

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

PJM Interconnection, LLC)	Docket Nos. ER24-2045
)	ER24-2045-001
)	ER24-2045-002

**Protest of Public Interest Organizations
To Response by PJM Interconnection, LLC
To The Commission’s July 31, 2024 Data Request**

Pursuant to Rules 211 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“the Commission” or “FERC”),¹ Environmental Law and Policy Center, Sierra Club, Natural Resources Defense Council, PennFuture, Union of Concerned Scientists, Illinois Citizens Utility Board, and Sustainable FERC Project (collectively “Public Interest Organizations” or “PIOs”) respectfully submit this Protest to PJM Interconnection, LLC’s (“PJM”) response to the Commission’s July 31, 2024, Data Request regarding PJM’s efforts to comply with Order No. 2023.²

PJM’s response fails to substantiate its request for numerous independent entity variations from Order No. 2023. Instead, PJM’s response underscores the significant gap between Order No. 2023’s requirements and PJM’s existing practices by recognizing that many “provisions modified by Order No. 2023 are fundamentally different from PJM’s underlying Tariff.”³ PIOs agree; PJM’s existing interconnection procedures, and its proposed reforms, are fundamentally different from Order No. 2023—and those fundamental differences undermine Order No. 2023’s goals rather than accomplish those goals. For example, contrary to Order No.

¹ 18 CFR §§ 385.211, 385.213.

² PJM Interconnection, LLC, *Submission of Responses to Data Request*, Docket No. ER24-2045-002 (Oct. 29, 2024), Accession No. 20241029-5244 (“PJM Response”)

³ *Id.* at 2.

2023’s goal to limit interconnection study times to 150 days,⁴ PJM’s study process takes at least twice as long. Likewise, contrary to Order No. 2023’s goal to “ensure[] the reliable interconnection of new electric storage resources without overestimating their impact on the transmission system,”⁵ PJM’s interconnection studies inaccurately model storage resources as withdrawing energy at times of peak load. And contrary to Order No. 2023’s goal to “balance[] the harm to interconnection customers of interconnection study delays and the associated need to incentivize transmission providers to timely complete interconnection studies with the burdens on transmission providers of conducting interconnection studies and potentially facing penalties for delays,”⁶ PJM proposes a system that places far greater risks on interconnection customers, allows laggardly transmission providers to evade penalties in many instances, and imposes far less stringent consequences for extreme study delays than Order No. 2023 allows. In short, PJM’s deviations from Order No. 2023 fail to satisfy the rule’s objectives individually, and collectively they present a fundamentally different approach to interconnection that will fail to address the serious problems that the Commission set out to solve when it issued Order No. 2023.

PIOs submitted a protest that explained at length the deficiencies with PJM’s response to Order No. 2023, which is compliance in name only.⁷ For brevity’s sake, PIOs will not repeat all those explanations here. However, the criticisms from PIOs’ protest remain valid despite PJM’s recent filing. While PJM’s response to the Commission’s Data Request provides a more granular identification of the specific practices for which PJM seeks independent entity variations, PJM’s

⁴ *Improvements to Generator Interconnection Procedures and Agreements* (“Order No. 2023”), 184 FERC ¶ 61,054 at P 324 (2023).

⁵ *Id.* at P 1510.

⁶ *Id.* at P 972.

⁷ Protest of Public Interest Organizations, Docket No. ER24-2045 (June 20, 2024), Accession No. 20240620-5242.

response does not provide new or more extensive justifications for those proposed variations. Hence, PIOs respectfully urge the Commission to reject PJM’s compliance filing for the reasons PIOs previously explained. Below, PIOs highlight examples of key issues where PJM’s recent filing continues to fall short.

1. PJM fails to justify a study process that takes far longer than Order No. 2023 permits.

PJM fails to provide any new or adequate justification for an independent entity variation for its lengthy interconnection study timelines. As PJM recognizes, Order No. 2023 requires cluster studies to be completed with 150 days, but PJM uses a three-phase process that takes at least 480 days.⁸ Because PJM’s process takes significantly longer than Order No. 2023 allows, PJM’s assertion that its process is “generally consistent” with Order No. 2023 is simply not tenable. Additionally, because PJM’s process remains subject to the Reasonable Efforts standard that Order No. 2023 eliminated, PJM’s process may take even longer than it describes, which is inconsistent with Order No. 2023’s goal to provide interconnection customers with certainty about reasonably efficient study timelines.⁹ Notably, PJM’s other purported justifications for its proposed independent entity variation focus principally on advantages *for PJM* rather than for generators seeking interconnection; for example, PJM stresses that this process “facilitates the efficient use of PJM’s resources.”¹⁰ PJM’s focus on how its process benefits itself further reveals

⁸ PJM Response, *supra* note 2, at Attachment A p 82; *see also* Protest of Public Interest Organizations, *supra* note X, at 25 (describing the discrepancy between Order No. 2023 and PJM’s process in more detail).

⁹ *See, e.g.*, Order No. 2023, 184 FERC ¶ 61,054 at P 3 (noting that Order No. 2023 aimed to address “uncertainty regarding the cost and timing of interconnecting to the transmission system”).

¹⁰ PJM Response, *supra* note 2, at Attachment A pp 82–83. While PJM also asserts that its process purportedly “better allows Project Developers to assess the viability of their projects at set stages, and make go or no go decisions at those times,” PJM fails to explain why Project Developers would ostensibly have any greater ability to assess the viability of their projects under PJM’s process than under Order No. 2023. To the contrary, Project Developers would seemingly have greater ability to assess the viability of their projects under Order No. 2023 because they will have greater confidence that interconnection studies will be completed in a timely manner and that there will be meaningful accountability for study delays.

that PJM fails to achieve Order No. 2023’s goals of striking an appropriate balance between the interests of interconnection customers and transmission providers.

2. *PJM fails to justify its lax approach to study delays.*

PJM presents a similarly problematic approach to consequences for study delays. Because the Commission required it to do so, PJM provides proposed Tariff revisions reflecting its lax approach to transmission providers that fail to conduct timely interconnection studies. PJM’s proposed Tariff revisions represent the same procedure that it outlined in its initial compliance filing. PIOs explained at length why PJM’s lax process is not in compliance with Order No. 2023 and fails to strike the balance that the Commission intended between interconnection customers and transmission providers.¹¹ Despite its inclusion of proposed tariff language, PJM’s proposal remains unacceptable for the reasons PIOs already explained.

3. *PJM fails to justify its irrational approach to studying storage resources.*

PJM continues to seek an independent entity variation from Order No. 2023’s requirement to more accurately reflect the charging behavior of storage resources in interconnection studies.¹² Notably, PJM does not argue that its current approach—which assumes that storage resources will act contrary to their economic incentives by charging during peak load periods when energy is most expensive—is more accurate or technically superior to the requirements of Order No. 2023. Instead, PJM once again recycles arguments that it has already made and that the Commission has already rejected.¹³ For example, despite the fact that the Commission has made clear that an independent entity variation cannot be justified by a

¹¹ Protest of Public Interest Organizations, *supra* note 7, at 18–24.

¹² PJM Response, *supra* note 2, at 91–92.

¹³ See Protest of Public Interest Organizations, *supra* note 7, at 36–38 (discussing the Commission’s previous rejection of these same arguments).

desire to conform with an RTO's current practices,¹⁴ PJM attempts to justify its inaccurate treatment of storage resources by stating that complying with Order No. 2023 “is not consistent with how PJM performs its planning studies . . . and the manner in which PJM operates the system in real time.”¹⁵ The Commission has rejected this argument before, and it should do so again.¹⁶ The same is true for PJM's cursory invocation of “administrative burdens”; the Commission has already found that the benefit of this reform outweighs administrative burdens.¹⁷ The Commission has consistently rejected PJM's arguments on the treatment of storage resources in interconnection studies, and its recent filing provides no basis for the Commission to now accept arguments it has repeatedly rejected.

4. *PJM fails to justify entirely per capita allocation of study costs.*

PJM again emphasizes its own convenience over the balance that Order No. 2023 struck with the interests of interconnection customers when attempting to justify its entirely per capita approach to allocating the costs of interconnection studies,¹⁸ which deviates substantially from Order No. 2023's terms allowing only 50% of study costs to be allocated on a per capita basis.¹⁹ PJM suggests that per capita cost allocation benefits PJM because “allocating costs on a per-MW basis will require additional administration for little benefit.”²⁰ However, PJM appears to focus on benefits to its own interests and to disregard the Commission's reasons for limiting per capita cost allocation, including “prevent[ing] a disproportionate amount of study costs from being allocated to interconnection customers that propose smaller generating facilities,” as well as “the

¹⁴ *New York Independent System Operator*, 170 FERC ¶ 61,117 at P 14 (2020).

¹⁵ PJM Response, *supra* note 2, at 92.

¹⁶ Order No. 2023-A, 186 FERC ¶ 61,199 at P 577 (“We are unpersuaded by PJM's . . . arguments that reflecting whether an interconnecting electric storage resource will or will not charge during peak load conditions is fundamentally incompatible with interconnection studies.”).

¹⁷ *Id.* at P 580.

¹⁸ PJM Response, *supra* note 2, at 84–85.

¹⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 416.

²⁰ PJM Response, *supra* note 2, at 84–85.

fact that, to a significant extent, study costs correlate to the total MW size of the cluster.”²¹ Indeed, PJM’s own approach to study deposits—which is based on project size—contradicts its position about study cost allocation; PJM recognizes that “a tiered study deposit amount based on the MW-size of an Interconnection Request . . . represents a reasonable proxy for the cost of all three studies.”²² Beyond its own administrative convenience, PJM does not provide any persuasive reason for the difference between its size-based study deposits and its entirely per capita allocation of study costs. Instead, PJM again focuses on its own interests to the exclusion of the balance that Order No. 2023 struck between the interests of multiple market sectors.

5. PJM requests approval for processes it has not yet developed.

Remarkably, PJM even asks the Commission to approve independent entity variations for processes that do not yet exist. For example, PJM notes that it “is working to develop the *pro forma* [Affected System Impact Study Agreement],”²³ and asks the Commission to “accept the proposed [agreement]” and find that it is “consistent with the Final Rule” despite the fact that this new *pro forma* agreement is still in the works and will require revisions to PJM’s tariff.²⁴ As an initial matter, the Commission cannot accept a proposed tariff revision that has not actually been put before it; doing so would be textbook arbitrary and capricious decision-making.²⁵ Moreover, PJM’s response provides no reason for the Commission to believe that this still-to-be-formulated *pro forma* agreement would eventually comply with Order No. 2023. To the contrary,

²¹ Order No. 2023, 184 FERC ¶ 61,054, at P 418

²² PJM Response, *supra* note 2, at 86.

²³ *Id.* at 10.

²⁴ *Id.* at 13.

²⁵ See *Motor Vehicle Mfrs. Assn. of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (noting that an “agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choices made” and that an agency decision is arbitrary and capricious if, among other failings, the agency “entirely failed to consider an important aspect of the problem”). Approving a tariff revision that has not yet been formulated would both be a failure to examine the relevant data and a failure to consider an important aspect of the problem.

PJM’s response makes clear that this proposed agreement would continue to rely on the Reasonable Efforts standard that Order No. 2023 rejected in no uncertain terms, and would fail to provide any clear, binding timeline for PJM’s completion of studies.²⁶ The Commission cannot accept PJM’s proposal in its current half-baked form, and PJM’s response provides no persuasive basis to believe it will ever give the Commission a valid basis to do so.

6. *PJM’s Resource Reliability Initiative contradicts the narrative PJM uses to justify its deviations from Order No. 2023.*

Finally, PIOs note that PJM is currently conducting an expedited stakeholder process for a so-called “Resource Reliability Initiative” (“RRI”), which would invite new projects to enter PJM’s currently frozen interconnection queue alongside projects that have been waiting for years for interconnection studies to even begin, and which undermines PJM’s narrative to the Commission regarding compliance with Order No. 2023 in two important ways.²⁷ First, the RRI belies PJM’s continued insistence that its existing interconnection process is sufficient to address the problems that Order No. 2023 seeks to resolve. Second, the RRI undermines PJM’s argument that a significant number of independent entity variations will avoid disruption to its ongoing transition process.²⁸

PJM’s RRI proposal undercuts the narrative that PJM has already done enough to address interconnection study delays. PJM premises its RRI proposal on “growing resource adequacy

²⁶ PJM Response, *supra* note 2, at 12 (noting that the undeveloped *pro forma* agreement would state that “PJM will undertake Reasonable Efforts to complete the Impact Stud by the first Business Day 120 days after the [agreement’s] execution”); *see also* Order No. 2023, 184 FERC ¶ 61,054 at P 989 (noting that the elimination of the Reasonable Efforts standard is “an integral element of a just and reasonable replacement rate to ensure that transmission providers are properly incentivized”).

²⁷ *Reliability Resource Initiative: Interim Accelerated Interconnection Process*, PJM Planning Committee Meeting (Oct. 8, 2024), <https://pjm.com/-/media/committees-groups/committees/pc/2024/20241008/20241008-item-06---reliability-resource-initiative.ashx>.

²⁸ *See, e.g.*, PJM Interconnection, LLC, *Order Nos. 2023 and 2023-A Compliance Filing of PJM Interconnection, LLC* (“PJM Compliance Filing”), at 9–10, Docket No. ER24-2045 (May 16, 2024), Accession No. 20240516-5155.

concerns” driven by, in part, “new resource additions slowing.”²⁹ PJM blames slowed entry on supply chain, permitting, and financing issues, but entirely ignores how its own interconnection study backlogs and years-long delays have harmed projects stuck in the queue—harms that the Commission foresaw in Order No. 2023 and that independent analysis verifies is continuing to impair new entry.³⁰ And while PJM bills the RRI as promoting “shovel ready” projects,³¹ PJM’s stated need to invite new, “shovel-ready” projects into its queue reveals that PJM’s current interconnection study process is not moving quickly enough to allow the timely entry of new generation needed to maintain reliability—and thus is not achieving the goals of Order No. 2023. Additionally, PIOs have concerns that PJM’s purported focus on “shovel-ready” projects may be illusory. Project viability remains a minor weighting in PJM’s formula for identifying which new projects will proceed through the RRI, with open-ended criteria that fail to accurately evaluate the likelihood of a project being able to come online in time.³² More fundamentally, PJM’s call for an emergency accelerated interconnection process reveals that its interconnection study

²⁹ *Reliability Resource Initiative: Interim Accelerated Interconnection Process*, PJM Planning Committee Meeting at 2 (Oct. 8, 2024), <https://pjm.com/-/media/committees-groups/committees/pc/2024/20241008/20241008-item-06---reliability-resource-initiative.ashx>.

³⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 43 (noting that “delayed interconnection study results or unexpected cost increases can disrupt numerous aspects of generating facility development”); *id.* at P 971 (“Interconnection customers face financial harm when study deadlines are not met, ultimately inhibiting their ability to interconnect to the system in a reliable, efficient, transparent, and timely manner”); *see also* Abraham Silverman, et al., *Outlook for Pending Generation in the PJM Interconnection Queue* at 7 (May 2024), available at <https://www.energypolicy.columbia.edu/publications/outlook-for-pending-generation-in-the-pjm-interconnectionqueue/> (describing the “key finding” that “PJM’s increasingly lengthy interconnection process is exacerbating siting and permitting challenges and leading to knock-on delays in equipment procurement and financing decisions, suggesting the timeline for new generation in this market will likely remain long for the foreseeable future.”).

³¹ *See, e.g., PJM, Stakeholders Discuss Proposals Addressing Capacity Market Rules, Reliability Resource Initiative, and Interconnection Surplus*, PJM Inside Lines (Nov. 11, 2024), <https://insidelines.pjm.com/pjm-stakeholders-discuss-proposals-addressing-capacity-market-rules-reliability-resource-initiative-and-interconnection-surplus/>.

³² *Reliability Resource Initiative MC Notification*, PJM Members Committee, at 5 (Nov. 21, 2024), <https://www.pjm.com/-/media/committees-groups/committees/mc/2024/20241121/20241121-item-04a---1-member-consultation-regarding-reliability-resource-initiative---presentation.ashx>.

process is not moving efficiently enough to achieve Order No. 2023's goals, even while PJM continues to portray the Commission's well-founded solutions as unnecessary.

Additionally, PJM's RRI proposal reveals that PJM is perfectly willing to disrupt its own interconnection study process, even though it characterizes reforms necessary to comply with Order No. 2023 as unwarranted disruptions.³³ PJM's dedication of resources to the RRI, which would allow new entrants to its Transition Cluster 2 studies and harm the projects that have been stuck in that cluster for years awaiting studies, reveals the insincerity of PJM's claim that its non-compliance with the *pro forma* is "critical" to allow the transition clusters to continue without PJM having to "put in place new or altered procedures."³⁴ PJM seems to have decided that its RRI proposal, which has had a significantly limited stakeholder process, is worthy of limited staff time, while insisting that it does not have resources to implement the reforms from Order No. 2023, which the Commission crafted with the benefit of a voluminous record involving many opportunities for input from all affected market sectors. The Commission should not allow PJM to minimize and disregard its orders in this fashion.

CONCLUSION

As PIOs explained in their prior protest, PJM's current interconnection study process is a far cry from what Order No. 2023 requires. PJM's response to the Commission's Data Request provides no persuasive basis for the Commission to accept PJM's existing interconnection study process as ostensible compliance with Order No. 2023. PIOs respectfully urge the Commission to require PJM to reform its existing process to come into genuine compliance with Order No. 2023.

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³³ PJM Compliance Filing, *supra* note 28, at 10–12.

³⁴ *Id.* at 9-10.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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

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