

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

PJM Interconnection, L.L.C.

PPL Electric Utilities Corp. *et al.*

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Docket No. ER21-2282-000

**MOTION FOR LEAVE TO REPLY AND REPLY COMMENTS OF
THE ELECTRIC POWER SUPPLY ASSOCIATION**

On June 30, 2021, PJM Interconnection, LLC, (“PJM”) submitted a filing to the Federal Energy Regulatory Commission (“FERC” or “the Commission”) on behalf of the PJM Transmission Owners (“PJM TOs”) under Section 205 of the Federal Power Act (“FPA”) to revise the process and procedures applicable to Network Upgrades necessary to facilitate the interconnection of generation facilities under PJM’s Open Access Transmission Tariff (“PJM Tariff”).¹ Specifically, the filing proposes to provide the PJM TOs the option to elect to fund the capital cost of Network Upgrades necessary to accommodate generator interconnections in order to allow the PJM TOs to earn a return on the investment in those facilities. This revision to the PJM Tariff was made by the PJM TOs acting through the PJM Consolidated Transmission Owners Agreement (“CTOA”).

Pursuant to Rule 212 and 213 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.212,

¹ *PPL Electric Utilities Corp., et al.*, Proposed Revisions to PJM Tariff, Docket ER21-2282-000, (filed June 30, 2021) (“TO Proposal” or “June 30 Filing”).

385,213 (2020), the Electric Power Supply Association (“EPSA”)² respectfully requests that the Commission grant leave to submit limited reply comments in the referenced proceeding. As explained below, EPSA submits that this limited reply is necessary to provide further relevant information to the Commission.

I. MOTION TO SUBMIT REPLY COMMENTS

EPSA hereby moves to submit limited reply comments in this proceeding. The Commission has waived its rules regarding the filing of replies when such a pleading will assist in the Commission’s analysis. Thus, the Commission has permitted such replies where good cause exists to submit such a reply, such as where the reply assists in the development of the record or provides useful and relevant information that assists the Commission in its ability to identify and resolve difficult issues.³ In this case, good cause exists to permit EPSA to convey the concerns of the competitive supplier sector impacted by the TO proposal as interconnection customers.

II. COMMENTS

Pursuant to the Commission’s Notices in this proceeding,⁴ numerous parties submitted protests to the PJM TO Network Upgrades revision proposal in part or in full,

² EPSA is the national trade association representing competitive power suppliers in the U.S. EPSA members provide reliable and competitively priced electricity from environmentally responsible facilities using a diverse mix of fuels and technologies. EPSA seeks to bring the benefits of competition to all power customers. This pleading represents the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue. EPSA submitted a timely document-less motion to intervene in this proceeding on July 14, 2021.

³ See, e.g., PJM Interconnection, L.L.C., 139 FERC ¶ 61,165, at P 24 (2012) (accepting answers to a protest because “they have provided information that assisted [the Commission] in [its] decision-making process”); Las Vegas Cogeneration Limited Partnership, 117 FERC ¶ 61,309 at P 20 (2006) (accepted answer of Las Vegas Cogeneration Limited Partnership and subsequent answer of Nevada Power Company “because they [would] lead to a more accurate and complete record” in the proceeding).

⁴ PPL Electric Utilities Corp., et al., Combined Notice of Filings #2, eLibrary No. 20210630-3076 (June 30, 2021); Notice of Extension of Time, eLibrary No. 20210713-3056 (July 13, 2021).

raising concerns ranging from the method⁵ by which the TOs have attempted to implement very broad and impactful changes to the details of the proposed changes which alter rates, terms, and conditions for interconnection customers going forward, including those who have already initiated the interconnection process in PJM. The calls for the Commission to reject the PJM TO proposal as unjust and unreasonable and unduly discriminatory are extensive and compelling, coming from nearly every sector of the electricity delivery system except for organizations representing Transmission Owners in PJM and other markets.⁶ This includes a protest from J-Power USA Development Company, LTD.,⁷ which raises the baseless foundation and lack of data, evidence, or analysis underpinning the TO proposal. Additionally, Shell Energy North America (US), L.P., submitted comments⁸ that, while not calling for rejection of the June 30 filing, did explain that the significant changes to the process and cost structure for interconnecting resources proposed by the TOs will directly and extensively impact the integration of new resources, including offshore wind projects, and therefore require in

⁵ See e.g., Protest of J-Power USA Development Co., Ltd., (filed July 28, 2021) (“J-POWER Protest”) (“It therefore appears that the Transmission Owners should have instead filed their proposed revisions under Section 206 of the FPA, in which case they would have first had to show the existing Tariff provisions to be unjust and unreasonable.”);

Protest of the American Clean Power Association, Advanced Energy Economy, Natural Resources Defense Council, Sustainable FERC Project, and Sierra Club, (filed July 28, 2021) (“ACP et. al., Protest”), (“As a threshold matter, the Filing exceeds the authority [PJM] Tariff grants to PJM TOs to make Section 205 filings.”), see also pp. 6-12;

Protest of the Independent Market Monitor for PJM (filed July 28, 2021) (“PJM IMM Protest”), (“The TOs cannot claim to have “exclusive and unilateral rights to file under Section 205” to change rules that were established by PJM and accepted by the Commission under PJM’s exclusive authority as an RTO. The June 30th Filing is unauthorized and should be rejected with prejudice, and without the need to determine its lack of merit.”).

⁶ Notably, the only supportive comments submitted in proceeding were filed by the Edison Electric Institute (EEI) and WIRES. See, Motion to Intervene and Comments of the Edison Electric Institute, (filed July 28, 2021); also, Comments of WIRES, (filed July 28, 2021).

⁷ See generally J-POWER Protest.

⁸ See generally Comments of Shell Energy North America (US), L.P., (filed July 28, 2021) (“Shell Energy Comments”).

the least a hearing, to include several technical conferences, and the possibility of settlement procedures to establish that any changes are just and reasonable and not unduly discriminatory.

In addition to hearing from these two competitive resource developers, it is important that the collective voice of competitive suppliers is established in this proceeding. EPSA represents many interconnection customers directly impacted by the TO proposal or any change to the Network Upgrade process, and who rely entirely on the independent, competitive PJM markets to support the development of new resources and the operation and maintenance of existing resources.

In order to support the extensive buildout of generation resources and emerging technologies needed to realize the grid of the future, the processes which facilitate that development as well as the delivery of electricity to customers must be fair, transparent, balanced, and timely. The June 30 filing would grant TOs a unilateral right of first refusal to fully fund any chosen Network Upgrade, eliminating any competition and cost discipline for the upgrade, shifting the risk for that construction from interconnecting generators back to consumers who are unable to control or mitigate the risk associated with such projects, and very likely adding to the already significant delays experienced by customers in PJM's interconnection queue.

Protests filed in this proceeding by consumer interests raise extensive concerns over cost issues created by the TO proposal.⁹ To be clear, generation developers are

⁹ See *e.g.*, Protest of the Organization of PJM States, Inc., (filed July 28, 2021) ("OPSI Protest"); Joint Consumer Advocates Protest of the PJM Transmission Owners' Request to Implement Transmission Owners Funding of Network Upgrades, (filed July 28, 2021) ("JCA Protest"); Protest of

equally concerned that costs will increase under TO control and may be far more uncertain, creating investment stability concerns for development as well as cost uncertainty going forward under operation.¹⁰ This may be due to cost overruns which are fully recoverable under the TO paradigm (and may even earn a rate of return), a lack of cost discipline created by competition to build by independent entities who today are incented to keep costs low, or the weighted cost of capital for utilities that may increase costs and rates for interconnection customers and ratepayers. As we look to changing the resource mix of the Bulk Power System in order to integrate lower emission resources and emerging technologies, this is not the time to erect or strengthen barriers to entry for new resources.

In fact, EPSA contends that at this very time in which “The electricity sector is transforming as the generation fleet shifts from resources located close to population centers toward resources, including renewables, that may often be located far from load centers,”¹¹ substantial changes to any one part of the transmission system development and cost allocation processes should be assessed within a broad, holistic inquiry. This particularly bodes against the proposed unilateral, drastic re-imagining of the PJM

Public Citizen, Inc., (filed July 28, 2021) (“Public Citizen Protest”); Comments of the PJM Industrial Customer Coalition, (filed July 28, 2021) (“PJM ICC Comments”). *For additional concerns over cost issues raised by the proposal, also see:* Comments of PJM Interconnection, L.L.C., (filed July 28, 2021) (“PJM Comments”); Protest of the Solar Energy Industries Association, (filed July 28, 2021) (“SEIA Protest”); PJM IMM Protest; ACP, et al. Protest; J-Power Protest; and, Shell Energy Comments.

¹⁰ See Shell Energy Comments at pp 5-6, fn 11. (“Moreover, the risk of increased costs is exaggerated by the uncertainty resulting from the formula rate in the Network Upgrades Funding Agreement (“NUFA”) proposed by the PJM TOs. Annual updates to certain of the inputs used in the formula rate means that it will produce changes in the rate from year to year. If the cost of capital increases significantly over the 20 year term contained in the NUFA, it adds another component to the generation development costs structure that cannot be hedged.”)

¹¹ Advanced Notice of Proposed Rulemaking, *Building for the Future Through Electrical Regional Transmission Planning and Cost Allocation and Generator Interconnection*, at P 3, Docket No. RM21-17-000 (issued July 15, 2021) (“ANOPR”).

Network Upgrade funding approach offered by TOs without input, discussion, or consideration from any other affected sector of PJM's system. This one-sided story is told by the protests submitted in the instant record by representatives of solar, wind, and renewable developers; emerging technology developers; state consumer advocates; state public utility commissioners; large industrial and manufacturing customers; environmental organizations; and PJM's Independent Market Monitor. Even PJM submitted comments that ask several questions which belie a healthy level of skepticism of the TOs proposal. EPSC herein reiterates these concerns from the viewpoint of competitive power suppliers and developers and joins the calls from the majority of parties in this proceeding for FERC to reject the TO proposal.

Rather, as proposed in numerous protests and comments, these issues are appropriately teed up by the Commission in its recently issued Advanced Notice of Proposed Rulemaking ("ANOPR"), *Building for the Future Through Electrical Regional Transmission Planning and Cost Allocation and Generator Interconnection*.¹²

Highlighting the changes our industry faces in the coming years, and the importance of addressing the full panoply of interrelated challenges, the ANOPR asks,

[W]hether the current approach to oversight of transmission investment adequately protects customers, particularly given the potentially significant and very costly investments proposed to meet the transmission needs driven by a changing resource mix, and, if customers are not adequately protected from excessive costs, which potential reforms may be required and are legally permissible to ensure just and reasonable rates.¹³

¹² *Id.*

¹³ *Id.*, P 5.

While nearly all of the 123-page ANOPR asks questions related to the interconnection process, almost 40 pages are specifically directed at the cost and responsibility for regional transmission facilities and interconnection-related network upgrades.¹⁴

Clearly this is not the time to unilaterally revise one important aspect of the rules and regulations addressing how to fund the nation's transmission needs, particularly changes that may in fact further incentivize "an inefficient, piecemeal expansion of the transmission grid."¹⁵ Rather, these processes are appropriately considered within the rulemaking proceeding opened by the Commission last month to address these issues and how best to enable the expansion of the Bulk Power System while maintaining rates that are just and reasonable for consumers and offering a level playing field for developers of all types of new resources.

III. CONCLUSION

WHEREFORE, EPSA respectfully requests that the Commission accept these reply comments in order to ensure the concerns of competitive suppliers are included in the record of this proceeding. In doing so, EPSA urges the Commission to reject the June 30 filing and allow transmission, interconnection, and network upgrade processes to be assessed on a holistic basis in the rulemaking proceeding, *Building for the Future Through Electrical Regional Transmission Planning and Cost Allocation and Generator Interconnection*. If the Commission does not fully reject the filing, EPSA supports parties' requests that the Commission institute a paper hearing, technical conference, or

¹⁴ *Id.*, PP 100-159.

¹⁵ *Id.*, Joint Concurring Statement from Chairman Glick and Commissioner Clements, P 2.

other proceeding on its own initiative to assess the facts of the proposal and adequately and fully review whether this or any related change to PJM's Network Upgrade funding process at this time is just and reasonable and not unduly discriminatory.

Respectfully submitted,

N. E. Bagot

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Dated: August 12, 2021

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically served the foregoing document on each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

Dated at Washington, D.C., this 12th day of August, 2021.

N. E. Bagot

Nancy Bagot, Senior Vice President