

157 FERC ¶ 61,236  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, and Colette D. Honorable.

PJM Interconnection, L.L.C.

Docket No. ER17-249-000

ORDER ON TARIFF RATE FILING

(Issued December 22, 2016)

1. On October 31, 2016, pursuant to section 205 of the Federal Power Act (FPA), PJM Interconnection, L.L.C. (PJM) submitted revisions to the PJM Open Access Transmission Tariff (Tariff) to extend and update the rate mechanism to recover PJM's administrative costs of serving as a regional transmission organization (PJM Filing). In this order, we accept the Tariff revisions, effective January 1, 2017, as requested.

**I. Background**

2. In 2006, a settlement agreement established the current rate mechanism that allows PJM to recover its administrative costs through a stated rate.<sup>1</sup> The 2006 Settlement Agreement approved an initial composite stated rate of \$0.33/MWh, and then specified three successive changed composite rates to become effective at varying times over the following five years.<sup>2</sup> The 2006 Settlement Agreement also established a financial reserve to ensure that PJM could continue to operate for limited periods in which revenues did not cover expenses. The 2006 Settlement Agreement capped the reserve at six percent of PJM's annual revenues and provided for refunds to customers of all revenues in excess of actual expenses and amounts necessary to maintain a reasonable reserve.

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<sup>1</sup> See *PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,249 (2006) (order accepting settlement agreement); see also, Docket No. ER05-1181-000 (Oct. 11, 2006) (delegated letter order accepting compliance filing) (2006 Settlement Agreement).

<sup>2</sup> Prior to the 2006 Settlement Agreement, PJM recovered its costs on a pass-through basis with a formulaic charge that varied monthly.

3. The 2006 Settlement Agreement also established a separate rate adder (AC2 Rider) to recover PJM's actual capital and operating costs for its advanced second control center. The AC2 Rider is a formula rate that varies monthly, recovering PJM's actual advanced second control center costs each month that are over that month's projected billing determinants. The current AC2 Rider charges are equivalent to a composite rate of \$0.0449/MWh. The AC2 Rider will expire in November 2018.

4. In 2008, PJM filed an amendment to the Settlement Agreement to issue more timely refunds from the reserve. The calculation timeline was shortened from annually to quarterly. Similarly, the refund payments timeline was shortened from a nine-month period to a three-month period.<sup>3</sup> In 2011, PJM submitted an amendment to the 2006 Settlement Agreement to reduce the composite rate by \$0.01 to \$0.29 per MWh. The reduction was based on projected rate stability for customers and decreasing quarterly refunds.<sup>4</sup> In sum, the stated rate plus the AC2 Rider results in the combined rate of \$0.3349/MWh that is currently being recovered from customers.

## **II. PJM Filing**

5. In the instant filing, PJM submitted revisions to the rate mechanism that allows PJM to recover PJM's administrative costs. PJM states that the stated rates no longer cover PJM's costs<sup>5</sup> and that PJM will likely deplete the reserve in the first quarter of 2017.<sup>6</sup> PJM further states that the insufficiency of the current stated rate levels will be exacerbated when the AC2 Rider expires in 2018.

6. PJM proposes to increase the current combined rate of \$0.3349/MWh to the composite rate of \$0.36/MWh to be effective during calendar years 2017 and 2018.<sup>7</sup> Thereafter, PJM proposes to increase the composite stated rate by 2.5 percent each year

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<sup>3</sup> *PJM Interconnection, L.L.C.*, Docket No. ER08-528-000 (Mar. 12, 2008) (delegated letter order).

<sup>4</sup> *PJM Interconnection, L.L.C.*, Docket No. ER11-4174-000 (Sept. 28, 2011) (delegated letter order).

<sup>5</sup> The PJM Filing includes the direct testimony of Suzanne S. Daugherty (Daugherty Testimony), and the direct testimony of Lisa M. Drauschak (Drauschak Testimony).

<sup>6</sup> PJM Filing at 8.

<sup>7</sup> *Id.* at 13.

on the first day of each of the next five calendar years, i.e., 2019 through 2023.<sup>8</sup> The ceiling on the stated rate in the proposed Tariff revisions is \$0.41/MWh, which takes effect on January 1, 2024, and will remain in place until PJM submits a superseding rate change filing.

7. PJM also proposes to eliminate the AC2 Rider before its presently scheduled 2018 termination. Eliminating the AC2 Rider will allow PJM to recover the ongoing costs of the second control center through the proposed stated rates in the same fashion as PJM's other ongoing costs of administrative services, rather than through a formula rate, that is currently in place, which varies each month.<sup>9</sup>

8. PJM further proposes to include the reserve and refund rules which currently reside in the 2006 Settlement Agreement in the Tariff, without any material change to the substance of those provisions. However, PJM states that it has included some changes to the language of the reserve and refund provisions to adapt them for use in the Tariff.<sup>10</sup> PJM also proposes to base the reserve calculations on a percentage of the current calendar year's projected annual revenues.<sup>11</sup>

9. In support of the proposed Tariff revisions, PJM states that the initial increase is needed to restore the reserve to its maximum level (six percent of annual revenues) by the end of 2017 and to meet expected increase in PJM's expenses from 2016 to 2017.<sup>12</sup> PJM states that the subsequent year stated rate increases are intended to "balanc[e] projected refunds with a realistic expectation of maintaining the financial reserve funding."<sup>13</sup> PJM projects that costs will increase at an average annual rate of 2.9 percent over the next eight years.<sup>14</sup> PJM further states that customers will be protected through the automatic refund provisions (if revenues exceed costs), and that PJM is protected by the right to

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 13-14.

<sup>10</sup> *Id.* at 14-15.

<sup>11</sup> *Id.* at 14.

<sup>12</sup> *Id.* at 15.

<sup>13</sup> *Id.* at 16, quoting Exhibit No. PJM-004 at 6.

<sup>14</sup> *Id.* at 16.

seek increased rates (if costs exceed revenues).<sup>15</sup> PJM maintains that the staged increase in stated rates over the next eight years is comparable to the long-term rate-setting practice that has been used since 2006, meets the needs of both PJM and its stakeholders, and is accompanied by important ratepayer protections such as quarterly refunds and a robust information exchange.<sup>16</sup>

10. PJM submitted applicable Period I and Period II statements as required by 18 C.F.R. § 35.13(h) (2016). PJM states that statements AL, AM, AN, AR, AU, AW (Period II only), AX, BB, BC, BD, BE, BF, BI, BJ, and BM are not applicable because PJM does not have the costs at issue or they do not apply or both.<sup>17</sup> PJM also seeks waiver of 18 C.F.R. § 35.13(h) to (1) to excuse PJM from submitting revenue comparisons in Statements BG and BH by customer, given that PJM has over 970 customers; and (2) to excuse PJM from submitting information by customer class, given that PJM and its stakeholders developed the enclosed rates entirely on a composite basis, rather than on an individual service category basis. Lastly, PJM requests waiver of any provision of the Commission's regulations required for the Commission to accept this filing effective January 1, 2017.<sup>18</sup>

### **III. Notice/Intervention**

11. Notice of the September 1, 2016 filing was published in the *Federal Register*, 81 Fed. Reg. 78,137 (2016), with an errata issued on September 6, 2016, extending the comment date to November 21, 2016.

12. Timely motions to intervene were filed by the Organization of PJM states, Inc., FirstEnergy Service Company, American Municipal Power, Inc., Public Service Electric and Gas Company, Old Dominion Electric Cooperative, Consumer Advocate Division

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 17.

<sup>17</sup> *Id.* at 20. The statements include: Statements AL-Working Capital; AM-Construction work in progress; AN-Notes payable; AR-Federal tax adjustments; AU-Revenue credits; AW-Cost of short-term debt; AX-Other recent and pending rate changes; BB-Allocation demand and capability data; BC-Reliability data; BD-Allocation energy and supporting data; BE-Specific assignment data; BF-Exclusive-use commitments of major power supply facilities; BG-Revenue data to reflect changed rates; BH-Revenue data to reflect present rates; BI-Fuel cost adjustment factors; BJ-Summary data tables; BM-Construction program statement.

<sup>18</sup> *Id.* at 21.

of West Virginia (West Virginia CAD), and Public Citizen, Inc. (Public Citizen). Public Citizen filed a protest, and West Virginia CAD filed comments in response. Public Citizen filed an answer in response to the West Virginia CAD. PJM filed an answer, and Public Citizen filed reply comments.

#### IV. Pleadings

13. Public Citizen alleges that the PJM stakeholder process that reviewed the proposed Tariff revisions failed to consider measures to control costs associated with employee compensation and that employee compensation costs are projected to rise during the period covered by the rate increase.<sup>19</sup> Public Citizen contends that PJM has not provided sufficient detail of the compensation issues. In addition, Public Citizen contends that PJM has provided no detail of its outside services, a part of which Public Citizen alleges may include expenses related to political advocacy.<sup>20</sup> Public Citizen states that Associate Membership in PJM requires an extravagant annual fee for participation. Finally, Public Citizen contends that PJM has not provided sufficient detail of its expenses related to social events at its annual meeting, which precluded consumer advocate participation.<sup>21</sup> Public Citizen requests that the Commission deny the rate filing until PJM offers options on controlling certain expenses.<sup>22</sup>

14. West Virginia CAD filed comments in response, supporting the proposed Tariff revisions and disputing Public Citizen's claims. West Virginia CAD contends that the proposed Tariff revisions will ensure that consumers continue to receive the benefits from the extensive services offered by PJM.<sup>23</sup>

15. Public Citizen answers the West Virginia CAD, arguing that public interest organizations are not afforded the same participation opportunities as consumer advocates, and as a result Public Citizen was denied an opportunity to meaningfully participate in the stakeholder process. Public Citizen further argues that PJM has not detailed the stakeholder deliberations on how costs could be moderated.

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<sup>19</sup> Public Citizen Protest at 3-6.

<sup>20</sup> *Id.* at 6.

<sup>21</sup> *Id.* at 8-9.

<sup>22</sup> *Id.* at 10.

<sup>23</sup> West Virginia CAD Comments at 2.

16. In its answer, PJM avers that its expense projection does not determine the charges that any customer will bear for PJM's administrative costs. Instead, PJM explains that the stated rate levels balance the goals of recovering PJM's costs, minimizing quarterly refund levels, and reducing the need for future rate change filings.<sup>24</sup> PJM also states that it has important ongoing obligations to report on its actual results, variances from budgets, and five-year expense and revenues projections that promote further confidence in the PJM expenses charged to customers.<sup>25</sup> PJM contends that it has carefully limited staffing increases over the past ten years, despite experiencing dramatically higher increases in the scope of PJM's responsibilities and in the level of demand for PJM's services.<sup>26</sup>

17. In response, Public Citizen affirms its earlier arguments and requests that this matter be set for hearing.

## V. Discussion

### A. Procedural Matters

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>27</sup> the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,<sup>28</sup> prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We will accept the answers filed in this proceeding because they have provided information that has assisted us in our decision-making process.

### B. Commission Determination

20. We accept PJM's proposed Tariff revisions to extend and update the revenue mechanism under an amended stated rate to become effective January 1, 2017, as requested. Further, we accept the additionally proposed minor and conforming Tariff revisions that: (1) delete the rate moderation plan for certain transmission owner facility

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<sup>24</sup> PJM Answer at 2.

<sup>25</sup> *Id.* at 2-3.

<sup>26</sup> *Id.* at 3.

<sup>27</sup> 18 C.F.R. § 385.214 (2016).

<sup>28</sup> 18 C.F.R. §385.213(a)(2) (2016).

agreement costs, (2) replace outdated references to PJM customer interface tools, and (3) remove the “market settlement and billing” reference from Schedule 9-3. We also grant the requested waiver of 18 C.F.R. § 35.13(h) of the Commission regulations because we agree with PJM that these statements do not have the costs at issue or that the costs do not apply or both, and that given the number of customers, providing statements for each would be burdensome.<sup>29</sup>

21. We find that PJM has adequately supported the proposed Tariff revisions. Based on audited 2015 financial data reported by PJM on its FERC Form No. 1, Annual Report of Major Electric Utilities, Licensees, and Others (Form 1), the decrease in operating income and increase in operation expenses support PJM’s concerns that current stated rates are not sufficient to cover costs in the long-term. PJM’s claim that reserves have been depleting in recent years is also supported by financial information reported in the Form 1. Nearly two-thirds of the estimated 7.5 percent increase in the 2017 stated rate proposed by PJM is to restore the reserve to its prescribed level of 6 percent of annual revenues,<sup>30</sup> with a 2.5 percent annual increase in 2019 through 2023 and a 0.7 percent increase in 2024, while 2018 will see no increase.<sup>31</sup> Further, the PJM Tariff revisions were broadly supported by stakeholders<sup>32</sup> and disputes regarding PJM’s classification of members and annual fees charged therein fall outside of the scope of this proceeding.

22. PJM’s process also ensures that the financial statements questioned by Public Citizen are subject to adequate independent review. The Finance Committee, composed of stakeholder representatives, including consumer advocates,<sup>33</sup> reviewed the financial information establishing the stated rate and was satisfied that that these figures represent legitimate expenses.

23. Moreover, the proposed Tariff revisions do not simply establish a rate, but includes a refund mechanism that requires PJM to refund to stakeholders based on actual expenses subject to the review by the Finance Committee. We find the refund mechanism protects consumers against unjustified costs since the Finance Committee can reject unjustified expenditures which will result in a refund to ratepayers.

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<sup>29</sup> PJM Filing at 20-21 and PJM Interconnection, LLC Period I and Period II cost of Service statements and schedules.

<sup>30</sup> Daugherty Testimony at 29.

<sup>31</sup> *Id.* at 26.

<sup>32</sup> PJM Answer at 1.

<sup>33</sup> *Id.*

24. Public Citizen contends that PJM failed to consider cost control measures, specifically with reference to employee and executive salaries, and provides no support regarding its contentions related to the procurement of outside services, a part of which Public Citizen alleges may include expenses related to political advocacy. Given the structure of the stated rate, with the refund provision, we find PJM's tariff revisions adequately justified. PJM has implemented cost control measures, including reducing the number of full-time equivalent contractors, renegotiating telecommunications and utility contracts, expanding PJM's vendor pool to increase supplier competition, increasing PJM employees' share of medical insurance costs, and modifying PJM's retirement benefits.<sup>34</sup> PJM further supported the increased compensation levels, documenting that compensation levels were in line with industry averages,<sup>35</sup> and identifying increased staffing requirements.<sup>36</sup> PJM testimony states that outside labor services includes building and ground maintenance, utilities, outside legal fees, and cyber-security monitoring, and provides detail justifying the level of these expenses.<sup>37</sup> Moreover, the Commission permits RTOs to recover expenses related to RTO informational and educational efforts,<sup>38</sup> and the Finance Committee approved these expenditures as part of the stated rate.

Commission orders:

PJM's proposed Tariff revisions are hereby accepted, effective January 1, 2017, as requested, as discussed in the body of this order.

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<sup>34</sup> PJM Filing at 10, Daugherty Testimony at 10, and PJM Answer at 3 (indicating carefully limiting staffing increases of full-time equivalent positions).

<sup>35</sup> Daugherty Testimony at 41-43.

<sup>36</sup> *Id.* PJM further identified that employees are primarily engineering and information technology, for which it faces significant competition to attract and retain.

<sup>37</sup> *Id.* at 45-46.

<sup>38</sup> *See ISO New England*, 117 FERC ¶ 61,070 (2006) ((allowing informational and educational expenses to be recovered); *aff'd sub nom Braintree Elec. Light Dep't v. FERC*, 550 F.3d 6, 16 (D.C. Cir. 2008) (finding such expenditures reasonable given the "potential impingement of government action on all stakeholders" and the need for legislative access to information regarding RTO activity)).

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.