

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Distributed Energy Resources : **Docket No. L-2023-3044115**
Participation in Wholesale Markets :
:

Comments of The PJM Power Providers Group (P3)

The PJM Power Providers Group (“P3”) appreciates the opportunity to submit comments regarding the Pennsylvania Public Utility Commission’s (“Commission” or “PA PUC”) Advance Notice of Proposed Rulemaking Order issued on February 22, 2024, and published in the Pennsylvania Bulletin on March 30, 2024, regarding Distributed Energy Resources Participation in Wholesale Markets and the implementation of FERC Order 2222 (“ANOPR”). P3 is a non-profit organization dedicated to promoting properly-designed and well-functioning competitive wholesale electricity markets in the 13-state and Washington, DC region served by PJM Interconnection, L.L.C. (“PJM”). Combined P3 members own more than 83,000 megawatts of generation assets in PJM and produce enough power to supply over 63 million homes.¹ P3 member companies are active in Pennsylvania's electricity market, serve consumers as competitive suppliers, and own generation assets, including storage assets and other distributed energy resources, and are developing new resources, in the Commonwealth.

¹ The views expressed in these comments represent the views of P3 as an organization and not necessarily the views of individual members with respect to any issue. For more information see www.p3powergroup.com

P3 appreciates the daunting task in front of the Commission in implementing FERC Order 2222 because of the increasingly blurry line between state retail rate jurisdiction and federal whole market jurisdiction. P3 offers a simple request of the Commission amidst the complexities facing the Commission in this undertaking – the final rule should make clear that the EDC’s role implementing Order 2222 be consistent with Pennsylvania law and policy, and to the extent that distributed energy resources are providing generation service they should not be owned by utilities or allowed recovery for in rate base. Pennsylvania consumers currently enjoy the benefits of a robust competitive generation market, and the implementation of FERC Order 2222 should not upset that balance.

Under Pennsylvania law, investments in generation technology in Pennsylvania are driven by competitive market signals and to the extent that distributed energy resources are providing generation service they should not be owned by utilities or allowed recovery for in rate base. As the Commission correctly states that passage of the Electricity Generation Customer Choice and Competition Act (“Choice Act”) in 1996 was “transformative”.² Following the passage of the Choice Act, the decision to build or not build a generation facility was shifted to the marketplace allowing consumers to effectively shed the risks associated with power generation construction and financing. While EDCs play an important role in the implementation of FERC ORDER 2222 as identified by the Commission,³ implementation of FERC Order 2222 should not be used as an avenue for utilities to return to the generation business in a manner that is inconsistent with Pennsylvania law.

² *Distributed Energy Resources Participation in Wholesale Markets*, Pennsylvania Public Utility Commission, Docket No. L-2023-3044115, February 22, 2024 (“ANOPR”) at p. 12.

³ ANOPR pp 9-10.

As the Commission recently made clear in its April 4, 2024, Final Policy Statement Order regarding the Utilization of Storage Resources as Electric Distribution Assets, electricity-storage resources are to be deployed as assets of the distribution grid⁴ and may also have impacts on the transmission system.⁵ The Commission made it clear that only distribution and transmission and not generation, are part of the storage policy.⁶ Similar to the recent storage policy, P3 encourages the Commission, as part of this proceeding, to again remain mindful of Pennsylvania’s restructured electricity markets and the decision of the General Assembly to remove Pennsylvania’s electric utilities from the generation market. Investments in generation technology in Pennsylvania are driven by competitive market signals and to the extent that distributed energy resources are providing generation service they should not be owned by utilities or allowed recovery for in rate base. Upsetting this careful balance of roles by allowing utilities to deploy generation-scale resources that are then included in rate base would shift the risks inherent in developing any resource back to consumers, likely raising their costs, while dulling important market signals not only for generation-scale storage and other distributed energy resources but other forms of competitive generation in the Commonwealth.

⁴ *Utilization of Storage Resources as Electric Distribution Assets*, Pennsylvania Public Utility Commission, Docket No. M-2020-3022877, April 4, 2024 (“Storage Policy”), at p. 10.

⁵ Storage Policy at p. 17.

⁶ P3 raised concerns in its comments that the Policy Statement did “not provide any distinction between what the proper deployment of distribution-level storage assets versus the rate basing of assets that are competing in the wholesale market.” See Storage Policy at pp 15-16. The Commission noted that it recognized P3’s concerns but noted the impact on the transmission system. See Storage Policy at p.17. The Commission also noted that P3’s definitional concerns on this issue were dismissed as “redundant” because the Policy Statement is limited to the use of electricity-storage resources as assets on the distribution grid. Storage Policy at p. 10.

Moving forward, P3 recognizes that EDC's play a critical role in the implementation of Order 2222. FERC made it clear that it wants to see DER's aggregated and participating in the wholesale market. EDCs are the logical entity to effectuate this policy. However, in the case of Pennsylvania, implementing FERC's directives must be accomplished consistent with the Commonwealth's law and policy which demands that DERs be owned by non-utility providers. The final rule in this proceeding should reflect this reality.

Conclusion

P3 appreciates the opportunity to submit these comments and welcomes the opportunity to work with the Commission to accomplish its goals of implementing FERC Order 2222 while preserving the benefits of electric competition and wholesale markets for Pennsylvania homes and businesses. P3 submits that this goal can be achieved.

Respectfully submitted,

On behalf of The PJM Power Providers Group

By: Glen Thomas

Glen Thomas
Diane Slifer c/o
GT Power Group
101 Lindenwood Drive, Suite 225
Malvern, PA 19355
gthomas@gtpowergroup.com
610-768-8080

May 29, 2024