or eliminate the need for continued proceedings before the Commission, which is the more efficient and preferable outcome. Moreover,

an order by the Commission at this point in the proceedings is likely to affect parties' willingness to continue productive informal settlement discussions. Given the integrated nature of the issues raised in the complaints, PJM's Settlement Offer, and its request for guidance, an order by the Commission at this time could be disruptive to the ongoing informal settlement discussions. Therefore, the Movants request that the Commission defer any action on the Complaints for a thirty-day period. At the end of such period, a status report would be filed apprising the Commission of the status of the settlement negotiations and recommending further procedures to resolve the matters raised by the Complaints.

### III. CONCLUSION

WHEREFORE, for the foregoing reasons, the Movants respectfully request that the Commission (1) defer action on the Complaints at this time and (2) direct the parties to file a status report no later than thirty days from the date the Commission issues an Order on the instant Motion.

Respectfully submitted,

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Dated: September 19, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service lists compiled by the Secretary in these proceedings.

Dated at Washington, D.C. this 19th day of September 2007.

/s/ Adrienne E. Clair  
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