

154 FERC ¶ 61,047  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

January 28, 2016

In Reply Refer To:  
Industrial Energy Users-Ohio  
v.  
The Ohio Power Company and  
PJM Interconnection, L.L.C.  
Docket No. EL16-10-000

McNees Wallace & Nurick LLC  
777 Capitol Street, N.E.  
Suite 401  
Washington, DC 20002-4292

Attention: Robert A. Weishaar, Jr.

Dear Mr. Weishaar:

1. On November 5, 2015, pursuant to sections 206, 306 and 309 of the Federal Power Act,<sup>1</sup> and Rule 206 of the Commission's Rules of Practice and Procedure,<sup>2</sup> Industrial Energy Users-Ohio (IEU-Ohio), filed a complaint (Complaint) against Ohio Power Company (Ohio Power) and PJM Interconnection, L.L.C. (PJM). IEU-Ohio asserted that Ohio Power has failed to comply with the PJM transmission tariff and that PJM, as administrator of the tariff, has not taken steps to prevent Ohio Power's actions. On December 22, 2015, IEU-Ohio filed a motion to dismiss its Complaint without prejudice. As discussed below, we grant IEU-Ohio's motion to dismiss.

2. Notice of the Complaint was published in the *Federal Register*, 80 Fed. Reg. 70,774 (2015), with answers, protests and interventions due on or before November 25, 2015. On November 16, 2015 and December 8, 2015, Ohio Power submitted unopposed motions for extensions of time to respond to the Complaint.

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<sup>1</sup> 16 U.S.C. §§ 824e, 825e, and 825h (2012).

<sup>2</sup> 18 C.F.R. § 385.206 (2015).

On November 18, 2015 and December 12, 2015, the Commission granted Ohio Power's requests to extend the comment period. On December 23, 2015, the Commission issued a notice of extension of time to answer the Complaint from December 30, 2015 until January 29, 2016, as requested by IEU-Ohio.

3. On January 6, 2016, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene and a response to the motion to dismiss. The OCC states that the Complaint raises serious concerns regarding the ability of retail customers and competitive retail electric service providers in Ohio to access wholesale transmission services on the PJM system at FERC-approved rates. The OCC requests that the Commission deny the motion to dismiss and set the matters raised in the Complaint for hearing and/or settlement proceedings.<sup>3</sup> On January 14, 2016, IEU-Ohio filed an answer to the OCC's response.

4. We will not compel IEU-Ohio, the complainant, to pursue a complaint it no longer wishes to pursue.<sup>4</sup> IEU-Ohio has explained in its motion to dismiss that, due to changed circumstances, a Commission determination is no longer necessary at this time. Further, Respondents Ohio Power and PJM do not oppose the motion to dismiss. While the OCC opposes dismissal, we note the OCC is free to file its own complaint regarding the issues raised in IEU-Ohio's Complaint if the OCC wishes to prosecute such a complaint.

5. Accordingly, the Commission will grant IEU-Ohio's motion to dismiss. The Complaint filed in Docket No. EL16-10-000 is hereby dismissed, without prejudice, as requested, and the proceeding is hereby terminated.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>3</sup> OCC response at 3, 8.

<sup>4</sup> Complaints are voluntary filings; complainants are not required to file complaints. *See* 16 U.S.C. § 825e (2012) (providing that any person "may" file a complaint); *cf.* 16 U.S.C. § 824d(c) (2012) (providing that public utilities "shall" file all rates and charges for jurisdictional services). *See generally, City of Las Cruces, New Mexico*, 91 FERC ¶ 61,277 (2000) (Commission will not force parties "that have no desire to litigate to continue to litigate"); *Axia Energy, LP*, 96 FERC ¶ 61,039 (2001).