*** COMPLAINT REQUESTING FAST TRACK PROCESSING ***

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Anbaric Development Partners, LLC, Complainant	)	
v.	)	Docket No. EL20-___-000
PJM Interconnection, L.L.C., Respondent	)	

COMPLAINT AND REQUEST FOR FAST TRACK PROCESSING OF ANBARIC DEVELOPMENT PARTNERS, LLC

Pursuant to Sections 206 and 306 of the Federal Power Act ("FPA")[1] and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or the "Commission"),[2] Anbaric Development Partners, LLC ("Anbaric") hereby submits this complaint ("Complaint") against the PJM Interconnection, L.L.C. ("PJM").

Anbaric brings this Complaint because the transmission interconnection procedures in Sections 36.1.03 and 232 of the PJM Open Access Transmission Tariff ("Tariff")[3] deny meaningful open access interconnection service to merchant transmission projects when those projects take the form of open access transmission platforms designed to connect expected remote generation resources to the PJM Transmission System (hereinafter, "Transmission

1 16 U.S.C. §§ 824(e), 825e (2012).

2 18 C.F.R. § 385.206 (2018).

3 Capitalized terms not defined in this Complaint are intended to have the same meaning given to such terms in the PJM Tariff.

Platform Projects").[4] This denial is unjust, unreasonable and unduly discriminatory and preferential and therefore unlawful under the FPA.

Put simply, the PJM Tariff does not contemplate the interconnection of Transmission Platform Projects and denies them the opportunity to interconnect to the PJM Transmission System and obtain meaningful and material interconnection rights ("Material Interconnection Rights"). Specifically, the only transmission projects that the PJM Tariff permits to obtain the Transmission Injection Rights ("TIRs") necessary to inject power into the PJM Transmission System are those that (1) connect to another control area outside of the PJM Region; and (2) are either direct current ("DC") or "controllable" alternating current ("AC").[5] Accordingly, under PJM's existing interconnection procedures, PJM processes and studies Transmission Platform Projects assuming they have no ability to inject power from expected remote offshore wind generation resources into the PJM Transmission System. In so doing, the PJM interconnection procedures make impossible the commercial development of a Transmission Platform Project because this Project cannot offer expected remote generation resources the ability to inject their power into the PJM Transmission System through the use of injection rights previously obtained by the Project. As a result, the PJM Tariff simply does not provide Transmission Platform Projects the opportunity to interconnect offshore wind generation

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[4] Transmission Platform Projects include open access radial or networked transmission facilities to connect offshore wind generation resources planned for development in areas leased or planned to be leased by the Bureau of Ocean Energy Management ("BOEM") offshore of Delaware, Maryland, New Jersey, and Virginia ("Wind Energy Areas" or "WEAs") to the PJM Transmission System.

[5] Accordingly, for the purposes of this Complaint, Material Interconnection Rights means the ability to interconnect Transmission Platform Projects to the PJM Transmission System and obtain TIRs for those interconnecting Transmission Platform Projects. The word "Material" or "Materially" in relation to "Interconnection" or "Interconnect" shall be in reference to the ability of Transmission Platform Projects to interconnect to the PJM Transmission System and obtain TIRs.

resources expected to be developed on the Outer Continental Shelf to the PJM Transmission System.

In contrast, the PJM Tariff allows for proposed interconnection transmission facilities that are bundled with identified offshore wind generating facilities to be studied for and provided with Material Interconnection Rights. Moreover, as a practical matter, such identified offshore wind generating facilities are likely to be studied, at least initially, based on assumed or hypothetical wind turbines—typically a proxy library model wind turbine—as the actual type of wind turbines that will be deployed may not yet be commercial or may have not been finally ordered or procured. (When the actual wind turbine model is selected, additional studies are conducted to identify any changes in the original study outputs.) In so doing, the PJM Tariff permits the developers of these bundled offshore wind projects, which likely include expected or hypothetical wind turbines, to have PJM study the impact of their estimated power injections into the PJM Transmission System and identify the transmission system upgrades necessary to accommodate those injections, *i.e.*, accommodate the developer's request for Material Interconnection Rights. The developer of such a bundled project can then decide whether to invest the capital to pay for the system upgrades that will enable their project to Materially Interconnect to the PJM Transmission System, knowing that once their Material Interconnection Rights have been secured those rights can be relied on by the associated offshore generating facilities to inject power generated by their later actually-installed wind turbines into the PJM Transmission System.

There is no technical reason this same interconnection process cannot be applied to Transmission Platform Projects. Indeed, as discussed in more detail below, until recently, PJM was processing a high voltage DC ("HVDC") Transmission Platform Project proposed by

Anbaric in exactly this manner until PJM determined that its Tariff precluded such a Project from obtaining Material Interconnection Rights. Moreover, as discussed below, Transmission Platform Projects have been studied and deployed without technical issue in the Electric Reliability Council of Texas ("ERCOT"), the California Independent System Operator ("CAISO"), and the Midcontinent Independent System Operator ("MISO") regions, and in Europe.

Thus, denying the developers of Transmission Platform Projects the opportunity to obtain Material Interconnection Rights under the PJM Tariff is not based on any technical limitation or well-considered rationale[6] and violates the Commission's core open access rules, policies and principles under Order No. 888[7] and related precedent and is unjust, unreasonable

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[6] Anbaric understands and acknowledges that there must be concrete milestone requirements that apply to Transmission Platform Projects, such as those that Anbaric has proposed to connect with expected offshore wind generation resources in BOEM WEAs, to prevent illusory or infeasible projects from clogging PJM's interconnection process. On this score, and as discussed in greater detail in Part II of this Complaint, Anbaric has applied for a right-of-way ("ROW") grant from BOEM for its Transmission Platform Projects for offshore collector platforms and subsea cables on the Outer Continental Shelf that could connect offshore generation resources in BOEM WEAs to the onshore grids in PJM and New York (the "NY/NJ Ocean Grid Project"). *See* Anbaric Development Partners, Unsolicited Right-of-Way/Right-of-Use & Easement Grant Application, Docket No. BOEM-2018-0067 (April 30, 2018, amended as of June 22, 2018) (the "NY/NJ Ocean Grid BOEM Application"). Anbaric also expects to file a second application for a BOEM ROW grant for its Southeastern New England Ocean Grid Project in the very near future. The NY/NJ Ocean BOEM Application is going through a substantive process administered by BOEM that provides for a number of milestones that BOEM and/or Anbaric must complete that would demonstrate that Anbaric's proposed NY/NJ Ocean Grid project is progressing towards actual development, construction and commercial operation in a timely manner. *See* 30 C.F.R. Part 585 (Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf). For example, as required under 30 C.F.R. § 585.107, Anbaric has already demonstrated to BOEM's satisfaction that it has the technical and financial capability to construct, operate, maintain, and decommission the NY/NJ Ocean Grid Project. These BOEM milestones can be considered and incorporated by PJM in its already existing process for determining whether a proposed project can demonstrate Site Control as set forth in the PJM Tariff.

[7] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. by Pub. Utils.*, Order No. 888, 75 FERC ¶ 61,080, FERC Stats. & Regs. ¶ 31,036, 1996 FERC LEXIS 777 (1996) ("Order No. 888"); *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access*

and unduly discriminatory and preferential. This denial is causing immediate and ongoing harm to Anbaric because, as discussed below, Anbaric has several proposed Transmission Platform Projects in PJM's Interconnection Queue that may lose their Queue Positions or be processed under PJM's interconnection procedures assuming that they will have no TIRs.

In addition to the concrete and ongoing harm to Anbaric, denying Transmission Platform Projects the opportunity to obtain Material Interconnection Rights is causing immediate and ongoing harm to the public interest because it precludes the coastal states within the PJM Region from considering, much less pursuing, the procurement of Transmission Platform Projects, which, as described in this Complaint, may be the most cost-effective and efficient means of interconnecting large amounts of offshore wind generation resources to onshore grids. As discussed herein, the eastern seaboard states in the PJM Region ("PJM Eastern Seaboard States")—in particular, New Jersey, Maryland, and Virginia—have ambitious offshore wind generation mandates or goals, and have already begun contracting with offshore wind generating facilities in these WEAs to meet them. Moreover, many northeastern states, including some of the PJM Eastern Seaboard States, are strongly considering the procurement of Transmission Platform Projects in the near future.[8]

Policy Study Group v. FERC, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

[8] In theory, the states could seek to procure Transmission Platform Projects with the equivalent of Material Interconnection Rights through PJM's Transmission Planning Process as Public Policy Requirement projects (this possibility demonstrates why there is no technical reason to study Transmission Platform Projects as if they could not have Material Interconnection Rights). *See* PJM, PJM Manual 14B, PJM Region Transmission Planning Process § 2.1 ("PJM Manual 14B"). Also, in theory, one or more states could agree to pay for the cost of such a Transmission Platform Project under PJM's State Agreement Approach for Public Policy Requirement projects. *See id.*; PJM Operating Agreement, Schedule 6, § 1.5.9. However, as a practical matter, PJM's planning process for Public Policy Requirement projects does not appear to provide a ready means by which a state or states could procure a Transmission Platform Project through a state-sponsored solicitation with any certainty as to what they are buying and what it will cost until the Project is actually studied and included in PJM's Regional Transmission Expansion Plan. In

Other states or regions that have implemented ambitious renewable energy goals, such as Commission-jurisdictional areas in California and Michigan and non-jurisdictional areas in Texas (as well as various countries in Europe), have planned, developed and deployed open access Transmission Platform Projects to meet their ambitious renewable energy goals. These regions have concluded that such projects provided a more economically efficient, cost effective, and environmentally friendly method than proprietary generator tie-lines ("gen-ties") to connect large amounts of remote renewable energy resources to their existing transmission grids.

PJM's interconnection procedures under its Tariff were developed in a manner that did not contemplate the large-scale development of remote offshore wind generation resources and the associated need for Transmission Platform Projects. Rather, these procedures contemplate transmission facilities interconnecting (i) within the already developed PJM Transmission System, (ii) the PJM Transmission System to another existing transmission system, or (iii) a gen-tie for an identified generation resource. That an Open Access Transmission Tariff ("OATT") suffers from a logical or categorical gap because of unforeseen technological or policy changes or unanticipated uses of the transmission grid is not new. As discussed below, the Commission has addressed such gaps in other areas, most recently in the case of energy storage systems, and held that open access interconnection rights are the fundamental basis on which current OATTs have been formed, providing for interconnection even where a particular type of technology or associated interconnection service is not expressly identified. Further, while the issue of interconnection service for Transmission Platform Projects is not new to the

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contrast, the Material Interconnection Rights of an interconnection transmission facility as determined under PJM's interconnection procedures will be assumed in the base case studies used in PJM's Transmission Planning Process. *See* PJM Manual 14B, § 2.4. Moreover, PJM's planning process for Public Policy Requirement projects does not appear to provide the developers of Transmission Platform Projects an opportunity to undertake the time-intensive and expensive process of developing interconnection arrangements for such Projects.

Commission (as it addressed this issue over a decade ago with regard to California) the need to address this issue as relates to PJM, and perhaps the other northeastern RTOs and ISOs as well, has become pressing and acute given the work of many of the northeastern states to procure, award, permit, and deploy offshore wind generation at large-scale over the next decade.

Therefore, Anbaric respectfully requests that the Commission, consistent with its regulations and precedent, grant relief by requiring PJM to provide Transmission Platform Projects the opportunity to obtain Material Interconnection Rights and directing PJM to modify its Tariff to (1) provide for a new category of Transmission Platform Projects to connect expected remote renewable generation facilities to the PJM Transmission System, and (2) allow such Transmission Platform Projects the opportunity to obtain TIRs. Anbaric also requests a refund effective date of the date of the filing of this Complaint to prevent Anbaric's Transmission Platform Projects with Queue Positions from continuing to be processed under PJM's interconnection procedures without any ability to obtain TIRs or being removed from PJM's Interconnection Queue simply because they are Transmission Platform Projects. To ensure that Anbaric's Transmission Platform Projects with Queue Positions have the opportunity to obtain Material Interconnection Rights and participate in upcoming solicitations by the PJM Eastern Seaboard States for offshore wind generation infrastructure and prevent continuing and irrevocable harm to Anbaric and similarly situated developers of Transmission Platform Projects, Anbaric respectfully requests the Commission provide Fast Track processing and issue an order on this Complaint expeditiously.

I. COMMUNICATIONS

The persons to whom correspondence, pleadings, and other materials regarding this proceeding should be addressed and whose names are to be placed on the Commission's official service list on behalf of Anbaric are designated as follows:[9]

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II. BACKGROUND

A. Anbaric

Anbaric develops large-scale electric transmission systems, including underwater and subsea transmission cables linking adjacent control areas and linking offshore generation resources to onshore grids. Anbaric was instrumental in the development, construction, and financing of the Neptune Regional Transmission System that connects the PJM BAA with the New York State Transmission System on Long Island through an underwater High Voltage Direct Current ("HVDC") transmission line (the "Neptune Line"). The Neptune Line allows generation resources in the PJM BAA to deliver electric energy and capacity into the New York Independent System Operator ("NYISO") BAA. Anbaric was also instrumental in the development, construction, and financing of the Hudson Transmission Project that connects the

[9] To the extent necessary, Anbaric respectfully requests waiver of Section 385.203(b)(3) of the Commission's regulations in order to permit the designation of such persons for service in this proceeding. 18 C.F.R. § 385.203(b)(3) (2018).

PJM BAA with the New York State Transmission System in mid-town Manhattan (the "Hudson Line"). The Hudson Line is an underwater transmission line that uses back-to-back HVDC terminals in New Jersey to allow generation resources located in the PJM BAA to deliver electric energy into the NYISO BAA. Anbaric is now developing Transmission Platform Projects that will enable the connection of expected remote offshore wind generation units in BOEM Wind Energy Areas to the PJM Transmission System and other regional transmission systems in the northeastern United States.

As noted above, in April 2018, Anbaric filed its NY/NJ Ocean Grid BOEM Application. The NY/NJ Ocean Grid would connect to the onshore PJM Transmission System at one or more of the points of interconnection for the proposed Transmission Platform Projects in the PJM interconnection queue. Specifically, the NY/NJ Ocean Grid would entail the construction, installation and operation of an offshore transmission system, including several offshore collector platforms ("OCPs"), each connected to one or more high voltage submarine cables that would connect to onshore points of interconnection. Each proposed OCP could accommodate 800 MW to 1,200 MW of offshore wind generation with the ability to connect multiple offshore wind generation resources and would thereby allow for the phased development of offshore wind generation in BOEM's WEAs. The NY/NJ Ocean Grid BOEM Application was subject to public notice and BOEM's regulations require it to make a determination whether there is a competitive interest in acquiring the non-exclusive ROW grant requested by Anbaric.[10]

[10] The ROW requested by Anbaric is not exclusive as it is limited to a 200-foot grant corridor centered on the location of undersea cables, and will not impact the ROWs that might be granted to entities that obtain leases to develop wind generation resources in BOEM WEAs. *See* NY/NJ Ocean Grid BOEM Application at 4; *see also* 30 C.F.R. § 585.301(a)(2). If BOEM determines there is no competitive interest in acquiring a ROW grant in the same limited area as Anbaric's

B. The PJM Eastern Seaboard States' Goals For Development Of Offshore Wind Generation Infrastructure

Anbaric's planned development of Transmission Platform Projects furthers the renewable energy goals of the PJM Eastern Seaboard States, which include the procurement of offshore wind generation from offshore generating facilities that can be developed in WEAs offshore of Delaware, New Jersey, Maryland, Virginia, and North Carolina.[11]

In New Jersey, Governor Phil Murphy signed Executive Order No. 8 on January 31, 2018, which directed all New Jersey state agencies with responsibility under the state's Offshore Wind Economic Development Act ("OWEDA") to take all necessary action to fully implement OWEDA and meet New Jersey's goal of developing 3,500 MW of offshore wind energy generation by 2030.[12] In May 2018, Governor Murphy signed a law amending OWEDA, requiring that the New Jersey Board of Public Utilities (the "NJBPU") establish a procurement program to support at least 3,500 MW of generating capacity from qualified offshore wind

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requested ROW, it will issue a determination of no competitive interest and allow Anbaric to pursue further development of its proposed NY/NJ Ocean Grid.

[11] Delaware has not yet included offshore wind generation as part of its energy infrastructure; however, it is moving towards doing so. On August 28, 2017, Governor John Carney signed Executive Order 13, creating the Offshore Wind Working Group to study how Delaware can participate in developing offshore wind. Del. Exec. Order No. 13, *Creating a Working Group to Consider the Opportunity to Build Offshore Wind to Serve Delaware* (2017). The Offshore Wind Working Group concluded that the state should consider large-scale procurement of more than 100 MW of offshore wind generating capacity. Del. Dept. of Nat. Res. & Envt'l Control, *Offshore Wind Working Group Report to the Governor* 19 (June 29, 2018), https://dnrec.alpha.delaware.gov/climate-coastal-energy/renewable/offshore-wind-working-group/ (last visited November 18, 2019).

[12] N.J. Bd. of Pub. Utils., *2019 Annual Report on New Jersey Offshore Wind and the Implementation of Executive Order No. 8*, 4 (Jan. 31, 2019) ("NJBPU 2019 Report"), https://www.bpu.state.nj.us/bpu/pdf/publicnotice/2019%20ANNUAL%20EO8%20REPORT%2002082019%20FNL%20V2.pdf (last visited November 18, 2019). New Jersey is expected to substantially increase its goal for the procurement of offshore wind generation in the near future, potentially up to 11,000 MW by 2050. N.J. Bd. of Pub. Utils., *New Jersey Integrated Energy Plan Public Webinar* 28 (Nov. 1, 2019), https://nj.gov/emp/pdf/NJ%20IEP%20Public%20Webinar%20Nov1%20Final.pdf (last visited November 18, 2019).

generation. The NJBPU issued its first Request for Proposal ("RFP") for the procurement of offshore wind generation in the fall of 2018, and in June 2019 selected a 1,100 MW offshore wind project to be developed off the coast of Atlantic City, New Jersey.[13] A second RFP for 1,200 MW will occur in 2020 and the third and last RFP for 1,200 MW will occur in 2022.[14]

At the same time, policy makers in New Jersey are actively considering developing a separate or stand-alone solicitation for offshore transmission to connect expected offshore wind generation facilities to the onshore transmission grid. For example, the NJBPU held an offshore wind transmission stakeholder meeting on November 12, 2019 to consider how best to connect expected offshore generation resources to the onshore grid in PJM. As part of this meeting, the NJBPU sought specific comments regarding Transmission Platform Projects as developed in California, Texas and various countries in Europe.[15]

Maryland enacted the Offshore Wind Energy Act of 2013, which modified Maryland's Renewable Portfolio Standard ("RPS") program to include a carve out of offshore wind generation projects (not expected to exceed 480 MW) located between 10 and 30 miles off Maryland's coast.[16] In November 2016, the Maryland Public Service Commission (the "MDPSC") reviewed two proposals for the procurement of offshore wind generation from two

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13 *Offshore Wind Solicitation for 1,100 MW*, Order, NJBPU Docket No. QO18121289 (June 21, 2019), https://www.bpu.state.nj.us/bpu/pdf/boardorders/2019/20190621/6-21-19-8D.pdf (last visited November 18, 2019).

14 NJBPU 2019 Report at 8-9.

15 *See* NJBPU, Notice, *New Jersey Offshore Wind Transmission Stakeholder Meeting on November 12, 2019* (Oct. 28, 2019), https://www.bpu.state.nj.us/bpu/pdf/publicnotice/Offshore%20Wind%20Transmission%20Stakeholder%20Meeting%20-%20REVISED%2011-12-19.pdf (last visited November 18, 2019); *see also* S. 3985, 218th Leg. (N.J. 2019), https://www.njleg.state.nj.us/2018/Bills/S4000/3985_I1.HTM (last visited November 18, 2019).

16 *See* H.B. 226, 2013 Leg., Reg. Sess. (Md. 2013); Maryland Energy Administration, *Offshore Wind Energy in Maryland*, https://energy.maryland.gov/Pages/Info/renewable/offshorewind.aspx (last visited November 18, 2019).

potential projects with a combined generating capacity of 368 MW, which the MDPSC approved in May 2017.[17] In April 2019, Maryland legislators passed the Maryland Clean Energy Jobs Act, which requires the development of at least 400 MW of offshore wind generation by 2026, at least 800 MW by 2028, and 1,200 MW by 2030.[18] Maryland is expected to procure 432 MW of offshore wind generation in 2025 and 400 MW in 2027 to meet its 1,200 MW goal.[19]

In 2018, Virginia updated its Energy Plan and recommended to Governor Ralph Northam to commit to the development of 2,000 MW of offshore wind generation by 2028.[20] More recently, in September 2019, Governor Northam signed an executive order that, among other things, calls for the full development of offshore wind generation in existing WEAs offshore of the state.[21] Within days of this executive order Dominion Energy announced plans to develop 2,600 MW of utility-owned offshore wind generation in three 880-MW phases between 2024 and 2026.[22]

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17 Md. Pub. Serv. Comm'n, *Applications of U.S. Wind, Inc. and Skipjack Offshore Energy, LLC for a Proposed Offshore Wind Project(s) Pursuant to the Maryland Offshore Wind Energy Act of 2013*, Order No. 88192, Case No. 9431 (May 11, 2017).

18 S.B. 516, 2019 Leg., Reg. Sess. (Md. 2019).

19 *See* Stephanie A. McClellan, Ph.D., *Supply Chain Contracting Forecast for U.S. Offshore Wind Power,* 17 (March 2019) ("McClellan Report"), https://www.ceoe.udel.edu/File%20Library/About/SIOW/SIOW-White-Paper---Supply-Chain-Contracting-Forecast-for-US-Offshore-Wind-Power-FINAL.pdf (last visited November 18, 2019).

20 Virginia Office of the Secretary of Commerce & Trade, *Virginia Energy Plan*, 22 (2018), https://www.governor.virginia.gov/media/governorvirginiagov/secretary-of-commerce-and-trade/2018-Virginia-Energy-Plan.pdf (last visited November 18, 2019).

21 Office of the Governor of Virginia, Exec. Order No. 43, *Expanding Access to Clean Energy and Growing the Clean Energy Jobs of the Future* (Sept. 16, 2019), https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-43-Expanding-Access-to-Clean-Energy-and-Growing-the-Clean-Energy-Jobs-of-the-Future.pdf (last visited November 18, 2019).

22 Press Release, Dominion Energy, *Dominion Energy Announces Largest Offshore Wind Project in US* (Sept. 19, 2019), https://news.dominionenergy.com/2019-09-19-Dominion-Energy-Announces-Largest-Offshore-Wind-Project-in-US (last visited November 18, 2019).

The PJM Eastern Seaboard States are not alone in setting ambitious offshore wind generation procurement goals. States in New England as well as New York are pushing for large-scale procurements of offshore wind generation to meet their state energy goals. The New England states have enacted legislation calling for the procurement of 5,200 MW by 2035[23] and are considering legislation that would call for additional procurements.[24] This past summer New York enacted legislation mandating the procurement of 9,000 MW of offshore wind generation by 2035.[25] In total, these states have committed to the procurement and development of nearly 19,000 MW of offshore wind generation by 2030.[26] With only a relatively small amount of

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[23] Connecticut has committed to 2,000 MW by 2030; Massachusetts has called for 3,200 MW by 2035. American Wind Energy Association, *U.S. Offshore Wind Industry Status Update – October 2019* at 2 (Oct. 2019), https://www.awea.org/Awea/media/Resources/Fact%20Sheets/Offshore-Fact-Sheet-Oct-2019.pdf. In addition, on January 2, 2019, Governor Sununu of New Hampshire sent a letter to BOEM seeking the development of WEAs off the coast of New Hampshire. Letter from Christopher T. Sununu, Governor, New Hampshire, to Dr. Walter Cruickshank, Acting Director, Bureau of Ocean Energy Management (Jan. 2, 2019), https://www.governor.nh.gov/news-media/press-2019/documents/20190107-boem-offshore.pdf. More recently, Maine has signaled a strong re-entry into renewable energy efforts, including offshore wind generation, and is funding research and a floating turbine demonstration project. Nora Flaherty, *Maine Utility Regulators Approve Tests For Floating Wind Turbine Project Off Coast*, Maine Public (Nov. 6, 2019), https://www.mainepublic.org/post/maine-utility-regulators-approve-tests-floating-wind-turbine-project-coast.

[24] For example, in Massachusetts, legislation has been filed that would set in motion the procurement of 6,000 additional MWs of offshore wind power by 2035, H. 2920, 191st Gen. Sess. (Mass. 2019), https://malegislature.gov/Bills/191/H2920/BillHistory (last visited November 18, 2019).

[25] S. 6599, 2019-2020 Leg., Reg. Sess. (N.Y. 2019). In first announcing the 9,000 MW procurement, Governor Andrew Cuomo also recognized that interconnection of several thousand MW of offshore wind generation to the onshore grid in New York State may not be feasible if done through wind farm-by-wind farm radial interconnection transmission facilities and called for a study to "evaluate and facilitate the development of an offshore transmission grid that can benefit New York ratepayers by driving down offshore wind generation and integration costs." Governor Andrew M. Cuomo, *Social, Economic, and Racial Justice Agenda: 2019 State of the State* 329 (2019), https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/2019StateoftheStateBook.pdf (last visited November 18, 2019).

[26] McClellan Report at 7.

offshore wind generation currently contracted,[27] the need for economically efficient and cost effective delivery infrastructure for this offshore wind generation has become paramount. Indeed, in a recent study issued by the New York Power Authority ("NYPA") regarding lessons learned from the offshore wind infrastructure industry in Europe (approximately 18,000 MW of offshore wind generation deployed in the past two decades, with another 70,000 MW expected to be deployed by 2028), key takeaways for consideration in the northeastern states include that the most effective path to low-cost offshore wind generation is through scale and healthy competition and that transparent, forward-looking development of onshore and offshore transmission facilities removes barriers to entry, improves coordination and lowers costs.[28] Similarly, a recent report from the Massachusetts Department of Energy Resources ("MA DOER") found that, for offshore wind generation, "[i]ndependent transmission has the potential benefit of minimizing impact on fisheries, optimizing the transmission grid, and reducing costs. . . . In order for a transmission solution to be open to wider competition and for the benefits to be evaluated effectively, a transmission only solicitation would need to be separate from the energy generation and would need to be completed before the offshore wind generation is solicited."[29]

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27 *See id.* at 8.

28 *See* N.Y. Power Authority, *Offshore Wind: A European Perspective*, 2, 17 (August 2019) ("NYPA Study"), https://www.nypa.gov/-/media/nypa/documents/document-library/news/offshore-wind.pdf (last visited November 18, 2019).

29 Massachusetts Department of Energy Resources, *Offshore Wind Study* 14 (May 2019) ("MA DOER Study"), https://www.mass.gov/doc/offshore-wind-study/download (last visited November 18, 2019). The MA DOER Study further explained that "following a one-time transmission only solicitation, a preferred option for independent transmission could be contingently selected. In the subsequent solicitations for offshore wind generation, bidders would be required to pair their generation with both a generator lead line construction and the preferred independent transmission solution from the previous one-time solicitation for independent transmission. This would allow evaluation of two options for each offshore wind generation bid: one with a generator-lead line and one with the independent transmission option. Then the most beneficial option to ratepayers could be selected." *Id.*

MA DOER further found that "[t]he only feasible way to evaluate the benefits and cost effectiveness of independent transmission is to undertake a separate one-time transmission only process prior to undertaking a solicitation for generation."[30]

C. PJM Transmission Interconnection Procedures

The PJM Tariff does not provide transmission developers seeking to interconnect Transmission Platform Projects the opportunity to obtain Material Interconnection Rights under PJM's interconnection procedures. Instead, the PJM Tariff allows transmission developers to obtain TIRs for a very specific type of project. Section 36.1.03.1.e of the PJM Tariff provides that "if the request relates to proposed Merchant [DC] Transmission Facilities and/or Controllable [AC] Merchant Transmission Facilities that will interconnect with the Transmission System and with another control area outside the PJM Region, the Transmission Interconnection Customer[] [is to specify its] election to receive. . . Transmission Injection Rights . . ."[31] Similarly, Section 232.2 of the PJM Tariff provides that "Merchant [DC] Transmission Facilities and/or Controllable [AC] Merchant Transmission Facilities that interconnect with the Transmission System and with another control area outside the PJM Region shall be entitled to receive [TIRs]."[32] Thus, only DC and Controllable AC Merchant Transmission Facilities that interconnect with the PJM Transmission System *and with another control area* outside the PJM Region may obtain Material Interconnection Rights. Moreover, the PJM Tariff does not even contemplate that "non-controllable" radial AC Merchant Transmission Facilities can obtain TIRs. PJM confirmed that Transmission Platform Projects could not obtain Material

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30 *Id.* at 17.

31 PJM Tariff § 36.1.03.1.e.

32 PJM Tariff § 232.2.

Interconnection Rights under the PJM Tariff when it initiated a stakeholder process to address this unintended gap in the PJM Tariff, as discussed further below.[33]

D. The Interconnection Processing Of Anbaric's AC Transmission Platform Projects Under the PJM Tariff

In March, 2018, Anbaric submitted interconnection requests for two proposed AC Transmission Platform Projects as Merchant Transmission Facilities each of which requested 1,100 MW of capacity (*i.e.*, the capability to inject 1,100 MW into the PJM Transmission System).[34] PJM has informed Anbaric that its proposed AC Transmission Platform Projects will not be permitted to interconnect to the PJM Transmission System and obtain TIRs.[35] Anbaric and PJM discussed modeling the interconnection studies with assumed generic offshore wind generation units to determine the system impacts and then conducting a material impact study if the model changes when the developer of actual offshore wind generation units seeks to interconnect through a Transmission Platform Project.[36] However, PJM informed Anbaric in April, 2018 that "the only way [Anbaric] will be able to move forward is if [it] partner[s] with a generator on [its] interconnection request or if [it] take[s] the issue through the stakeholder process."[37] Four months later, PJM issued a combined Feasibility/System Impact Study Report

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33 *See* PJM Planning Committee, *Offshore Wind Development through the Interconnection Queue, Problem Statement & Issue Charge* (Feb. 7, 2019); PJM Planning Committee, *Merchant Transmission Interconnection and Offshore Wind* (Dec. 13, 2018).

34 *See* PJM Interconnection Queue positions AD2-083 and AD2-084.

35 Kosel Aff at P 10.

36 *Id.* at P 9.

37 *Id.* at P 10.

for both of the proposed AC Transmission Platform Projects reflecting a proposed "0 MW Energy, 0 MW Capacity AC offshore wind transmission system."[38]

E. The Interconnection Processing Of Anbaric's DC Transmission Platform Project Under the PJM Tariff

In June, 2018, Anbaric submitted an interconnection request for a proposed DC Transmission Platform Project as a Merchant Transmission Facility with 1,200 MW of capacity (*i.e.*, the capability to inject 1,200 MW into the PJM Transmission System).[39] Specifically, Anbaric proposed "to connect an HVDC offshore wind transmission system designed to inject offshore wind energy, developed and operated by others, into PSEG's transmission system, in North Brunswick, NJ."[40] In May 2019, PJM issued a Merchant Transmission Interconnection Feasibility Study Report regarding this proposed Transmission Platform Project in which PJM assumed the Project would have 1,200 MW of TIRs.[41] PJM then issued Anbaric a System Impact Study Agreement, which Anbaric executed.[42] On August 26, 2019, PJM executed the System Impact Study Agreement and proceeded to commence the System Impact Study.[43] At the time, it appeared that PJM believed it was permissible under its Tariff for this Project to be studied for and to obtain Material Interconnection Rights (as PJM had not expressed otherwise), which is nothing more than what Anbaric is seeking in this Complaint for all of its proposed Transmission Platform Projects.

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38 *See* Transmission Interconnection Combined Feasibility/System Impact Study Report for Queue Position AD2-083 (August 2018); Transmission Interconnection Combined Feasibility/System Impact Study Report for Queue Position AD2-084 (August 2018).

39 *See* PJM Interconnection Queue Position AE1-037.

40 *See* PJM, *Merchant Transmission Interconnection Feasibility Report for Queue Position AE1-037*, at 2 (May 2019).

41 *Id.*

42 Kosel Aff. at P 13.

43 *Id.* at P 14.

However, on November 1, 2019, PJM informed Anbaric that, after having processed Anbaric's proposed DC Transmission Platform Project assuming for nearly 18 months that this Project would have 1,200 MW of TIRs, PJM would change course and move forward processing this interconnection request assuming that it would have 0 MW of TIRs, effectively rendering Anbaric's interconnection request meaningless.[44] Thus, Anbaric had understood for well over a year that the issue for Material Interconnection Rights in PJM was an issue limited to AC Transmission Platform Projects. However, PJM's recent change of course indicates that is not the case. PJM's course change has created significant hardship to Anbaric in terms of not only deposits it has made to fund the studies conducted by PJM for 1,200 MW of TIRs for its DC Transmission Platform Project, but also in terms of lost time and related project work relying on its PJM queue position for this Project.

F. Stalled PJM Stakeholder Process

Anbaric has had numerous discussions with PJM over a significant period of time to address the inability of Transmission Platform Projects to obtain Material Interconnection Rights, and has pursued a PJM stakeholder process to reach an amicable solution regarding its existing interconnection requests. Specifically, PJM identified as its charge for this stakeholder process that Section 36.1.03 of its Tariff does not "accommodate the option to propose merchant

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[44] Kosel Aff. at P 16. Anbaric understands that its DC Transmission Platform Project is not the only radial DC transmission project to an ocean area that is seeking to interconnect to the PJM Transmission System that PJM has studied, at least to date, assuming it would obtain Material Interconnection Rights. PJM appears to have completed a Feasibility Study for a radial DC project seeking to interconnect at the Sewaren substation in New Jersey assuming 1,200 MW of TIRs. *See* PJM Queue Position AE2-014.

transmission facilities for future generation interconnection where the developer would be eligible for interconnection rights that could be used for future generators."[45]

Unfortunately, this stakeholder process has stalled with no prospect of moving forward because stakeholders this past summer indicated a lack of support for any of the potential solutions presented by PJM to provide Transmission Platform Projects the opportunity to obtain Material Interconnection Rights.[46] While Anbaric has attempted to work with PJM and its stakeholder process to provide Transmission Platform Projects the opportunity to obtain Material Interconnection Rights under the PJM Tariff and attempted to use every path short of a complaint while time allowed, the nature and scope of fundamental open access rights under the PJM Tariff cannot be left to the whims and commercial interests of stakeholders. Failure to obtain stakeholder approval for the inclusion of provisions in an OATT that provide for fundamental open access rights simply cannot be a legally justifiable rationale for the denial of such rights. In violation of the Commission's fundamental open access rules, policies and precedents, the PJM Tariff arbitrarily denies transmission facilities intended to provide an open access transmission service for expected offshore wind generating units the opportunity to obtain Material Interconnection Rights, and Anbaric has been left with no choice but to file this Complaint.

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45 PJM Planning Committee, *Offshore Wind Development through the Interconnection Queue, Problem Statement & Issue Charge* (Feb. 7, 2019).

46 *See* PJM Special Planning Committee, Merchant Transmission & Offshore Wind, *Solution Options and Packages Poll Results* (Aug. 23, 2019), https://pjm.com/-/media/committees-groups/committees/pc/20190823-special/20190823-item-02-poll-results.ashx (last visited November 18, 2019).

III. COMPLAINT

A. The PJM Tariff Unlawfully Denies Transmission Platform Projects The Opportunity To Obtain Material Interconnection Rights

The PJM Tariff's failure to provide Transmission Platform Projects the opportunity to obtain Material Interconnection to the PJM Transmission System is unjust, unreasonable and unduly discriminatory and preferential because it (i) violates the Commission's long-standing open access rules and policies, and (ii) imposes an unnecessary barrier to the competitive development of offshore wind infrastructure.

1. PJM Transmission Interconnection Procedures Under PJM Tariff Sections 36.1.03 And 232.2 As Related To Transmission Platform Projects Violate FERC's Longstanding Open Access Rules And Language In The FPA Foundational To RTOs

Denying Transmission Platform Projects the opportunity to obtain Material Interconnection Rights violates the Commission's foundational open access rules, policies and precedent as well language in the FPA foundational to the creation of RTOs. In Order No. 888, the Commission announced its goal of encouraging fully competitive bulk power markets and took the first step by requiring public utilities to provide third parties comparable access to their facilities for transmitting electric energy in interstate commerce.[47] Subsequently, in Order No. 2003, the Commission held that interconnection "is a critical component of open access transmission service" and extended its foundational open access principles by requiring all public utilities that own, control or operate transmission facilities to have standard procedures and a standard agreement regarding interconnecting generators larger than 20 MW.[48] Such standardized policies were intended to (i) limit opportunities for undue discrimination, (ii)

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47 Order No. 888 at ¶ 31,635.

48 *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103 at P 12 (2003) ("Order No. 2003").

facilitate market entry and (iii) encourage needed investment in generation and transmission infrastructure.[49]

These open access Orders were rooted in the Commission's recognition of the vital role that open access transmission plays in ensuring the proper functioning of organized energy markets, a fact that has been repeatedly emphasized by the Commission in orders leading up to and after Order No. 888. The year before it issued Order No. 888, the Commission recognized that meaningful access to transmission is a necessary component of an efficient bulk power market.[50] In the notice of proposed rulemaking preceding the issuance of Order No. 888, the Commission announced that it needed to take action because "[t]he key to competitive bulk power markets is opening up transmission services. Transmission is the vital link between sellers and buyers. To achieve the benefits of robust, competitive bulk power markets, all wholesale buyers and sellers must have equal access to the transmission grid."[51] Later, in the Advanced Notice of Proposed Rulemaking that led to Order No. 2003, the Commission found that changes to interconnection procedures were necessary because an effective interconnection process is key to ensuring that open access transmission is a reality:

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49 *Id.*

50 *See, e.g.*, *Fla. Mun. Power Agency*, 65 FERC ¶ 61,125, 61,615 (1993), *order on reh'g*, 65 FERC ¶ 61,372 (1993), *order on reh'g*, 67 FERC ¶ 61,167 (1994), *order on reh'g*, 74 FERC ¶ 61,006 (1996), *order on reh'g*, 96 FERC ¶ 61,130 (2002), *aff'd sub nom. Fla. Mun. Power Agency v. FERC*, 315 F.3d 362 (D.C. Cir. 2003), *cert. denied*, 540 U.S. 946 (2003) ("As a general matter, the availability of transmission service (or increased flexibility to use transmission) will enhance competition in the market for power supplies over the long run because it will increase both the power supply options available to transmission customers (thereby benefitting their customers) and the sales options available to sellers. This should result in lower costs to consumers.").

51 *Promoting Wholesale Competition Through Open-Access Non-Discriminatory Transmission Service by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking, 60 Fed. Reg. 17,662, 17,663-64 (April 7, 1995); *see also id.* at 17,676 ("Unless all public utilities are required to provide non-discriminatory open access transmission, the ability to achieve full wholesale power competition, and resulting consumer benefits, will be jeopardized.").

> In order to fully realize the benefits of open access transmission service, interconnection procedures must be established that will encourage needed investment in infrastructure, remove incentives for transmission providers to favor their own generation, ease entry for competitors, and encourage efficient siting decisions. In the Commission's view, standard interconnection procedures are essential for providing the right incentives for both transmission providers and generators.[52]

This need is equally, if not more so, critical in the context of the growing offshore wind infrastructure industry and the need to provide competitive, economically efficient and environmentally friendly interconnection to accommodate the large-scale development of offshore wind generation. As the Commission has stated, "state policies to promote increased reliance on renewable energy resources, such as the renewable portfolio standard measures discussed above, accentuate the need for transmission to deliver electricity from location-constrained renewable energy resources to load centers."[53] Indeed, the Commission has long required that even if the interconnection of a specific type of project *is not expressly included* in a transmission provider's tariff, customers have a right to request open access transmission service, pursuant to the existing *pro forma* tariff procedures.[54]

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52 *Standardizing Generator Interconnection Agreements and Procedures*, Advance Notice of Proposed Rulemaking, 66 Fed. Reg. 55,140, 55,141 (Nov. 1, 2001); *see also Reform of Generator Interconnection Procedures and Agreements*, Notice of Proposed Rulemaking, 82 Fed. Reg. 4464, 4467-68 (Jan. 13, 2017) ("[B]eginning with Order No. 2003, the Commission has sought to improve the interconnection process by minimizing opportunities for undue discrimination and expediting the development of new generation while protecting system reliability and ensuring just and reasonable rates. However, at present, many interconnection customers experience delays, and interconnection queues have significant backlogs and long timelines.").

53 *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Notice of Proposed Rulemaking, 131 FERC ¶ 61,253 at P 36 (2010).

54 *Tennessee Power Company*, 90 FERC ¶ 61,238 at 4 (2000), *order on reh'g*, 91 FERC ¶ 61,271 (2000). Under *Tennessee*, an argument can be made that no changes to the PJM Tariff are needed for PJM to provide interconnection service to Transmission Platform Projects as required by the governing filed rate of the Commission's open access rules as set forth in Order No. 888 and elsewhere. However, PJM has not implemented its Tariff to provide such interconnection service for Transmission Platform Projects. Therefore, the Commission could direct PJM to provide interconnection service to Transmission Platform Projects under its existing Tariff in a

Since Order No. 888, the Commission has continued to refine and expand its open access rules to accommodate the interconnection of new types of technologies to open access grids. The most recent example concerns interconnection service for electric storage resources, which some grid owners or operators had started to interconnect to their transmission systems as if they were generating facilities in the absence of electric storage resource-specific interconnection rules in their OATTs.[55] In Order No. 845, the Commission recognized that tariffs had not provided for the language to ensure Material Interconnection Rights for electric storage resources comparable to those afforded to traditional generating facilities and revised the definition of "Generating Facilities' in its *pro forma* interconnection procedures and agreements to include electric storage resources.[56] The Commission mandated this reform, along with the other reforms detailed in Order No. 845, to "improve certainty for interconnection customers" and "enhance the interconnection process," all in the name of ensuring open access.[57]

Furthermore, pursuant to FPA Section 202(a), which is one of the legal foundations for Order No. 2000 and the formation and operation of Regional Transmission Organizations,[58] the Commission is required to assure "an abundant supply of electric energy

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manner that is consistent with the Commission's open access rules. Nonetheless, prospective clarity and certainty regarding interconnection service for Transmission Platform Projects under the PJM Tariff would be well-served by the Tariff revisions proposed in Section IV, *infra*.

55 *See* Comments of ISO New England Inc., Docket No. RM17-8-000, at 2 (April 13, 2017) (noting that "ISO-NE's interconnection procedures already provide mechanisms that largely achieve many of the NOPR's objectives pursuant to existing interconnection processes, which have been continuously improved since the initial compliance with Order No. 2003").

56 *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043 at P 275 (2018) ("Order No. 845").

57 *Id*. at P 2.

58 *Regional Transmission Organizations*, Order No. 2000, 89 FERC ¶ 61,285 (1999) ("Order No. 2000"). In its notice of intent to advance the formulation of Regional Transmission Organizations, the Commission stated that it believed "that an abundant supply of electric energy throughout the United States with the greatest possible economy [as required under FPA Section 202(a)] can be best achieved with fully competitive wholesale power markets and open and non-

throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources" by "promot[ing] and encourag[ing] such *interconnection* and coordination *within* each such district [here, PJM] and between such districts."[59]

The Commission's open access rules, precedents thereunder, as well as foundational language in the FPA regarding RTOs, yield a single conclusion: it is unlawful for the PJM Tariff to deny Transmission Platform Projects the opportunity to obtain Material Interconnection Rights. Therefore, the Commission should direct PJM to revise its Tariff to ensure that Transmission Platform Projects are provided the opportunity to obtain Material Interconnection Rights.

2. The PJM Tariff's Failure To Provide Transmission Platform Projects The Opportunity To Obtain Material Interconnection Rights Imposes An Unnecessary Barrier To The Competitive Development Of Offshore Wind Infrastructure

By denying Transmission Platform Projects the opportunity to obtain Material Interconnection Rights, the PJM Tariff imposes an unnecessary and unjust, unreasonable and unduly discriminatory barrier to the competitive development of offshore transmission and generation resources. Eliminating barriers to competition has been long recognized by the Commission as a core responsibility under Part II of the FPA, which established "an overriding policy of maintaining competition to the maximum extent possible consistent with the public

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discriminatory access to interstate transmission facilities." *Regional Transmission Organizations*, 85 FERC ¶ 61,304, 1998 FERC LEXIS 2681, at *7 (1998). Order No. 2000 was recognized as a valid exercise of the Commission's Section 202(a) authority. *Pub. Util. Dist. No. 1 of Snohomish Cty., Wash. v. FERC*, 272 F.3d 607, 612 (D.C. Cir. 2001).

[59] 16 U.S.C. § 824a(a) (emphasis added). Moreover, under Section 202(a) of the FPA, the Commission has a duty to promote and encourage such interconnection and coordination and "upon its own motion or upon application, make such modifications thereof as in its judgment will promote the public interest." *Id.*

interest."[60] In this respect, where market conditions evolve and newer technologies become more prevalent, the Commission has consistently required the interconnection of the newer transmission or generation facility technology. For example, the Commission revised its interconnection policies in order to promote competition in the area of generation development, including most recently in Order No. 845.[61] There, the Commission found that such reform was necessary because the current interconnection procedures "hinder timely development of new generation, stifle competition, result in uncertainty and inaccurate information, or potentially unduly discriminate against new technologies."[62]

In Order No. 1000, the Commission revised its regional transmission planning processes upon finding that reforms were "necessary" for public utility transmission providers to "more efficiently and cost-effectively . . . satisfy reliability standards, reduce congestion, and allow for consideration of transmission needs driven by public policy requirements established by state or federal laws or regulation."[63] The Commission found that some regions were "struggling with how *to adequately address transmission expansion necessary to, for example, comply with renewable portfolio standards*."[64] In revising its regional transmission planning

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60 *Otter Tail Power Co. v. United States*, 410 U.S. 366, 374 (1973); *see Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 at P 286 (2011); *order on reh'g*, Order No. 1000-A, 77 Fed. Reg. 32,184 (May 31, 2012), 139 FERC ¶ 61,132 (2012) ("Order No. 1000-A"); *order on reh'g,* Order No. 1000-B, 77 Fed. Reg. 64890 (Oct. 24, 2012), 141 FERC ¶ 61,044 (2012) ("Order No. 1000") (recognizing the Commission's "responsibility . . . to eliminate barriers to competition").

61 *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043 (2018).

62 *Id.* at P 37.

63 Order No. 1000 at P 2 (2011).

64 *Id.* at P 82 (emphasis added). The Commission noted for example that PJM could not "build transmission to anticipate the development of future generation, including renewable energy resources, that are not associated with specific generator interconnection requests." *Id.* at P 82, n. 72.

process, the Commission emphasized that because "consideration of transmission needs driven by Public Policy Requirements could facilitate the more efficient and cost-effective achievement of those requirements . . . the reforms . . . [were] necessary to ensure that rates for Commission-jurisdictional services [were] just and reasonable."[65] In a pointed example, in Order No. 1000, the Commission required public utility transmission providers to remove the practice of federal rights of first refusal ("ROFRs") in their OATTs because this practice "undermine[d] the identification and evaluation of a more efficient or cost-effective solution to regional transmission needs, which in turn can result in rates . . . that are unjust and unreasonable or otherwise result in undue discrimination . . ."[66] Similarly, by denying Transmission Platform Projects the opportunity to obtain Material Interconnection Rights the PJM Tariff precludes competition for the development of open access offshore transmission facilities. This denial also inhibits the identification and evaluation of potentially more efficient or cost-effective solutions to expanding the transmission grid in anticipation of remote offshore wind generation resources that will be developed at large scale and seek to connect to the PJM Transmission System.

The PJM Tariff effectively allows for only one approach to connect remote offshore wind generation units to the PJM Transmission System—through proprietary wind-farm-by-wind-farm gen-ties.[67] The PJM Tariff, therefore, undercuts competition in the

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65 *Id.* at P 83.

66 *Id.* at P 7. Indeed, the Commission's Notice of Inquiry regarding its Electric Transmission Incentives Policy asks whether the Commission needs to provide transmission ratepayer-funded incentives to encourage the development of open access transmission projects that facilitate the interconnection of large amounts of "potential" generation resources "clustered in specific geographic areas with limited transmission access," *i.e.*, open access Transmission Platform Projects. *Inquiry Regarding the Commission's Electric Transmission Incentives Policy*, 166 FERC ¶ 61,208 at P 31 (2019).

67 Although the PJM Tariff permits Merchant DC Transmission Facilities and Controllable AC Merchant Transmission Facilities to interconnect to the PJM Transmission System and obtain TIRs, when these types of transmission facilities connect remote offshore wind generation

development of open access offshore transmission facilities by ignoring the changing market conditions and the need for new approaches to meet the demand for the large-scale and relatively rapid deployment of offshore wind generation resources. Indeed, interconnection procedures in the PJM Tariff that arbitrarily limit the development of transmission facilities to connect offshore wind generating units to onshore transmission grids in effect give the owners or affiliates of offshore wind generating resources a ROFR over the development of radial offshore transmission facilities. Such a ROFR is not only facially anti-competitive and injurious to ratepayers and consumers; it also violates the Commission's prohibition in Order No. 1000 against federal ROFRs in tariffs.[68] In contrast, providing the opportunity for Transmission Platform Projects to obtain Material Interconnection Rights would increase competition by providing for a potentially more economically efficient and cost effective way to enable the interconnection of remotely-located offshore wind generation units at large scale to the PJM Transmission System.[69] In so doing, Transmission Platform Projects will increase competition not only for transmission development but also for the development of offshore wind generation facilities, which can compete against each other head-to-head based on the price of their wind generation output at their point of interconnection to a nearby Transmission Platform Project and

facilities, they do not connect to "another control area" and therefore are not eligible for TIRs according to the plain meaning of the language in the PJM Tariff. *See* PJM Tariff § 36.1.03.1.e.i.

[68] Order No. 1000 at P 7; *see also S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41, 74 (D.C. Cir. 2014) (upholding Order No. 1000's prohibition against federal ROFRs in tariffs); *MISO Transmission Owners v. FERC*, 819 F.3d 329, 335 (7th Cir. 2016), *cert. denied*, 137 S. Ct. 1223 (2017) (same). The Commission remains dedicated to ensuring that Order No. 1000's prohibition against federal ROFRs in tariffs is robustly enforced; on October 17, the Commission instituted a Section 206 proceeding to examine whether an exemption from the ROFR prohibition granted to certain RTOs is being misused. *See ISO New England, Inc.*, 169 FERC ¶ 61,054 (2019).

[69] *See* NYPA Study at 2, 17.

not the cost of all of the interconnection transmission facilities needed to reach the onshore transmission grid.[70]

3. The PJM Tariff's Failure To Provide Transmission Platform Projects The Opportunity To Obtain Material Interconnection Rights Precludes The Development Of Potentially More Economically Efficient, Cost-Effective, And Less Environmentally Disruptive Open Access Transmission Systems

Transmission Platform Projects provide open access transmission service in a manner consistent with the Commission's core principles of open access-based competition, as discussed above, and also offer a host of benefits that cannot be obtained from the traditional approach of utilizing proprietary gen-ties to interconnect remote generation units to the PJM Transmission System. In fact, the Commission has recognized that "lower consumer prices [are] achievable through such [open access-based] competition."[71]

In the context of state RPS or clean energy programs that seek to procure electric energy or its associated environmental attributes from certain types of clean energy resources, the Commission has further recognized that "consideration of transmission needs driven by" such programs can "facilitate the more efficient and cost-effective achievement of those

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70 In Order No. 888, the Commission found "[n]on-discriminatory open access to transmission services [to be] critical to the full development of competitive wholesale generation markets. . ." Order No. 888, 1996 FERC LEXIS 777, at **64. More specifically, the Commission has previously found that development of transmission platforms whereby remotely-located generation resources can interconnect to the grid would promote competition in the marketplace. *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,061 at P 78 (2007) (Order granting petition for declaratory order approving the California Independent System Operator Corporation ("CAISO") to develop a mechanism for the construction of interconnection facilities to connect remotely-located generation resources, which would promote "supply diversity and competition in the marketplace"). Moreover, the Commission has consistently expressed concern over allowing select entities to hold vertical market power and create a barrier to entry, including, for example, land acquisition "for the purpose of preventing new generation capacity from being developed on that land." *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 816, 153 FERC ¶ 61,065 at P 210, n.259 (2015) (citing Order No. 697-D at P 23).

71 Order No. 888, 1996 FERC LEXIS 777, at **64.

requirements."[72] Transmission Platform Projects are potentially a more economically efficient, cost-effective[73] and environmentally friendly[74] means than proprietary gen-ties to interconnect large amounts of remote offshore wind generation to the onshore grid. Moreover, they can provide greater resilience[75] and fuel security benefits[76] to an onshore transmission grid by

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72 Order No. 1000 at P 83.

73 Unlike proprietary gen-ties interconnecting one offshore wind generating facility (comprised of multiple offshore wind turbines) through a single offshore collector substation, a planned Transmission Platform Project can optimize the placement and use of one or more offshore collector substations to interconnect multiple nearby offshore wind generating facilities (each comprised of multiple offshore wind turbines). The optimal placement and use of offshore collector substations is critical to efficient deployment of offshore wind generating facilities because the ability to place such collector substations and connect them to the onshore transmission grid is very likely to be limited because of seafloor geographic conditions and other offshore physical constraints (*e.g.*, shipping channels, fisheries). For example, a proprietary offshore collector substation for a single 800 MW offshore wind generating facility could occupy the same amount of space as an open access offshore collector substation connected to multiple offshore wind generating facilities with an aggregate generating capacity of 1,200 MW or more.

74 Fewer planned high capacity cable routes mean less trenching of the seafloor, and thus fewer impacts on the environment and fisheries. *See* Responsible Offshore Development Alliance (RODA), *Response to DOER Request for Stakeholder Comment: Offshore Wind Additional Procurement Study* (Mar. 1, 2019), https://www.mass.gov/doc/offshore-wind-study-stakeholder-answers-0 (download zip file, navigate to file labeled "190301 DOER.pdf") (last visited November 18, 2019) (stating that a coordinated transmission network with "less structure in the water and under the seafloor . . . would create fewer impacts to fishing practices and fishery resources").

75 Multiple networked transmission paths allow for electric energy to continue to flow in the event that one or more circuits are lost unexpectedly or are out of service for maintenance. Lines utilizing HVDC technology can also be designed with converter stations that are black start capable. *See* Vineyard Wind, LLC, *Proposal in Response to the Request for Proposals to Procure Offshore Wind Renewable Energy Certificates Issued by the New York State Research and Development Authority on November 8, 2018: Project One – 400 MW* 1-6 (Feb. 14, 2019), https://www.nyserda.ny.gov/-/media/Files/Programs/offshore-wind/rfp/Liberty-Wind-Vineyard-Wind-LLC-Proposal-1.pdf (last visited November 18, 2019) (stating that "HVDC transmission system also brings significant reliability, resiliency, and grid management advantages to Long Island and New York [because it] . . . uses voltage source converter technology, which will allow Liberty Wind to respond to faults on the existing grid network and provide operational benefits in adverse grid conditions similar to those experienced during major storms").

76 Winter peak conditions that challenge the just-in-time fuel supplies in the Northeast are also the times when offshore winds are blowing at higher velocities for sustained periods. Offshore wind generating facilities thus experience optimal performance conditions at the very times the onshore transmission grid has historically been most challenged. *See* ISO New England, Inc. ("ISO-NE") System Planning Department, *High-Level Assessment of Potential Impacts of Offshore Wind Additions to the New England Power System During the 2017-2018 Cold Spell* (Dec. 17, 2018),

allowing multiple networked paths for electric energy generated by offshore generating resources to reach the onshore transmission grid, and when controllable line technology is used, Transmission Platform Projects provide a means for transmission system operators to direct power to where it is needed most to bolster system security. Lastly, unlike proprietary gen-ties, open access Transmission Platform Projects will not inhibit electric generating units from interconnecting to and obtaining transmission service over their transmission facilities through certain incumbent rights and privileges.[77] With non-discriminatory open access transmission service, Transmission Platform Projects ensure that the anticipated development of remote offshore wind generating resources will prevent any developer of such facilities from obtaining vertical or horizontal market power over offshore wind generation infrastructure.[78] Thus,

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https://www.iso-ne.com/static-assets/documents/2018/12/2018_iso-ne_offshore_wind_assessment_mass_cec_production_estimates_12_17_2018_public.pdf (last visited November 18, 2019). In 2018, ISO-NE concluded that 1,600 MW of offshore wind generation would have reduced prices in the energy market administered by ISO-NE by $11/MWh to $13/MWh during a severe cold snap that hit the New England region in 2017 and raised prices in the ISO-NE's day-ahead energy market above $240/MWh. *Id.*

[77] *See Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities,* Order No. 807, 150 FERC ¶ 61,211 (2015) ("Order No. 807"). Under Order No. 807, proprietary gen-ties for Large Generating Facilities are eligible for blanket waivers to the Commission's open access requirements as Interconnection Customer's Interconnection Facilities ("ICIFs"). ICIFs are defined as "all facilities and equipment . . . that are located between the generating facility and the Point of Change of Ownership . . ." or "all facilities and equipment that are located between an interconnection customer's generating facility and the point where such facilities connect to the transmission provider's interconnection facilities . . . that are necessary to physically and electrically interconnect the interconnection customer's generating facility to the transmission provider's facilities that are used to provide transmission service." *Id.* at PP 41, 43.

[78] On the other hand, proprietary gen-ties for Large Generating Facilities, by default, may impose barriers to entry to potential competing developers of offshore wind generating facilities because gen-ties that are ICIFs may have the ability to only serve offshore wind generating facilities under common ownership or allow the owner of such offshore transmission facilities to hoard interconnection capacity to later be used by themselves or their affiliates. *See id.* at PP 55-56. Thus, if such proprietary gen-tie based development of offshore transmission facilities is the only option, the PJM Eastern Seaboard States may, and perhaps will, find themselves in a situation where the initial developers of such facilities, by default, effectively have the ability to impose barriers to competition as between potential competing developers of offshore wind generating facilities.

providing Transmission Platform Projects the opportunity to obtain Material Interconnection Rights under the PJM Tariff will further the Commission's core open access principles and goals, will promote competition for the development of offshore wind transmission and generation resources, and will allow for the development of a potentially more economically efficient, cost-effective, and environmental friendly mechanism for delivering large amounts of offshore wind generation to customers.[79]

B. Denying Transmission Platform Projects The Opportunity To Obtain Material Interconnection Rights Under The PJM Tariff Is Unjust And Unreasonable And Unduly Discriminatory And Preferential

There are no technical reasons to deny Transmission Platform Projects the opportunity to obtain Material Interconnection Rights under the PJM Tariff. The current requirement under the PJM Tariff that a Merchant Transmission Facility connect to "another control area" to interconnect to the PJM Transmission System and obtain TIRs does not appear to be grounded in any substantial technical requirement regarding the interconnection of radial transmission facilities as the interconnection of radial gen-ties is routine. Moreover, the requirement under the PJM Tariff that a radial AC Merchant Transmission Facility seeking to interconnect to the PJM Transmission System must be more controllable than other radial AC transmission facilities also does not appear to have any sound technical basis as, again, the interconnection of radial gen-ties is routine. Rather, as PJM has acknowledged, the PJM Tariff simply does not contemplate Merchant Transmission Facilities in the form of Transmission

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[79] *See* Order No. 807 at PP 41, 43. In contrast, the proprietary gen-tie-only approach frustrates the Commission's goals of competition and open access by potentially allowing a select few entities to impose barriers to competition for the development and ownership of offshore wind generation infrastructure. *See supra* note 78.

Platform Projects. As such, these current requirements under the PJM Tariff are wholly arbitrary and capricious and therefore unjust, unreasonable and unduly discriminatory and preferential.

1. There Is No Reason That Transmission Platform Projects Must Connect To Another Control Area

The now moribund PJM stakeholder process did not identify any reason, technical or otherwise, that would necessitate that a Transmission Platform Project seeking to interconnect to the PJM Transmission System interconnect with "another control area" to be able to obtain Material Interconnection Rights. As demonstrated below, multiple other BAAs allow Transmission Platform Projects to interconnect and receive injection rights without a separate requirement that they interconnect to an adjacent control area. Simply put, a requirement in the PJM Tariff that Transmission Platform Projects seeking to interconnect to the PJM Transmission System must connect to "another control area" is arbitrary and capricious and therefore unjust, unreasonable and unduly discriminatory and preferential.

2. There Is No Reason That AC Transmission Platform Projects Must Be More Controllable Than Other Radial AC Transmission Facilities

PJM has chosen to interpret the term "Controllable AC Transmission Facilities" under its Tariff as requiring an AC Transmission Platform Project to have control technologies in place that are not similarly required of a radial gen-tie.[80] There is no reason, technical or

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[80] Under the PJM Tariff, the term "Controllable AC Merchant Transmission Facilities" is defined as "transmission facilities that (1) employ technology which Transmission Provider reviews and verifies will permit control of the amount and/or direction of power flow on such facilities to such extent as to effectively enable the controllable facilities to be operated as if they were direct current transmission facilities, and (2) that are interconnected with the Transmission System pursuant to [PJM's transmission interconnection procedures]." PJM Tariff, *Definitions – C- D*. Neither the PJM Tariff nor the PJM Manuals identify the types of control technologies that must be employed and simply state that the entity requesting interconnection for Controllable AC Merchant Transmission Facilities must complete Attachment S and provide additional information about the transmission facilities as needed, which can include "additional proposals as [to] how the New Services Customer envisions the interconnection with the system, additional technical information on the proposed facilities and any other information that the New Services

otherwise, that necessitates that radial AC Transmission Platform Projects must satisfy such a requirement. Indeed, the Commission and PJM have confirmed that radial transmission facilities that function as gen-ties, such as open access Transmission Platform Projects, are controllable transmission facilities. At least one other RTO/ISO has asserted, and the Commission has agreed, that because radial transmission facilities that function as gen-ties "can be dispatched up or down to address system conditions . . . [they] are . . . more similar in that regard to generation than to uncontrollable AC transmission."[81] PJM has also accepted this view. PJM Manual 14E provides that "[t]his capability to inject capacity/energy at a defined Point of Interconnection with the PJM Transmission System [is] directly comparable to the capability of generation facilities to inject capacity/energy into the PJM Transmission System."[82] PJM defines Capacity TIRs as being similar to Capacity Interconnection Rights for generators, which only require the Generation Capacity Resource to be able to inject generation into the PJM Transmission System.[83] AC Transmission Platform Projects should be treated the same as gen-ties, and the failure of PJM's Tariff to do so is arbitrary.

Customer thinks would aid in the understanding and study of the facility." PJM, PJM Manual 14E, Upgrade and Transmission Interconnection Requests at 3.1.2 ("PJM Manual 14E"). Attachment S of the PJM Tariff—the Transmission Interconnection Feasibility Study Agreement—also does not discuss the type of technology that must be employed to control the proposed AC transmission facilities.

81 New York Indep. Sys. Operator, Inc., Docket Nos. ER13-102-007, *et al.*, at 12 (Mar. 22, 2016) ("NYISO Compliance Filing"); *New York Indep. Sys. Operator, Inc.*, 162 FERC ¶ 61,107 (2018) (Order accepting NYISO Compliance Filing).

82 PJM Manual 14E, Attachment B1.

83 *See* PJM Tariff, *Definitions – C – D*.

3. Proxy Wind Turbines Are Used To Study Power Flows For On-Shore Wind Generation Resources To Identify System Impacts and Upgrades, And The Same Approach Can Be Used With Transmission Platform Projects

The developers of wind generation projects often file interconnection requests long before the actual wind turbines that will be installed in their projects are identified. This delay is caused by the pace of technological innovation and development of wind turbines that has seen the commercial development of ever taller, more efficient, and more powerful wind turbines. When the actual wind turbines that will be installed in the wind generation project are identified, interconnection studies are trued up to identify any differences in system interaction or changes to needed upgrades. Transmission Platform Projects can be studied in PJM's interconnection process the same way, *i.e.*, with proxy wind turbines equivalent to the amount of TIRs that a Transmission Platform Project is requesting.

Studying Transmission Platform Projects with proxy offshore wind generating units in modeling software for interconnection studies to identify likely needed upgrades allows the developers of offshore wind infrastructure to identify optimal interconnection points and make investments in permitting and equipment. It also allows the states issuing RFPs for offshore wind transmission to receive meaningful bids with the costs and technical challenges of interconnecting offshore wind infrastructure to the onshore transmission grid generally known. Where offshore wind generation resources are selected in later RFPs or interconnect to a Transmission Platform Project, they would submit interconnection requests that will allow for true up of any differences from the interconnection studies previously performed for the connecting Transmission Platform Project.

C. The Experiences Of Other Regions That Have Studied, Developed And Successfully Deployed Various Types Of Transmission Platform Projects Demonstrate That Transmission Platform Projects Should Be Provided The Opportunity To Obtain Material Interconnection Rights

The positive experiences of other regions in the U.S. and other countries that have developed and deployed Transmission Platform Projects in various forms, *radial and networked*, demonstrate that there are a number of compelling reasons why Transmission Platform Projects should be provided the opportunity to obtain Material Interconnection Rights under the PJM Tariff. Specifically, as many states and countries have increased their renewable energy goals and mandates and seek to connect anticipated remote renewable generating facilities to existing transmission grids at large scale, several states and regions (including FERC-jurisdictional Regional Transmission Organizations and Independent System Operators), as well as other countries, have planned, developed and deployed open access Transmission Platform Projects to accomplish this task.[84] In implementing Transmission Platform Projects, these states, regions and countries studied and concluded that Transmission Platform Projects were a more economically efficient and cost-effective method to connect such anticipated remotely-located generation resources to existing transmission grids at large scale. At the same time, and as discussed below, the approaches taken by CAISO, MISO, and ERCOT to implement open access Transmission Platform Projects show that there are no technical hurdles to studying and interconnecting Transmission Platform Projects. Accordingly, the failure of the PJM Tariff to provide Transmission Platform Projects the opportunity to obtain Material Interconnection Rights is short-sighted, unjustified and arbitrary and capricious and therefore unjust, unreasonable and unduly discriminatory and preferential.

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[84] *See infra* Sections III.C.1-3.

1. CAISO's Location Constrained Resource Interconnection Policy

In California, CAISO and the Commission recognized more than a decade ago the significant barriers to developing and financing transmission infrastructure to connect expected remote generation resources, which it refers to as Location Constrained Resource Interconnection Generators ("LCRIGs"), in regions with vast potential for the supply of renewable electric energy to the CAISO-controlled transmission grid.[85] This barrier particularly affected renewable energy generation technologies, such as wind, geothermal and solar, as the energy sources for these generation technologies cannot be practically transported from remote locations where they are in abundance to a more convenient location where they can be converted into electric energy by generation resources already connected to the CAISO-controlled transmission grid.[86] In 2006, California adopted aggressive RPS requirements, making it imperative to identify a method for connecting expected remote renewable generation resources to the CAISO-controlled transmission grid.[87]

CAISO considered a more traditional approach to interconnection of expected remote renewable generation resources under which new radial interconnection lines or upgrades to an existing radial interconnection line would be constructed every time a new LCRIG is built, which is consistent with the only option now available under the PJM Tariff.[88] However, CAISO rejected this more traditional approach as being economically inefficient and not cost-effective for the expected large-scale development and interconnection of such resources.

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85 Cal. Indep. Sys. Operator Corp., Docket No. ER08-140-000, at 1-2 (filed Oct. 31, 2007) ("CAISO LCRIG Tariff Amendment Proposal").

86 *Id.* at 2.

87 *Id.*

88 Cal. Indep. Sys. Operator Corp., Docket No. EL07-33-000 at 14 (filed Jan. 25, 2007) ("CAISO Petition for Declaratory Order").

CAISO recognized that it "would be relatively expensive and financially risky for an individual generation developer to build a separate line for each resource in the area that comes on line" and that "sequential construction of the necessary interconnection facilities would result in a total cost for transmission to access the remote area that exceeds the cost of building a single interconnection facility that can accommodate all of the resources that are expected to be developed in the region at the time the first generator comes on-line."[89]

Instead of the more traditional interconnection approach, CAISO proposed and the Commission accepted a policy for the development of radial "trunk line" transmission facilities analogous to Transmission Platform Projects, which CAISO incorporated into its comprehensive transmission planning process in 2007.[90] Under its Location Constrained Resource Interconnection ("LCRI") policy, CAISO created a new category of transmission facilities—Location Constrained Resource Interconnection Facilities ("LCRIFs")—which would be radial transmission facilities "constructed for the primary purpose of connecting to the CAISO Controlled Grid two (2) or more Location Constrained Resource Interconnection Generators in an Energy Resource Area, and at least one of the Location Constrained Resource Interconnection Generators is to be owned by an entity(ies) that is not an Affiliate of the owner(s) of another Location Constrained Resource Interconnection Generator in that Energy Resource Area."[91] In requesting Commission approval for its LCRI policy and procedures, CAISO emphasized that

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89 *Id.*

90 *Cal. Indep. Sys. Operator Corp.*, 121 FERC ¶ 61,286 (2007).

91 CAISO Open Access Transmission Tariff ("CAISO Tariff") § 24.4.6.3.2. It is important to note that CAISO's LCRI policy was intended not only to facilitate the interconnection of LCRIGs through LCRIFs, but to actually provide a means to pay for the development of LCRIFs under the CAISO Tariff as transmission facilities approved under the CAISO Transmission Planning Process (*i.e.*, the costs of LCRIFs can be socialized). Hence, CAISO included the need to identify a minimum number of specifically planned LCRIGs as an eligibility requirement for a LCRIF. CAISO LCRIG Tariff Amendment Proposal at 4-5.

the LCRIFs "will promote supply diversity and competition in the marketplace, as well as provide access to new sources of supply that will be available to all load-serving entities ("LSEs"),"[92] to which the Commission agreed.[93] CAISO also developed a process for identifying an Energy Resource Area, "[a] geographic region certified by the California Public Utilities Commission and the California Energy Commission as an area in which multiple LCRIGs could be located."[94]

2. MISO And The Development Of The Michigan Thumb Loop

MISO encountered a problem similar to that addressed by CAISO through its LCRI policy when states in its region began aggressively pursuing renewable energy requirements by providing the option for, and approving the use of a networked Transmission Platform Project as a multi value project ("MVP").[95] MISO developed a portfolio of MVPs "based upon a set of energy zones,[96] developed to provide a low-cost approach to wind siting when both generation and transmission capital costs are considered," which would also enhance reliability, increase market efficiency, and reduce real power losses.[97] One of the approved MVPs was the Michigan Thumb Loop project, which is a 5,000 MW capacity transmission line

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92 CAISO Petition for Declaratory Order at 5-6.

93 *See Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,061 at P 78 (2007).

94 CAISO Tariff, Appendix A.

95 *See* MISO, *Multi Value Project Portfolio: Results and Analyses*, at 11 (Jan. 10, 2012), ("MISO MVP Portfolio Report"), https://cdn.misoenergy.org/2011%20MVP%20Portfolio%20Analysis%20Full%20Report117059.pdf (last visited November 14, 2019). For example, Michigan passed the Clean and Renewable Energy and Energy Waste Reduction Act of 2008 to "promote the development and use of clean and renewable energy resources" and set a goal of meeting the state's electric needs through not less than 35% of renewable energy and energy waste reduction by 2025. 2008 Mich. Pub. Acts 295, MICH. COMP. LAWS § 460.1001(2) (2008).

96 These energy zones were identified with the help of stakeholder surveys as areas with "expected renewable energy needs over the next 20 years." *Id.* at 16.

97 *Id.*

that would serve as the "backbone" of a transmission system to provide the infrastructure necessary to accommodate the development of a significant amount of *anticipated* wind generation (originally estimated to be 2,300 to 4,200 MW) expected, but not specifically planned, to be developed in the Michigan Thumb region. Similar to the situation in CAISO, Michigan identified the Michigan Thumb region as having the greatest potential for the large-scale development of wind generating facilities but lacking sufficient transmission capability on the existing transmission grid to move that wind energy to load centers.[98] The Michigan Thumb Loop project supplanted the traditional incremental transmission planning approach whereby transmission system upgrades would "typically be[] constructed to serve an individual project on a case-by-case basis," which the Michigan Wind Energy Resource Zone Board identified as potentially "problematic in areas where a significant amount of wind energy development is expected in aggregate over multiple years."[99] Thus, MISO has also successfully addressed the problem of connecting expected remote renewable generation resources to the existing transmission grid at large scale through the use of a networked Transmission Platform Project. With the approval of the Michigan Thumb Loop, wind generation developers rushed to develop projects in the Michigan Thumb area, such that by the completion of the Michigan Thumb Loop, 1,000 MW of remote wind generating facilities had already interconnected to the project.[100]

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98 Mich. Pub. Serv. Comm'n, *In the matter of the application of International Transmission Company*, Case No. U-16200 at 53 (Feb. 25, 2011) (order authorizing International Transmission Company to construct the Michigan Thumb Loop transmission system).

99 Mich. Wind Energy Resource Zone Bd., *Final Report*, at 1 (2009).

100 Herman K. Trabish, *How new transmission is unlocking wind power's potential in Michigan's Thumb*, UTILITY DIVE (May 26, 2015), https://www.utilitydive.com/news/how-new-transmission-is-unlocking-wind-powers-potential-in-michigans-thum/399707/ (last visited November 18, 2019).

3. Texas And Its Competitive Renewable Energy Zones

As in California and some of the MISO states, Texas more than doubled its renewable energy goals to 5,000 MW in 2006 and in conjunction with these goals, directed the Public Utility Commission of Texas ("PUCT") to designate Competitive Renewable Energy Zones ("CREZs"), which are areas where "renewable energy resources and suitable land areas are sufficient to develop generating capacity from renewable energy technologies," and to "develop a plan to construct transmission capacity necessary to deliver to electric customers, in a manner that is most beneficial and cost-effective to the customers, the electric output from renewable energy technologies in the [CREZs]."[101]

Assisting the PUCT meet its directives, ERCOT identified the potential for development of wind generation resources in West Texas that required "new bulk transmission lines . . . to support significant transfer of [the identified possibilities for] wind generation from the West Texas area."[102] The PUCT determined that approximately 2,400 miles of new transmission lines to which new wind generating facilities could interconnect would deliver the energy generated by expected renewable generation resources in the CREZs "in a manner that would be most beneficial and cost-effective to the customers."[103] As a result, Texas developed networked Transmission Platform Projects that have the ability to send more than 18 GW of

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101 *See* 2005 Tex. Sess. Law Serv. 1st Called Sess. Ch. 1 (S.B. 20); TEX. UTIL. CODE ANN. §§ 39.904(a), (g)(1)-(2).

102 ERCOT System Planning, *Analysis of Transmission Alternatives for Competitive Renewable Energy Zones in Texas* at ES-1 (Dec. 2006), http://www.ercot.com/news/presentations/2006/ATTCH_A_CREZ_Analysis_Report.pdf (last visited November 18, 2019).

103 Pub. Utility Comm'n of Tex., *Comm'n Staff's Petition for Designation of Competitive Renewable Energy Zones*, Order on Rehearing, Docket No. 33672 at 11, 16 (2008).

wind power from West Texas to loads located throughout the ERCOT BAA.[104] The PUCT awarded certain transmission developers and utilities the right to develop, construct and own these open access projects through a competitive RFP, and such projects were fully constructed and in-service within a few years.[105] In the first three years of being in-service, 8,700 MW of wind generation resources connected to these pre-developed open access Transmission Platform Projects.[106] By the end of 2017, Texas had more than 22,000 MW of wind generation resources, much of it attributable to the CREZ's transmission-first grid expansion that was designed and constructed ahead of specific wind generation.[107] And the amount of wind in Texas continues to grow, with another 2,400 MW added this past summer.[108]

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104 *See* Jim Malewitz, *$7 Billion Wind Power Project Nears Finish*, TEX. TRIBUNE (Oct. 14, 2013), https://www.texastribune.org/2013/10/14/7-billion-crez-project-nears-finish-aiding-wind-po/ (last visited November 18, 2019).

105 Pub. Utility Comm'n of Tex., *Comm'n Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Delivery Renewable Energy from Competitive Renewable Energy Zones*, Docket No. 35665 (Mar. 30, 2009) (Order selecting Transmission Service Providers ("TSPs") responsible for constructing transmission improvements within the CREZs). These TSPs were completed on January 30, 2014. ERCOT, *The Competitive Renewable Energy Zones Process* 8 (Aug. 11, 2014), https://www.energy.gov/sites/prod/files/2014/08/f18/c_lasher_qer_santafe_presentation.pdf (last visited November 18, 2019). *See also id.* at 6 (map of CREZs and proposed TSPs).

106 Herman K. Trabish, *Is Texas wind power's speeding expansion a boom or a bust?*, UTILITY DIVE (Apr. 25, 2014), https://www.utilitydive.com/news/how-much-wind-can-texas-handle/255837/ (last visited November 18, 2019).

107 Rye Druzin, *Texas wind generation keeps growing, state remains at No. 1*, HOUSTON CHRONICLE (Aug. 23, 2018), https://www.houstonchronicle.com/business/energy/article/Texas-wind-generation-keeps-growing-state-13178629.php (last visited November 18, 2019).

108 *See e.g.*, L.M. Sixel, *Texas added more wind this summer, ERCOT says*, HOUSTON CHRONICLE (Oct. 16, 2019), https://www.houstonchronicle.com/business/energy/article/Texas-added-more-wind-this-summer-ERCOT-says-14536854.php (last visited November 18, 2019).

4. Global Studies Confirm The Importance And Potential Benefits Of Transmission Platform Projects For The Large-Scale Connection Of Remotely-Located Generation To Existing Transmission Grids

CAISO and MISO (each of which is subject to the Commission's jurisdiction) and the ERCOT portion of Texas (which is not subject to the Commission's jurisdiction) independently determined that some form of Transmission Platform Projects would provide an economically efficient, cost-effective and technically feasible solution to connect anticipated, but not yet defined, remotely-located renewable generation resources to their respective existing transmission grids at large scale. Their independent determinations and the resulting successful implementation of their Transmission Platform Project-based approach to the large-scale development and interconnection of remotely-located generation resources have been further supported by the World Bank's study of transmission solutions for scaling up the development of renewable energy generation resources located in remote areas.[109] Evaluating transmission planning for remotely-located generation resources in a number of jurisdictions worldwide, including in MISO and ERCOT, the World Bank found anticipatory transmission planning practices, such as the use of Transmission Platform Projects, to be "the best way" to connect such remotely-located generation resources at large scale to existing transmission grids because it will *reduce costs and improve efficiency*.[110] On the other hand, connecting such generation resources at large scale to existing transmission grids based solely upon responding to individual generation interconnection requests would "lead to suboptimal, more expensive solutions" and "significantly 'clog' transmission providers' processes and scarce human resources," which

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109 *See* Marcelino Madrigal and Steven Stoft, *Transmission Expansion for Renewable Energy Scale-Up: Emerging Lessons and Recommendations*, THE WORLD BANK, xv (2012).

110 *Id.*

would lead to "delays in the process to scale up renewable energy."[111] In this regard, the U.S. National Renewable Energy Laboratory and the U.S. Agency for International Development published a guidebook in 2017 for those seeking assistance in identifying remotely-located generation resource areas and in developing transmission options to connect remotely-located generating facilities at large scale to existing transmission grids, specifically using the ERCOT-CREZ process as a model.[112] Moreover, as discussed above, NYPA's recent study of lessons learned from Western Europe's large-scale deployment of offshore wind generation pointed to two key takeaways for the northeastern states: (1) the most effective path to low-cost offshore wind generation is through scale and healthy competition, and (2) transparent, forward-looking development of onshore and offshore transmission facilities removes barriers to entry, improves coordination, and lowers costs.[113]

These examples confirm the potential benefits of Transmission Platform Projects and the potential harms that may result from relying on traditional proprietary gen-ties as the sole means to connecting remote renewable generation facilities at large scale to existing transmission grids. Continuing to deny Transmission Platform Projects the opportunity to obtain Material Interconnection Rights under the PJM Tariff will hinder the PJM Eastern Seaboard States from meeting their ambitious clean energy goals, and by default may result in a less economically efficient and more costly and environmentally detrimental means for connecting expected remote offshore wind generation facilities at large scale to the PJM Transmission System. As the use of proprietary gen-tie lines to connect remote offshore wind generating units at large scale to

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111 *Id.*

112 Nathan Lee, et al., *Renewable Energy Zone (REZ) Transmission Planning Process: A Guidebook for Practitioners* (2017), https://www.nrel.gov/docs/fy17osti/69043.pdf (last visited November 18, 2019).

113 *See* NYPA Study at 2, 17.

existing transmission grids is an economically inefficient, costly, and an unnecessary constraint on *scaling up* the development of remote offshore wind generation, it is unjust, unreasonable and unduly discriminatory and preferential to continue to allow the PJM Tariff to deny Transmission Platform Projects the opportunity to obtain Material Interconnection Rights under the PJM Tariff.

D. The Commission Should Require PJM To Modify Its Tariff To Provide Transmission Platform Projects The Opportunity To Obtain Material Interconnection Rights

Section 206 of the FPA requires the Commission to replace an unjust, unreasonable or unduly discriminatory or preferential rate with one that is just and reasonable.[114] To aid in that result, Anbaric proposes herein two just and reasonable and not unduly discriminatory or preferential solutions to provide Transmission Platform Projects the opportunity to obtain Material Interconnection Rights under the PJM Tariff.

1. The Commission Should Direct PJM To Revise Its Tariff To Remove The Requirement That All Merchant Transmission Facilities Interconnect With Another Control Area

Sections 36 and 232 of the PJM Tariff permit Merchant DC Transmission Facilities and/or Controllable AC Merchant Transmission Facilities that will interconnect with the PJM Transmission System and with "another control area" outside the PJM Region to obtain

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[114] 16 U.S.C. § 824e(a) ([w]henever the Commission…shall find that any rate . . . is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate"); *see also Md. Pub. Serv. Comm'n v. FERC*, 632 F.3d 1283, 1285 n.1 (D.C. Cir. 2011) ("[i]t is the Commission's job—not the petitioner's—to find a just and reasonable rate"); *La. Pub. Serv. Comm'n v. FERC*, 184 F.3d 892, 897 (D.C. Cir. 1999) (the Commission "has the duty—not the option—to reform rates that by virtue of changed circumstances are no longer just and reasonable"); *see also, Tenn. Gas Pipeline Co. v. FERC*, 860 F.2d 446, 454 (D.C. Cir. 1988) (Once a rate is determined to be unlawful, "the Commission is required to reach a further determination: the just and reasonable rate to be fixed in place of either an unlawful proposed or existing rate.").

TIRs.[115] As explained in Section III.B. of this Complaint, there is no good reason for the PJM Tariff to require Merchant Transmission Facilities to interconnect "with another control area" to obtain TIRs, and therefore the PJM Tariff is unjust, unreasonable and unduly discriminatory and preferential. As the PJM Tariff simply does not contemplate interconnecting Transmission Platform Projects, the Commission should require PJM, within 30 days of its order, to remove the language from its Tariff requiring Merchant Transmission Facilities to interconnect with "another control area."

In order to avoid PJM having to process an interconnection request for a Merchant Transmission Facility to nowhere, or a Merchant Transmission Facility that is not a cognizable, legitimate project, Anbaric proposes that the PJM Tariff be modified to create a new category of Merchant Transmission Facilities for Transmission Platform Projects, based in part on the CAISO's concept of a LCRIF, to be called a "Remote Generation Resource Interconnection Platform" or "ReGRIP," which means an open access transmission facility or platform that is constructed for the primary purpose of connecting to the PJM Transmission System generation facilities that are expected to be developed in a "Remote Generation Resource Area." ("ReGRIPs" and a "Remote Generation Resource Area" are described in more detail below.) For the avoidance of doubt, Anbaric also requests that its existing PJM interconnection requests be transitioned to this new category of Merchant Transmission Facilities while maintaining their current queue positions.

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[115] PJM Tariff § 36.1.03.1.e.

2. The Commission Should Direct PJM To Revise Its Tariff To Provide Transmission Platform Projects The Opportunity To Obtain TIRs Under PJM's Transmission Interconnection Procedures

Similarly, Anbaric requests that the Commission direct PJM to immediately allow Transmission Platform Projects the opportunity to obtain TIRs under PJM's transmission interconnection procedures, and within 30 days of its order, require PJM to modify its Tariff as set forth below. The proposed modifications contained herein are based in part on CAISO's Tariff provisions regarding LCRIFs, which the Commission has already found to be just, reasonable and not unduly discriminatory or preferential.[116]

As discussed above, Anbaric proposes that the PJM Tariff be modified to include a new category of Merchant Transmission Facilities called ReGRIPs. A ReGRIP would be entitled to receive TIRs up to the full amount requested and would be subject to all open access transmission tariff requirements under the Commission's Order No. 888 and PJM Tariff Section 38. Additionally, a ReGRIP cannot be an Interconnection Customer's Interconnection Facility, as defined in Appendix 6 to the Standard Large Generator Interconnection Agreement.[117]

In creating this new category of open access transmission facility, certain limited amendments to the PJM Tariff would be required to fully incorporate ReGRIPs into the transmission interconnection procedure under the PJM Tariff. For example, the definition of "Merchant Transmission Facility" in the PJM Tariff would be expanded to include ReGRIPs, such that proposed open access Transmission Platform Projects that fall within this new category would be able to participate in every step of the transmission interconnection procedure under the PJM Tariff.

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116 *Cal. Indep. Sys. Operator Corp.*, 121 FERC ¶ 61,286 (2007).

117 This new definition would be added to the PJM Tariff, *Definitions – R – S*.

Moreover, minor modifications to Sections 36.1.03 and 232 of the PJM Tariff are necessary to provide ReGRIPs the opportunity to obtain TIRs. Specifically, paragraphs in sections 36 and 232 that reference "Merchant [DC] Transmission Facilities and/or Controllable [AC] Merchant Transmission Facilities" in relation to TIRs will need to be revised to reflect that all ReGRIPs, including radial AC Merchant Transmission Facilities, can obtain TIRs.[118]

Anbaric's proposed modifications to the PJM Tariff would also establish "Remote Generation Resource Areas" to which ReGRIPs would provide transmission service for interconnecting offshore wind generation units. A Remote Generation Resource Area would be defined to mean a geographic area identified by BOEM as a WEA in federal waters in the Atlantic Ocean pursuant to the Area Identification process under 30 C.F.R. § 585.211(b) or a geographic area identified by PJM (or potentially a state) as an area in which future offshore wind generating facilities could be located and/or be interconnected to the PJM Transmission System through a ReGRIP to meet energy demands of the states within the PJM Control Area. Before PJM designates a geographic area as a Remote Generation Resource Area that is not one of the aforementioned WEAs, PJM shall develop procedures and establish criteria for designating such a Remote Generation Resource Area.

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[118] For example, in Section 232.1, the paragraph defining TIRs would require the following additions, which are underlined: Transmission Injection Rights shall entitle the holder, as provided in this Section 232, to schedule energy transmitted on the associated Merchant D.C. Transmission Facilities, ReGRIPs and/or Controllable A.C. Merchant Transmission Facilities for injection into the Transmission System at a Point of Interconnection of the Merchant D.C. Transmission Facilities, ReGRIPs and/or Controllable A.C. Merchant Transmission Facilities with the Transmission System. Transmission Withdrawal Rights shall entitle the holder, as provided in this Section 232, to schedule for transmission on the associated Merchant Transmission Facilities energy to be withdrawn from the Transmission System at a Point of Interconnection of the Merchant D.C. Transmission Facilities, ReGRIPs and/or Controllable A.C. Merchant Transmission Facilities with the Transmission System.

Additionally, Anbaric proposes Section 38 of the PJM Tariff be modified to include a new category of transmission provider that will be subject to open access transmission service requirements called "ReGRIP Provider," which shall mean a Transmission Interconnection Customer that (1) owns, controls, or controls the right to use the transmission capability of ReGRIPs that connects to the PJM Transmission System, (2) has elected to receive Transmission Injection Rights associated with such facility pursuant to Tariff, Part IV, Section 36, and (3) makes (or will make) the transmission capability of such facilities available for use by third parties under terms and conditions approved by the Commission and stated in the Tariff, consistent with Tariff, Section 38.

Lastly, the PJM Tariff would need to be revised to ensure that future generation units that seek to interconnect to the PJM Transmission System through ReGRIPs may use the studies already completed for the interconnection of the ReGRIP when going through their respective generation interconnection processes with PJM. This process would be analogous to Surplus Interconnection Service, as defined in the Commission's *pro forma* Large Generator Interconnection Procedures. Just like a proposed generation unit is able to request and use Surplus Interconnection Service that another generation resource may have available through its gen-tie, generation units seeking to interconnect to a ReGRIP can request interconnection service taking advantage of a ReGRIP's TIRs, which PJM will have already studied and for which the ReGRIP will have already funded all necessary upgrades. Anbaric recommends that a sentence be added to the Generation Interconnection Request Requirements in Section 36.1.01 to state that: "Generation units that seek to interconnect to a ReGRIP shall be permitted to rely upon the studies PJM already completed regarding the ReGRIP interconnecting to the PJM Transmission System as part of their Generation Interconnection Feasibility Study Agreement." Anbaric also

recommends that a sentence be added to Section 203 of the PJM Tariff (regarding System Impact Study Agreements) to state that: "A New Service Customer that seek to interconnect to a ReGRIP shall be permitted to rely upon the studies PJM already completed regarding the ReGRIP interconnecting to the PJM Transmission System as part of its System Impact Study." A similar sentence will also need to be added to Section 206 of the PJM Tariff (regarding Facilities Study Agreements).

Anbaric's proposed changes would revise the provisions in the PJM Tariff to make them just and reasonable and not unduly discriminatory or preferential. Further, just as is the case with the interconnection of generating facilities, the tools that the Commission and specific regions have developed over the years to limit the risk of interconnection queue hoarding would be applicable here. In this case, and as noted above, Site Control for a Transmission Platform Project could be demonstrated through the execution of an interconnection agreement and beyond based on completion of various milestones in the BOEM ROW application process that must be met to demonstrate that an applicant's proposed project is progressing towards actual development, construction and commercial operation in a timely manner.[119]

IV. REQUESTED RELIEF

Under the PJM Tariff, Anbaric's proposed Transmission Platform Projects are ineligible to obtain Material Interconnection Rights with respect to the PJM Transmission System. As a result, Anbaric's proposed Transmission Platform Projects are not only being denied the opportunity to interconnect because they will not be connected to another control

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[119] *See supra* note 6. Anbaric recognizes that additional milestones beyond those discussed above may be necessary, and Anbaric is willing to work with PJM to establish such reasonable milestones.

area, but also are at risk of being fully processed with no TIRs (or removed from the PJM Interconnection Queue) such that projects behind Anbaric in the PJM interconnection study process will be able to take advantage of the headroom on the PJM Transmission System to the detriment of Anbaric. Moreover, the PJM Eastern Seaboard States are rapidly moving forward to achieve their ambitious procurement mandates or goals for offshore wind generation with upcoming solicitations for offshore wind generation infrastructure. It is therefore imperative that the Commission provides relief as soon as possible as developers, such as Anbaric, seeking to propose Transmission Platform Projects are and will continue to be harmed and unduly discriminated against by being precluded from the opportunity to obtain Material Interconnection Rights under the PJM Tariff and participate in upcoming state solicitations for offshore wind infrastructure. To the extent the Commission finds the PJM Tariff to be unjust, unreasonable and unduly discriminatory or preferential for not contemplating the Material Interconnection of Transmission Platform Projects, it would also be unjust and unreasonable for Anbaric to be forced to either (1) continue through the transmission interconnection process having its Transmission Platform Projects being studied as transmission facilities with the ability to inject 0 MW of energy and 0 MW of capacity into the PJM Transmission System; or (2) withdraw its Transmission Interconnection Requests and lose its Queue Positions while this proceeding is ongoing.

Therefore, Anbaric respectfully requests that the Commission (i) find as a matter of law that the PJM Tariff is unjust, unreasonable and unduly discriminatory and preferential because it only permits Merchant Transmission Facilities that interconnect "with another control area" to interconnect to the PJM Transmission System and obtain TIRs and (ii) find as a matter of law that the PJM Tariff is unjust, unreasonable and unduly discriminatory or preferential

because it only permits "Controllable [AC]" and DC Merchant Transmission Facilities that interconnect to another control area the opportunity to obtain TIRs under the transmission interconnection procedures in the PJM Tariff. Consequently, Anbaric respectfully requests that the Commission (a) direct that Transmission Platform Projects be allowed the opportunity to obtain Material Interconnection Rights under the PJM Tariff and (b) order PJM to modify its Tariff to include Transmission Platform Projects as defined as Remote Generation Resource Interconnection Platforms within 30 days of the Commission's order, including permitting Anbaric's existing PJM interconnection requests (and other similar requests) to transition to this new category and maintain their queue positions.

If the Commission determines that PJM's Tariff is unjust, unreasonable and unduly discriminatory or preferential because it does not provide Transmission Platform Projects the opportunity to obtain Material Interconnect Rights under the PJM Tariff, and requires PJM to amend its Tariff, Anbaric offers the following proposed Tariff revisions for consideration:

- Add the following new definitions to the PJM Tariff:
    - **Remote Generation Resource Interconnection Platform (ReGRIP)** shall mean an open access transmission facility or platform that is constructed for the primary purpose of connecting to the PJM Transmission System generally planned, but not necessarily specifically identified, generation facilities that are expected to be developed in a Remote Generation Resource Area. A ReGRIP is entitled to receive Transmission Injection Rights and is subject to all open access transmission tariff requirements under the Commission's Order No. 888 and the PJM Tariff section 38. Additionally, a ReGRIP cannot be an Interconnection Customer's Interconnection Facility, as defined in Appendix 6 to the Standard Large Generator Interconnection Agreement.
    - **Remote Generation Resource Area** shall mean a geographic area identified by BOEM as a WEA in federal waters in the Atlantic Ocean pursuant to the Area Identification process under 30 C.F.R. § 585.211(b) or a geographic area identified by PJM as an area in which future offshore wind generating facilities could be located and/or be interconnected to the PJM Transmission System through

a ReGRIP to meet energy demands of the states within the PJM Control Area. Before PJM designates a geographic area as a Remote Generation Resource Area that is not one of the aforementioned WEAs, PJM shall develop procedures and establish criteria for designating such a Remote Generation Resource Area.

- **ReGRIP Provider** shall mean a Transmission Interconnection Customer that (1) owns, controls, or controls the right to use the transmission capability of ReGRIPs that connects to the PJM Transmission System, (2) has elected to receive Transmission Injection Rights associated with such facility pursuant to Tariff, Part IV, section 36, and (3) makes (or will make) the transmission capability of such facilities available for use by third parties under terms and conditions approved by the Commission and stated in the Tariff, consistent with Tariff, section 38.

- Modify the following existing paragraphs in the PJM Tariff (proposed deletions in strikethrough format):

  - Delete "another control area" from and add references to "ReGRIPs" to sections 36.1.03 and 232.2. For example, section 36.1.03.1(e) shall be modified to state: if the request relates to proposed Merchant D.C. Transmission Facilities, ReGRIPs and/or Controllable A.C. Merchant Transmission Facilities that will interconnect with the Transmission System from~~and with another control area~~ outside the PJM Region, the Transmission Interconnection Customer's election to receive either… .

  - Insert ReGRIP Provider any time section 38 references Merchant Transmission Provider. For example, the beginning of section 38 will be modified to state: A Transmission Interconnection Customer that will be a Merchant Transmission Provider or ReGRIP Provider shall . . . PJM Tariff § 38(a).

  - Revise section 232 to delete "another control area" from and add references to "ReGRIPs" with respect to Transmission Injection Rights. For example, section 232.1 will be modified to state: Transmission Injection Rights shall entitle the holder, as provided in this Section 232, to schedule energy transmitted on the associated Merchant D.C. Transmission Facilities, ReGRIPs and/or Controllable A.C. Merchant Transmission Facilities for injection into the Transmission System at a Point of Interconnection of the Merchant D.C. Transmission Facilities, ReGRIPs and/or Controllable A.C. Merchant Transmission Facilities with the Transmission System.

- Add the following sentences to various sections of the PJM Tariff (proposed changes underlined):

    - Generation units that seek to interconnect to a ReGRIP shall be permitted to rely upon the studies PJM already completed regarding the ReGRIP interconnecting to the PJM Transmission System as part of their Generation Interconnection Feasibility Study Agreement. PJM Tariff § 36.1.01 (as the last sentence in the first paragraph).

    - A New Service Customer that seeks to interconnect to a ReGRIP shall be permitted to rely upon the studies PJM already completed regarding the ReGRIP interconnecting to the PJM Transmission System as part of its System Impact Study. PJM Tariff § 203 (in between the two sentences that currently exist).

    - A New Service Customer that seeks to interconnect to a ReGRIP shall be permitted to rely upon the studies PJM already completed regarding the ReGRIP interconnecting to the PJM Transmission System as part of its Facilities Study. PJM Tariff § 206 (in between the two sentences that currently exist).

Additionally, Anbaric respectfully requests that the Commission set a refund effective date to be the date of this Complaint such that the Commission's Order will apply to all existing Queue Positions as of the date of the filing of this Complaint. Setting the refund effective date to the earliest possible date is necessary to mitigate any injuries to current Transmission Platform Projects with Queue Positions as a result of being denied the opportunity to Materially Interconnect to the PJM Transmission System. The Commission has previously established a refund effective date as the earliest date possible "in order to give maximum protection to customers."[120]

Finally, Anbaric requests that the Commission refrain from referring this matter to the currently abandoned PJM stakeholder process or some other stakeholder process to develop a solution to the currently unjust, unreasonable and unduly discriminatory failure of PJM to

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120 *Consumers Energy Co.*, 155 FERC ¶ 61,104 at P 18 (2016).

provide Transmission Platform Projects with the opportunity to Materially Interconnect to the PJM Transmission System. Although stakeholder processes are suitable under certain circumstances,[121] they are not appropriate in this situation where the transmission interconnection procedures in PJM's Tariff are patently in violation of the Commission's fundamental open access rules, precedents and principles and unjust, unreasonable and unduly discriminatory and preferential and are causing imminent harms to transmission developers. Moreover, PJM's now moribund stakeholder process failed to reach a solution to providing Transmission Platform Projects the opportunity to obtain Material Interconnection Rights under the PJM Tariff, which has resulted in the continuation of the injury to Anbaric described above because the PJM Eastern Seaboard States have forthcoming solicitations for the procurement of offshore wind infrastructure.

Requiring yet another PJM stakeholder process will also exacerbate the injury by delaying the Material Interconnection of Transmission Platform Projects. Such delay could not only prevent the developers of Transmission Platform Projects from being able to participate in state-issued RFP for offshore transmission, but likely would practically preclude the states from issuing such a RFP as they cannot procure offshore transmission infrastructure that cannot interconnect to onshore grids. Finally, it would be manifestly unjust, unreasonable and unduly discriminatory and defeat the entire purpose of this complaint if Anbaric were left only with the choices of withdrawing its interconnection requests for its Transmission Platform Projects or

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[121] Anbaric is not opposed to a PJM stakeholder process for the consideration of networked offshore interconnection facilities. A networked offshore interconnection system does not pose imminent harms to Anbaric or other transmission developers seeking to connect Transmission Platform Projects to the PJM Transmission System. Furthermore, a networked offshore interconnection system will pose technical challenges that will likely require in-depth stakeholder discussions to solve the technical issues and implement interconnection procedures for such a system. The Commission should, however, require PJM to undertake such a stakeholder process and report to the Commission on its results within a certain time period.

having those Projects studied as if they could inject 0 MW energy and 0 MW capacity into the PJM Transmission System.

V. REQUEST FOR FAST TRACK PROCESSING

Anbaric respectfully requests Fast Track processing under Rule 206(h) of the Commission's Rules of Practice and Procedure and requests that the Commission act on this Complaint in advance of PJM completing its System Impact Studies for Anbaric's existing Queue Positions as 0 MW energy and 0 MW capacity transmission systems with no TIRs and allowing transmission projects later in the Queue to take advantage of any headroom that might be currently available in the PJM Transmission System. Good cause exists for the Commission to grant the Complaint and issue an Order as soon as possible. The harm to Anbaric resulting from the PJM Tariff denying Transmission Platform Projects the opportunity to obtain Material Interconnect Rights is concrete, material, present and ongoing. Not only does Anbaric have several proposed Transmission Platform Projects that remain at risk of losing their ability to Materially Interconnect, but the PJM Eastern Seaboard States are moving quickly to achieve and or increase their offshore wind goals. New Jersey will issue additional RFPs for offshore wind generation in 2020 and 2022, and Maryland is projected to procure at least 400 MW of offshore wind generation by 2026, at least 800 MW by 2028, and 1,200 MW by 2030.[122] A decision as soon as possible will minimize the harm to Anbaric and other Transmission Platform Project developers and the ability of the states to issue RFPs for offshore transmission by the unjust, unreasonable, unduly discriminatory and preferential nature of PJM's transmission interconnection procedures under its Tariff.

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[122] *See* Section II.B.

VI. RULE 206 REQUIREMENTS

A. Rule 206(b)(1): Action or Inaction Alleged To Violate Statutory Standards or Regulatory Requirements

The PJM Tariff denies Transmission Platform Projects the opportunity to Materially Interconnect to the PJM Transmission System, imposing an unnecessary barrier to competition. The PJM transmission interconnection procedures in the PJM Tariff are antithetical and inimical to the Commission's fundamental policies regarding transmission open access and promoting competition for transmission and generation and are unjust, unreasonable and unduly discriminatory and preferential in violation of Section 206 of the FPA and Commission precedent.

B. Rule 206(b)(2): Legal Bases for Complaint

The legal bases for this Complaint are set forth in detail in Section III.

C. Rules 206(b)(3) and 206(b)(4): Issues Presented as They Relate to the Complainant and Quantification of Financial Impact on Complainant

Anbaric currently has three proposed Transmission Platform Projects with Queue Positions in the PJM transmission interconnection process, and has invested significant sums of capital (at least $1,000,000) to date in obtaining and maintaining these Queue Positions.[123] Anbaric may lose some or all of its investments in these Queue Positions as a result of PJM not providing these three proposed Transmission Platform Projects an opportunity to Materially Interconnect to the PJM Transmission System.

D. Rule 206(b)(5): Nonfinancial Impacts on Complainant

As discussed in Section III, the failure of PJM to provide Transmission Platform Projects the opportunity to Materially Interconnect to the PJM Transmission System will have

[123] Kosel Aff. at P 7.

the unintended effect of decreasing competition within the PJM BAA, creating inefficiencies in the market, costing electricity customers more money than necessary to obtain offshore wind generation, result in greater impacts than necessary to the environment and fishing industries, and may hinder the PJM Eastern Seaboard States from achieving their offshore wind infrastructure mandates and goals. Additionally, Anbaric will be disadvantaged as compared to developers of offshore wind generation resources relying on proprietary gen-ties to interconnect with onshore transmission grids in upcoming solicitations for the procurement of offshore wind generation.

E. Rule 206(b)(6): Related Proceedings

There are no other related proceedings.

F. Rule 206(b)(7): Specific Relief Requested

Anbaric respectfully requests that the Commission find as a matter of law that the PJM Tariff is unjust, unreasonable and unduly discriminatory and preferential because it only permits Merchant Transmission Facilities that are "Controllable AC" and DC Merchant Transmission Facilities and that interconnect "with another control area" to interconnect to the PJM Transmission System and obtain TIRs. Therefore, Anbaric respectfully requests that the Commission (a) direct that Transmission Platform Projects be allowed the opportunity to interconnect to the PJM Transmission System and obtain TIRs and (b) order PJM to modify its Tariff to include Transmission Platform Projects as defined as Remote Generation Resource Interconnection Platforms within 30 days of the Commission's order on this Complaint, including permitting Anbaric's existing PJM interconnection requests (and other similar requests) to transition to this new category and maintain their queue positions. Additionally, Anbaric respectfully requests that the Commission set a refund effective date to be the date of

this Complaint such that the Commission's Order will apply to all projects with existing Queue Positions as of the date of the filing of this Complaint.

G. Rule 206(b)(8): Documents that Support the Complaint

Attached hereto is the Kosel Affidavit supporting the Complaint. While this Complaint seeks relief as a matter of law, the assertions of the factual conditions and history of Anbaric's interconnection requests provide the context for this Complaint and are established as evidence in this record by the Kosel Affidavit.

H. Rule 206(b)(9): Dispute Resolution

Complainant has had extensive discussions with PJM regarding the issues raised in the Complaint and has spent a significant amount of time and resources to reach a solution, including participating in the now moribund PJM stakeholder process. These began with discussions in 2018[124] and resulted in a PJM stakeholder process that began in early 2019. Unfortunately, Complainant was not able to reach a resolution with PJM and is left with no choice but to file this Complaint at the Commission. Complainant has not contacted the Enforcement Hotline or Dispute Resolution Service. Complainant does not believe such an approach would be an effective or appropriate manner in which to resolve this dispute. Complainant similarly does not believe that alternative dispute resolution under the Commission's supervision or the PJM Tariff-based dispute resolution mechanisms could successfully resolve the issues raised in the Complaint.

I. Rule 206(b)(10): Form Of Notice

Included as Attachment 1 to this Complaint is a form of notice suitable for publication in the Federal Register.

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[124] Kosel Aff. at P 8.

J. Rule 206(c): Service On Respondent

Anbaric certifies that copies of this Complaint were served by email and U.S. mail on the contacts for PJM as listed on the Commission's list of Corporate Officials:

James M. Burlew, Esq. PJM Interconnection, L.L.C. 2750 Monroe Boulevard Audubon, PA 19403 Telephone: 610-666-4345 Email: james.burlew@pjm.com	Steven R. Pincus, Esq. PJM Interconnection, L.L.C. 2750 Monroe Boulevard Audubon, PA 19403 Telephone: 610-666-4370 Email: steven.pincus@pjm.com	Jacqulynn B. Hugee PJM Interconnection, L.L.C. 2750 Monroe Boulevard Audubon, PA 19403 Telephone: 610-666-8208 Email: jacqulynn.hugee@pjm.com

VII. CONCLUSION

WHEREFORE, for the foregoing reasons, Anbaric respectfully requests that the Commission, on a fast track basis, find that the PJM Tariff is unjust, unreasonable and unduly discriminatory or preferential because it does not provide Transmission Platform Projects the opportunity to obtain Material Interconnect Rights under the PJM Tariff and (a) direct that Transmission Platform Projects be given the opportunity to obtain Material Interconnection Rights under the PJM Tariff and (b) order PJM to modify its Tariff to include Transmission Platform Projects as defined as Remote Generation Resource Interconnection Platforms within 30 days of the Commission's order. Anbaric respectfully requests that the Commission set a refund effective date to be the date of this Complaint such that the Commission's Order will apply to all projects with existing Queue Positions as of the date of the filing of this Complaint.

Respectfully submitted,

/s/ Theodore J. Paradise
Theodore J. Paradise
Senior Vice President, Transmission Strategy
And Counsel
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401 Edgewater Place
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Wakefield, MA 01880

/s/ Michael J. Gergen
Michael J. Gergen
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Richard Griffin
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Washington, D.C. 20004

Counsel for Anbaric Development Partners, LLC

Dated: November 18, 2019

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Anbaric Development Partners, LLC, Complainant	)	
v.	)	Docket No. EL20-___-000
PJM Interconnection, L.L.C., Respondent	)	

AFFIDAVIT OF HOWARD KOSEL

I, Howard Kosel, being first duly sworn, do depose and say:

1. My name is Howard Kosel. I am a Partner at Anbaric Development Partners, LLC, located at 401 Edgewater Pl., # 680, Wakefield, MA 01880.

2. I have worked at Anbaric for approximately 9 years. My current position is Project Manager. In that position, I have responsibility for managing Interconnection Requests, Engineering, and Licensing & Permitting. Previously, I spent over 40 years in the energy industry, including 33 years at Long Island Lighting Company and KeySpan Corporation.

3. This Affidavit is being provided in support of Anbaric's complaint ("Complaint") against PJM Interconnection, L.L.C. ("PJM") regarding the inability of merchant transmission-only projects to obtain meaningful, comparable interconnection service to the PJM transmission system. Anbaric intends to develop these types of transmission-first projects to serve as open access transmission platforms to connect expected remote offshore wind generation resources to the onshore PJM transmission grid ("Transmission Platform Projects"). The purpose of this Affidavit is to provide information regarding

Anbaric's existing interconnection queue positions and PJM's processing of these queue positions to date.

Anbaric's PJM Interconnection Queue Positions

4. On March 20, 2018, Anbaric submitted an interconnection request and obtained queue position AD2-083 for the interconnection of a proposed 1,100 MW radial AC Transmission Platform Project as a Merchant Transmission Facility at the Larrabee 230kV substation in New Jersey (the "Larrabee Transmission Platform Project").

5. Also on March 20, 2018, Anbaric submitted an interconnection request and obtained queue position AD2-084 for the interconnection of a proposed 1,100 MW radial AC Transmission Platform Project as a Merchant Transmission Facility at the Cardiff 230kV substation in New Jersey (the "Cardiff Transmission Platform Project" and together with the Larrabee Transmission Platform Project, the "Anbaric AC Transmission Platform Projects").

6. On June 14, 2018, Anbaric submitted an interconnection request and obtained queue position AE1-037 for the interconnection of a proposed 1,200 MW radial DC Transmission Platform Project as a Merchant Transmission Facility at the Deans 500kV substation in New Jersey (the "Anbaric DC Transmission Platform Project").

7. To date, Anbaric has spent at least $1 million on obtaining and maintaining these queue positions.

8. Anbaric began discussions with PJM regarding these projects in 2018.

PJM's Processing Of The Anbaric AC Transmission Platform Projects

9. For each of the Anbaric AC Transmission Platform Projects, each of which is seeking interconnection as a Merchant Transmission Facility, Anbaric sought Transmission

Injection Rights ("TIRs") that would allow each of them to inject 1,100 MW of capacity into the PJM transmission system. Initially, Anbaric and PJM discussed modeling the interconnection studies with assumed generic offshore wind generation units to determine the system impacts. Under this approach, if the model were later affected by different inputs once an offshore wind generator was ready to interconnect to an Anbaric AC Transmission Platform Project, PJM could conduct a material impact study.

10. However, on April 9, 2018, a representative of PJM informed Anbaric that the PJM Tariff did not permit PJM to award any TIRs for the interconnection of the Anbaric AC Transmission Platform Projects that Anbaric had submitted. On April 19, 2018, that representative clarified that it was the representative's view that "the only way you will be able to move forward is if you partner with a generator on your interconnection request or if you take the issue through the stakeholder process." In August, 2018, PJM issued a Combined Feasibility/System Impact Study Report for each proposed Anbaric AC Transmission Platform Projects indicating that PJM has analyzed these requests assuming 0 MW of TIRs for each Anbaric AC Transmission Platform Project.

PJM's Processing Of The Anbaric DC Transmission Platform Project

11. With respect to the Anbaric DC Transmission Platform Project, Anbaric requested TIRs that would allow this Project to inject 1,200 MW of capacity into the PJM transmission system. PJM confirmed on July 11, 2018 that Anbaric had "submitted an acceptable application and data." On August 3, 2018, representatives from PJM and Anbaric held a Feasibility Study kick-off meeting. At that meeting, PJM confirmed that the Anbaric DC Transmission Platform Project would be studied assuming 1,200 MW of TIRs.

12. In May, 2019, PJM issued the Feasibility Study for the Anbaric DC Transmission Platform Project, which indicated that the study was conducted with the assumption that the "installed facilities will have a capability of 1200MW" of both firm and non-firm TIRs.

13. Consistent with the conclusion of the Feasibility Study, PJM issued Anbaric a System Impact Study Agreement for the Anbaric DC Transmission Platform Project. On May 21, 2019, Anbaric submitted executed copies of the agreement and received confirmation the next day that PJM had received the executed copies and required payment.

14. On August 26, 2019, PJM executed the System Impact Study Agreement and proceeded with the System Impact Study for the Anbaric DC Transmission Platform Project.

15. After PJM had completed its Feasibility Study regarding the Anbaric DC Transmission Platform Project, some members of PJM management suggested at a September 5, 2019 stakeholder meeting regarding the then-ongoing process to develop procedures by which a Transmission Platform Project could obtain meaningful interconnection to the PJM transmission system that a proposed Merchant Transmission Facility that does not connect PJM to a control area, such as the Anbaric DC Transmission Platform Project, may not be able to meaningfully interconnect with the PJM transmission system. While the stakeholder process was focused on AC projects, PJM expressed skepticism about DC Transmission Platform Projects obtaining meaningful interconnection to the PJM transmission system—*i.e.*, be studied for system impacts and upgrades with power flows—because language in the PJM Tariff refers to a Merchant Transmission Facility connecting to "another control area."

16. Subsequently, on November 1, 2019, PJM informed Anbaric that after having proceeded for approximately 18 months (including completing the Feasibility Study in May 2019 and executing a System Impact Study Agreement and proceeding with the System Impact Study in August 2019) with the assumption that the Anbaric DC Transmission Platform Project would have 1,200 MW of TIRS, it was reversing course and would conduct the System Impact Study for the Project assuming it would have 0 MW of TIRs. PJM also informed Anbaric that the System Impact Study for the Anbaric DC Transmission Platform Project was being performed on a provisional basis pending the outcome of the aforementioned PJM Planning Committee stakeholder process, which at this point is effectively stalled indefinitely. This was the first time that Anbaric was informed that this study was being conducted on a provisional basis.

17. This concludes my affidavit.

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Anbaric Development Partners, LLC, Complainant	)	
v.	)	Docket No. EL20-___-000
PJM Interconnection, L.L.C., Respondent	)	

AFFIDAVIT OF HOWARD KOSEL

I, Howard Kosel, being duly sworn, depose and state that the contents of the foregoing Affidavit are true, correct, accurate and complete to the best of my knowledge, information and belief.

Howard Kosel
Partner
Anbaric Development Partners, LLC

SUBSCRIBED AND SWORN to before me this 12 day of November, 2019.

Notary Public

My Commission expires May 22, 2026

CYNTHIA THERESA FORTIER
NOTARY PUBLIC
Commonwealth of Massachusetts
My Commission Expires on
May 22, 2026

ATTACHMENT 1

FORM OF NOTICE

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Anbaric Development Partners, LLC Complainant	)	
v.	)	Docket No. EL20-__-000
PJM Interconnection, L.L.C., Respondent	)	

NOTICE OF COMPLAINT

( )

Take notice that on November 18, 2019, Anbaric Development Partners, LLC ("Anbaric") filed a formal complaint against the PJM Interconnection, L.L.C. ("PJM") pursuant to Sections 206 and 306 of the Federal Power Act, and Rule 206 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.206, alleging that (i) the transmission interconnection procedures under the PJM Tariff are unjust, unreasonable and unduly discriminatory and preferential; and (ii) requesting that the Commission (a) require PJM to give Transmission Platform Projects the opportunity to obtain Material Interconnection Rights under the PJM Tariff; (b) direct PJM to modify the PJM Tariff to permit open access Transmission Platform Projects as defined as Remote Generation Resource Interconnection Platform projects to materially interconnect to the PJM Transmission System as set forth herein; and (c) set a refund effective date to be the date of this Complaint such that the Commission's Order will apply to all projects with Queue Positions as of the date of the filing of this Complaint. Anbaric further requests Fast Track processing of its complaint pursuant to 18 C.F.R. § 385.206(h) and that the Commission issue an order as soon as possible.

Anbaric certifies that copies of the complaint were served on the contacts for PJM as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at http://www.ferc.gov. Persons unable to file electronically

should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at http://www.ferc.gov, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on [_____].

Kimberly D. Bose
Secretary

Document Content(s)