UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, LLC

PPL Electric Utilities Corporation Docket No. ER21-2282

**Protest of Public Citizen, Inc.**

 On June 30, 2021, PJM filed an application under Section 205 of the Federal Power Act seeking permission to earn profits on certain transmission Network Upgrades primarily built to serve renewable generation projects. Noting that there has been a proliferation of new renewable energy interconnections to PJM’s grid stemming **not** from PJM’s market design, but rather as “a result of recent public policy initiatives focused on promoting the development of clean, renewable generation resources to mitigate climate change issues”[[1]](#footnote-1), the transmission owners ask that the PJM tariff be amended to allow them to earn a profit on these Network Upgrades—despite the fact that these improvements are financed by the renewable project developers and not the transmission owners!

 The Commission must reject this frivolous application. As revealed in the sample calculations included as Attachment E of the Application, the proposal would seek to recover roughly $336,375,000 from ratepayers, just to finance larger profits for the transmission owners. This massive rate hike is unsupported by the facts, and is unjust and unreasonable.

In addition, the application is associated with a confidentiality and common interest agreement signed by PJM Interconnection in collusion with the transmission owners that represents a flagrant violation of PJM’s tariff, as it has never been disclosed to or approved by FERC.

 Finally, we request that FERC disallow any and all cost recovery of expenses related to the preparation and filing of the June 30 application.

 The application states that Network Upgrades are financed through a “participant funding model” where the renewable project developer “is responsible for paying upfront the costs of any Network Upgrades needed to interconnect to the PJM transmission system.”[[2]](#footnote-2) So to be clear: companies other than the transmission owners are spending money on Network Upgrades, and the transmission owners seek to include those upgrades into their own rate base and earn a 10.3% rate of return—which amounts to the application demanding that FERC force working families and other consumers in PJM’s footprint to pay over $336 million through their utility bills so the transmission owners can enjoy bigger profits at time when millions of families are struggling to make ends meet. That’s some chutzpah.

The application states that PJM's Regional Transmission Expansion Plan estimates $6.5 billion in Network Upgrade costs.[[3]](#footnote-3) Attachment E of the application is an example of their proposed formula rate. Page two of Attachment E includes the capital structure (at line 68), with a 50% equity ratio with a return on equity of 10.35% (line 72). So 50% of $6.5 billion = $3.25 billion, and applying a 10.35% return on $3.25 of equity = $336.375 million, which is not even in the ballpark of being just and reasonable,[[4]](#footnote-4) and is inconsistent with recent Commission Orders on ROE.[[5]](#footnote-5)

Second, the application contains evidence of an unlawful, collusive agreement between PJM Interconnection and the transmission owners that has not been previously disclosed to or approved by FERC—a flagrant violation of PJM’s tariff. The filing notes that the transmission owners acted through the PJM Consolidated Transmission Owners Agreement, through a vote of the TOA-Administrative Committee, to submit the application.[[6]](#footnote-6) Earlier this year, consumer advocates forced PJM to publicly release the confidentiality and common interest agreements that PJM Interconnection signed along with the transmission owners, first in 2011 and again in 2017.[[7]](#footnote-7) Page 26 of the 2017 agreement (located at the link in this footnote[[8]](#footnote-8)) includes the signatures of two PJM executives ratifying a confidentiality agreement with the transmission owners. This is a material contract that should have been first filed with FERC under Section 205 of PJM's tariff. Instead, PJM hid it from both FERC and non-transmission owner stakeholders for years. The existence of a formal, previously-non-public agreement between PJM and its transmission owners constitutes a serious violation of PJM's requirement to be independent from the financial interests of its transmission owners, clearly violates PJM’s tariff, and because the June 30 application is related to this collusive, anti-competitive pact, it must be rejected.

 Finally, we request that the Commission disallow any and all expenses related to the preparation and submission of the June 30 application from being included in the transmission owners’ cost recovery. This application is frivolous and meritless, and ratepayers should not be financially responsible to pay for the significant costs associated with the June 30 application.

 Respectfully submitted,

 Tyson Slocum, Energy Program Director

 Public Citizen, Inc.

 215 Pennsylvania Ave SE

 Washington, DC 20003

 (202) 454-5191

 tslocum@citizen.org

1. Application, at page 2. [↑](#footnote-ref-1)
2. Application, at pages 4-5. [↑](#footnote-ref-2)
3. Application, at page 2. [↑](#footnote-ref-3)
4. In addition to the entire premise of allowing this massive rate of return on assets they didn’t even build, regulated rates of return for U.S. utility assets are far higher than our counterparts in other countries. See *A Review of International Approaches to Regulated Rates of Return*, The Brattle Group, June 2020, www.aer.gov.au/system/files/Report%20to%20the%20AER%20-%20A%20Review%20of%20International%20Approaches%20to%20Regulated%20Rates%20of%20Return%20-%2030%20June%202020.pdf [↑](#footnote-ref-4)
5. See February 18, 2021 Order in FERC Docket No. ER20-1068, and the April 26, 2021 Order in FERC Docket No. ER18-1639. [↑](#footnote-ref-5)
6. Application, at page 1. [↑](#footnote-ref-6)
7. https://pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20210225-board-response-to-caps-letter-re-common-interest-agreements.ashx [↑](#footnote-ref-7)
8. https://pjm.com/-/media/committees-groups/committees/toa-ac/postings/20170124-confidentiality-and-common-interest-agreement.ashx [↑](#footnote-ref-8)