

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

PJM Interconnection, L.L.C. and Ohio ) Docket Nos. ER18-459-000 and  
Valley Electric Corporation ) ER18-460-000

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF  
AMERICAN MUNICIPAL POWER, INC.**

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure,<sup>1</sup> American Municipal Power, Inc. (“AMP”) hereby submits this Motion for Leave to Answer and Answer to the Answers filed by Ohio Valley Electric Corporation (“OVEC”)<sup>2</sup> on January 22, 2018 (“OVEC Answer”) and PJM Interconnection, L.L.C., (“PJM”) on January 26, 2018 (“PJM Answer”) of the protest filed by AMP of proposed revisions to the PJM Open Access Transmission Tariff (“Tariff” or “OATT”), the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”), the Reliability Assurance Agreement Among Load Serving Entities (“RAA”), and the Consolidated Transmission Owners Agreement (“CTOA”, collectively, “PJM Governing Documents”), as well as an Integration Agreement between PJM and OVEC, for the purposes of transferring functional control of the OVEC transmission facilities to PJM, integrating the OVEC control area into the PJM interchange energy market and other PJM markets, and adding OVEC to PJM as a PJM Transmission Owner. In the Answers, OVEC and PJM argue that neither AMP nor

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<sup>1</sup> 18 C.F.R. §§ 385.212 and 385.213.

<sup>2</sup> OVEC’s wholly-owned subsidiary, Indiana-Kentucky Electric Corporation (“IKEC”), also is included as a part of OVEC’s integration. OVEC and IKEC are collectively referred to as “OVEC”.

other protestors have raised any credible grounds to justify denial of the OVEC integration into PJM.

## **I. BACKGROUND**

On December 15, 2017, PJM and OVEC filed proposed revisions to the PJM Governing Documents, as well as an Integration Agreement between PJM and OVEC, for the purposes of transferring functional control of the OVEC transmission facilities to PJM, integrating the OVEC control area into the PJM interchange energy market and other PJM markets, and adding OVEC to PJM as a PJM Transmission Owner (hereinafter, the “OVEC Integration Filing”). PJM and OVEC requested an effective date of March 1, 2018 for this filing. AMP was one of several who protested the OVEC Integration Filing as incomplete and on the grounds that it could result in unjust, unreasonable and unduly discriminatory rates and services to existing PJM load. OVEC and PJM filed Answers to the protests on January 22, and January 26, 2018, respectively. AMP respectfully moves for leave of the Commission to provide an answer to certain comments filed in the above-captioned proceeding.

## **II. MOTION FOR LEAVE TO ANSWER**

AMP acknowledges that the Commission’s Rules do not permit answers to answers as a matter of right. The Commission’s Rules of Practice and Procedure prohibit answers to answers except by leave of the decisional authority.<sup>3</sup> Such leave is granted where an answer provides information that will aid the Commission in its decision-making.<sup>4</sup> AMP respectfully submits that such is the case here. This Answer, which is

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<sup>3</sup> See 18 C.F.R. § 385.213(a)(2) (2016).

<sup>4</sup> See, e.g., *Citizens Energy Corp.*, 157 FERC ¶ 61,150, P 10 (2016); *PJM Interconnection, L.L.C.*, 156 FERC ¶ 61,090, P 7 (2016).

limited and focused on misstatements and arguments made by OVEC and PJM in their respective Answers, will further clarify certain key issues and thereby assist the Commission in its decision-making. For these reasons, the Commission should grant leave to accept this Answer.<sup>5</sup>

### **III. ANSWER**

PJM rightly groups the protests to the OVEC integration into two broad categories: “(i) allegations that the proposed integration serves only the interests of OVEC, to the detriment of PJM customers, giving rise to concerns regarding potential cost shifts and cost subsidization; and (ii) technical/engineering issues, e.g., going to the adequacy of the studies performed by PJM in support of the proposed integration, and/or concerning the intended treatment of OVEC generators for purposes of Reliability Must Run eligibility.” PJM Answer at 5. Unfortunately, neither OVEC’s Answer nor PJM’s Answer resolve the issues raised by AMP and others in their protests.

It must be remembered that, as the applicants, PJM and OVEC have the burden of demonstrating that the OVEC integration into PJM meets the requirements as set forth in the PJM governing documents and will result in rates, terms and conditions that are just, reasonable and not unduly discriminatory based upon substantial evidence. Further, it is PJM that has the models and comprehensive information to be able to fully analyze the topology, load and generation deliverability changes that will result from OVEC’s integration. As the District Court of Appeals recently reiterated, “[s]ubstantial evidence is

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<sup>5</sup> See, e.g., *PJM Interconnection, L.L.C.*, 145 FERC ¶ 61,035, at P 32 (2013); *Wisconsin Pub. Serv. Corp.*, 144 FERC ¶ 61,093, at P 27 (2013); *Iberdrola Renewables, Inc.*, 137 FERC ¶ 61,185, at P 17 (2011); and *Virginia Elec. and Power Co.*, 125 FERC ¶ 61,391, at P 26 (2008).

such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Murray Energy Corp. v. FERC*, 629 F.3d 231, 235 (D.C.Cir.2011) (quoting *Colorado Interstate Gas v. FERC*, 599 F.3d 698, 704 (D.C.Cir.2010)). As noted below, questions regarding how the existing Tariff will apply to OVEC as well as whether transmission upgrades are needed prior to the integration remain unresolved. Without more information, PJM and OVEC have not met their burden of proof and the Commission should not authorize the integration based upon the cursory and incomplete information presented by PJM and OVEC.

#### **A. Cost Issues**

PJM states that AMP expressed concern that OVEC’s integration “*might someday* lead to cost shifts that, in Protestants’ view, will cause other PJM customers to subsidize *future* transmission upgrades that may be necessary to maintain or improve OVEC’s transmission system.” PJM Answer at 9 (emphasis added). For the first time in OVEC integration-related communications, PJM makes clear that “any transmission projects in the OVEC zone will be evaluated in accordance with the PJM Tariff, including PJM’s RTEP and cost-allocation procedures.” PJM Answer at 10. While AMP appreciates the clarification, contrary to PJM’s understanding, AMP’s point was not to challenge Commission-approved OATT provisions regarding PJM’s RTEP or cost allocation. Rather, had PJM completed full studies and coordinated with neighboring TOs as required, AMP believes it would become evident that immediate investment in transmission projects is required to ensure that PJM can maintain compliance with deliverability and reliability criteria upon OVEC’s integration – not that some conjectural projects may emerge in the future.

Moreover, what is not speculative is that OVEC already has limited load in its proposed zone and has publicly announced the intention to transfer the existing 45 MWs of DOE load to another existing PJM transmission owner, leaving the OVEC transmission zone with zero load.<sup>6</sup> Accordingly, AMP's concerns regarding transmission upgrades to the OVEC system are two-fold and remain unresolved by the OVEC Integration Filing and the PJM and OVEC Answers: 1) PJM and OVEC have not demonstrated that transmission upgrades are not immediately needed to ensure reliability (such projects should be recovered prior to integration and solely from OVEC); and, 2) if additional transmission projects will be required at some point in the future, the PJM OATT does not address cost allocation for supplemental projects to a transmission zone with no load. As the PJM OATT does not address the matter, prudence requires resolving this open issue of how foreseeable costs will be allocated in a transmission zone with little to no load before such a transmission zone is created and requires such projects. PJM's OATT is silent on this matter because there has not been such a zone or integration throughout PJM's history. PJM's assertion that this is like any other integration is either naïve or disingenuous at best.

AMP did not simply presume that significant investment will be required in order for PJM to maintain compliance with deliverability and reliability criteria – AMP based its conclusions on PJM's and OVEC's own words. Specifically, AEP (the largest OVEC owner and the transmission planner on behalf of OVEC) has testified that without out-of-

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<sup>6</sup> At presentations made at PJM's Market and Reliability Committee meetings on October 26 and November 7, 2017, PJM and OVEC asserted that the DOE load will be transferred to another existing PJM transmission owner, leaving the OVEC transmission zone with zero load. See Ohio Valley Electric Corporation and its wholly-owned subsidiary Indiana-Kentucky Electric Corporation Integration Proposal at 5, available at: <http://www.pjm.com/-/media/committees-groups/committees/mrc/20171026/20171026-item-13-ohio-valley-electric-corporation-integration-presentation.ashx>.

market support in the form of guaranteed retail recovery of the costs of the OVEC generators (Clifty Creek and Kyger Creek), the OVEC generation is “at greater risk of premature retirement” and retirement of the OVEC generation “will lead to \$1.6 billion of dollars of new transmission facilities that will be needed to support grid reliability.” See *In the Matter of the Application Seeking Approval of Ohio Power Company’s Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, PUCO Case No. 14-1693-EL-RDR, Direct Testimony of Pablo A. Vegas at 14 (May 15, 2015). As discussed more fully below, there are also known constraints on the seams of OVEC’s system and at least one deliverability violation PJM has identified that need to be resolved prior to OVEC’s integration.

As PJM notes, in *ATSI*,<sup>7</sup> the Commission found that the “integration proposal was not shown to be just and reasonable given increased costs and absence of demonstrable offsetting benefits and concluding that insufficient information had been provided to show that ‘it is just and reasonable for *ATSI’s transmission customers to bear the costs arising from the decision to switch RTOs.*” *ATSI* at P 59 (emphasis added). The OVEC Integration Filing goes far beyond the *ATSI* integration proposal because, not only have PJM and OVEC failed to identify the full costs necessitated by OVEC’s integration or identify any specific benefit of OVEC’s integration, but the allocation of costs arising from OVEC’s decision to integrate into PJM are not limited to OVEC transmission customers, as there may be none. That leaves other PJM transmission owners and their load holding an unquantified bag that would otherwise be borne by the OVEC owners 100% without OVEC’s integration into PJM. Accordingly, rather than arguing that the *ATSI* decision

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<sup>7</sup> *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,198, at P 10-17, 59-68 (2011) (“*ATSI*”).

requires the Commission to prejudge future cost-allocation issues, AMP's contention is that PJM should fully identify all of the transmission upgrades or replacements that are necessitated by OVEC's integration and allocate the costs to OVEC prior to integration as has been the past practice for integrations. Any other result is not just or reasonable.

## **B. Technical Issues**

PJM argues that OVEC's integration represents an operationally meaningful and important expansion of PJM that advances the Commission's RTO policy objectives. PJM Answer at 5. PJM also extrapolates from the protests that because the circumstances presented in the OVEC Integration Filing are unique, AMP and others wish that the Commission's conventional presumptions favoring RTO expansion proposals should not apply. Finally, PJM notes that AMP and others have urged the Commission to initiate formal procedures to examine potential cost-allocation and cost-subsidization issues. PJM's arguments are neither mutually exclusive nor collectively exhaustive.

AMP did recognize how electrically interconnected OVEC is to PJM transmission owners.<sup>8</sup> Further, AMP does not necessarily oppose OVEC's integration into PJM. However, PJM is correct that the Commission should initiate formal proceedings to examine potential cost-allocation and cost-subsidization issues. The Commission's conventional standards, as well as the requirements set forth in the PJM governing documents absolutely should apply. However, PJM and OVEC have not demonstrated that the OVEC Integration Filing has met such standards and requirements.

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<sup>8</sup> AMP stated, "The entirety of OVEC's transmission is considered to be part of the bulk electric system, and it is highly interconnected. Interconnecting facilities consist of eight 345 kV lines, with high-side connections to four neighboring system 345/138 kV transformers, and three 138 kV lines." Protest and Request for Suspension and Hearings of American Municipal Power, Inc. at 2.

For example, PJM notes that since 2016, 15 transmission loading relieve (“TLR”) procedures have been issued on flowgates that include OVEC facilities, “some of which resulted in approximately 3000 MW of transaction curtailments.” PJM Answer at 7. PJM states that if PJM was managing the congestion by redispatching with locational marginal pricing (“LMP”), most of the TLRs could have been avoided. However, the example is also evidence that PJM is aware of significant congestion issues related to the OVEC system and its interfaces. These known issues have, and will continue to, impact the PJM markets and PJM should have coordinated an appropriate solution prior to OVEC integrating. In fact, by not addressing a known constraint, PJM is setting OVEC’s generation up to be redispatched indefinitely, giving OVEC an unfair market position to the detriment of generation outside of PJM’s footprint.

PJM notes that a neighboring reliability coordinator, which AMP assumes is LG&E, issued a TLR to alleviate congestion on the Trimble County – Clifty Creek 354 kV line for the loss of the Jefferson – Rockport 765 kV line in order to reduce flow into OVEC/PJM. However, this example demonstrates additional constraints related to the OVEC – LG&E seam that PJM has not coordinated with LG&E to develop a solution. It is AMP’s belief that this seam has driven past operational issues and planning violations on the LG&E system. Without a transmission solution to alleviate congestion due to the Trimble County – Clifty Creek 345 kV line, only two options exist: 1) LG&E can continue to issue TLRs that result in the curtailment of generation outside of the PJM footprint; or, 2) PJM can redispatch OVEC’s generation on the PJM side of the issue. In spite of PJM’s contention that managing OVEC’s system using PJM’s LMP mechanism is superior to the use of



TLRs (a contention with which AMP agrees),<sup>9</sup> LMP dispatching cannot and should not replace good transmission planning practices and the coordination of transmission expansion plans. If PJM had coordinated with its neighboring reliability coordinators, additional solutions that do not involve TLRs or constant redispatching of uneconomic generation might have come to light – like LG&E installing a .67 percent series reactor on the Trimble County – Clifty Creek line.

Regarding generator deliverability testing, AMP raised a concern that PJM's generation deliverability analysis failed to account for generation from outside of the PJM footprint in its 80/20 or 50/50 cumulative ramping dispatch procedure as outlined in Manual 14B. In response to the issues AMP raised regarding PJM's generator deliverability analysis, PJM states that PJM modeled and simulated the impact of the OVEC system in accordance with PJM's approved and documented procedures, which included a "full-world" model and an examination of associated impacts of all non-PJM systems in the Eastern Interconnection. PJM Answer at 16. While PJM may have included a "full-world" model, PJM's response does not address the issue raised by AMP – that even with a "full-world" model, PJM failed to ramp up the generators located in the LG&E system that meet or exceed the applicable DFAX thresholds as outlined in PJM Manual 14B. Contrary to PJM's assertions to the contrary, conducting such an analysis is appropriate given the significant potential difference in results.

#### **IV. CONCLUSION**

The OVEC zone will have over 700 miles of 60-year-old, 345 kV, mostly double-circuit transmission lines and either 45 MWs of load or none. That makes the OVEC

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<sup>9</sup> PJM Answer at 7.

integration into PJM unique and requires at least a base level of scrutiny. The OVEC Integration Filing remains lacking in crucial information, thereby rendering the filing noncompliant with the requirements for integrating transmission facilities into the PJM region.<sup>10</sup> The information that is provided is impermissibly vague and fails to demonstrate that the arrangements that will replace the existing arrangements satisfy the requirements of Order Nos. 888 and 890,<sup>11</sup> and are just and reasonable and not unduly discriminatory. Finally, there is no demonstration that the costs to wholesale transmission customers from OVEC's integration into the PJM region are outweighed by the benefits. Nothing in the OVEC Answer or the PJM Answer rehabilitate the shortcomings of the OVEC Integration Filing.

For the reasons stated herein and consistent with recent precedent,<sup>12</sup> the Commission should (i) reject the OVEC Integration Filing rather than conditionally accepting it subject to modifications or supplementation with required information, (ii) direct PJM and OVEC to submit a complete proposal in a new filing under FPA section 205 that includes the requisite level of detail to demonstrate that the replacement

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<sup>10</sup> Although PJM states that Section 11.6 of the PJM OA and Section 3.1 of the CTOA contain the requirements for integrating transmission facilities into the PJM Region, Commission precedent dictates that more is required if transition costs are to be recovered. See *ATSI* at P 10-17.

<sup>11</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), 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 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). *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, order on reh'g, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), order on reh'g, Order No. 890-B, 123 FERC ¶ 61,299 (2008), order on reh'g, Order No. 890-C, 126 FERC ¶ 61,228 (2009), order on reh'g, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

<sup>12</sup> *NRG Power Marketing, LLC v. FERC*, 862 F.3d 108, 109 (D.C. Cir. 2017).

arrangements are just, reasonable and not unduly discriminatory, and (iii) take such other action as is recommended herein.

Respectfully submitted,

/s/ Lisa G. McAlister

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Dated: February 6, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this date caused a copy of the foregoing document to be served on each person included on the official service list maintained for this proceeding by the Commission's Secretary, by electronic mail or such other means as a party may have requested, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated this 6th day of February, 2018.

By:           /s/ Lisa G. McAlister