

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

Sierra Club, et al.	)	
	)	
v.	)	
	)	<b>Docket No. EL24-148-000</b>
PJM Interconnection, L.L.C.	)	
	)	

**ANSWER<sup>1</sup> OF THE PJM POWER PROVIDERS GROUP<sup>2</sup>**

“Electric reliability is the Commission’s job number one.”<sup>3</sup>

-Chairman Willie Phillips November 1, 2024

“We need capacity – a lot of capacity.”<sup>4</sup>

-PJM CEO Manu Asthana, October 22, 2024

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<sup>1</sup> The Answer is to the Complaints’ Response to Answer filed on October 31, 2024. Although the Commission’s procedural rules do not provide for answers to answers as a matter of right, the Commission has allowed answers where, as here, the answer provides further explanation or otherwise helps ensure a full and complete record. *See, e.g., Empire Pipeline, Inc.*, 164 FERC ¶ 61,076 at P 9 (2018); *PJM Interconnection, L.L.C.*, 104 FERC ¶ 61,154 at P 14 (2003), *on reh’g*, 109 FERC ¶ 61,236 (2004); *Williams Energy Mktg. & Trading Co. v. S. Co. Servs., Inc.*, 104 FERC ¶ 61,141 at P 10 (2003); *Ameren Servs. Co.*, 100 FERC ¶ 61,135 at P 15 (2002), *on reh’g*, 103 FERC ¶ 61,178 (2003).

<sup>2</sup> The comments contained herein represent the position of P3 as an organization, but not necessarily the views of any particular member with respect to any issue.

<sup>3</sup> *See PJM Interconnection, L.L.C.*, Docket Nos ER24-2172-000, ER24-2172-001, Order Rejecting Amendments to Interconnection Service Agreement at P 2 (Nov. 1, 2024), [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_num=20241101-3061](https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20241101-3061).

<sup>4</sup> *See* PJM Inside Lines, *Asthana at OPSI: ‘We Need Capacity’* (Oct. 22, 2024), <https://insidelines.pjm.com/asthana-to-opsi-we-need-capacity/>.

The warning signs are everywhere in PJM. Demand is expanding at an “eye-popping” pace<sup>5</sup>, resources that are required to meet that demand are retiring and their replacements are not coming online in a timely manner, nor do they have the attributes that are needed to maintain grid stability. Reliability is in a precarious spot right now in PJM and thoughtful adjustments to market rules should be sought. PJM has traditionally enjoyed strong, market-driven resource adequacy metrics and has proven time and time again that markets can deliver reliability at least cost to consumers. However, piecemeal, one-off changes that will likely lead to incomplete solutions, implementation challenges and unintended consequences will not get PJM where it needs to be given the new challenges facing the grid. Such changes should be approached with great trepidation and skepticism.

Granting the instant complaint would represent a step backward in achieving the Commission’s number one goal in PJM - reliability. The market needs reassurances right now—not regulatory capitulation in the face of the first complaint following the first time that the RTO capacity price cleared above Net CONE in over a decade and a half.<sup>6</sup> While the recent clearing prices did represent an increase from the unsustainably low clearing prices in the 22/23, 23/24 and 24/25 auctions, those prices were wholly consistent with a grid that needs “a lot of capacity.”<sup>7</sup>

That is not to say there is no work to be done. There is. Fortunately, PJM is about to put before the Commission a Federal Power Act Section 205 filing that will begin the process of

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<sup>5</sup> See *id.*

<sup>6</sup> See Protest of The PJM Power Providers Group, Attachment 1, Affidavit of Roy J Shanker PhD on behalf of The PJM Power Providers Group at 29, tbl.1 (Oct. 24, 2024).

<sup>7</sup> See *id.*; See also *supra* note 4.

creating market rules that will help PJM navigate the challenges of meeting future demand.<sup>8</sup>

PJM's upcoming filing will not address every issue, but P3 is hopeful that it will represent a constructive step forward and allow other issues to be remedied over time. PJM is presenting a road map for comprehensive solutions as opposed to the complaint, which is driven by a discreet issue involving undeniably unique facts.

Too often the Commission is put in the position of developing market policies driven by individual cases and controversies without the benefit of the big picture. That is exactly what is happening with this complaint. PJM's RMR rules have been in place for decades. RMRs have been granted without a peep of concern about the voluntary nature of their participation in the capacity market. Now, because of circumstances associated with the retirement of units in the BGE zone, the Commission is being asked to declare PJM's long-standing approach to RMR's unjust and unreasonable, while efforts to address the bigger challenges facing PJM are left unaddressed. This is a moment to see the forest through the trees.

PJM does not have an RMR policy problem, it has a future resource adequacy concern. It is widely accepted that PJM will not have sufficient capacity to meet the projected load and the BGE zone does not have sufficient capacity because of the legal actions taken by the Complainants. Granting the complaint does nothing to address this problem. In fact, the signal it would send to those looking to invest in this market will make solving the problem even harder.

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<sup>8</sup> See PJM, *Consultation with Members Regarding Future 205 Filing on Capacity Market* (Nov. 7, 2024), <https://pjm.com/-/media/committees-groups/committees/mrc/2024/20241107-special/item-02---capacity-market-adjustments---presentation.ashx>.

The Answer offered by the Complainants seems to boil down to consumers should only pay \$10 billion in the capacity market instead of \$14 billion and generators should be satisfied with the lower number.<sup>9</sup> They argue that a larger than normal increase from historically low capacity prices that drove multiple retirements should be sufficient.<sup>10</sup> This is a rich argument. Complainants are in the business of shutting down resources and boast when they take actions that take certain megawatts off the grid.<sup>11</sup> Complainants have never generated power nor developed new projects themselves. They have never made the decision to invest in an upgrade to an existing resource nor have they sought to convince a bank to loan them money to build a new resource. Yet, somehow, they stand before the Commission claiming a basis for what should and should not be sufficient revenues to sustain a capacity resource in a market that is desperate for power.

The Commission would be better served listening to those that are making the business decisions that will allow PJM to meet the challenges of tomorrow. Calpine, a company that announced in August that it was accelerating its PJM development program, offered that, “[s]table and clear market signals require auction rules and parameters that are fair and do not change erratically, but rather are methodically updated and improved over time.”<sup>12</sup> Similarly, LS Power, a company that is actively considering over \$3 billion in investment in PJM, warns

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<sup>9</sup> See Complaints’ Response to Answers at 23-24 (Oct. 31, 2024) (“Complaints’ Answer”).

<sup>10</sup> See Complaints’ Answer at 2. As noted by Dr Shanker, since the inception of RPM the market has cleared at about a third of the long-term target reference price. See Protest of The PJM Power Providers Group, Attachment 1, Affidavit of Roy J Shanker PhD on behalf of The PJM Power Providers Group at 29, tbl.1 (Oct. 24, 2024).

<sup>11</sup> See Sierra Club, *Sierra Club and Stoney Beach Association Statements on Talen Energy’s Commitment to Stop Burning Coal by the End of 2025* (Nov. 10, 2020), <https://www.sierraclub.org/press-releases/2020/11/sierra-club-and-stoney-beach-association-statements-talen-energy-s-commitment>; Sierra Club, *Talen Energy Agrees to End Coal Burning at Brunner Island Facility* (Feb. 13, 2018), <https://www.sierraclub.org/press-releases/2018/02/talen-energy-agrees-end-coal-burning-brunner-island-facility>.

<sup>12</sup> See Protest of Calpine Corporation and LS Power Development, LLC at 12 (Oct. 24, 2024) (“Protest of Calpine and LS Power”) (citing Exhibit 2, at 5-6, Testimony of Suriyun Sukduang Vice President, Strategic Origination and Development in Texas & East Calpine Corporation on behalf of Calpine Corporation (Oct. 24, 2024)).

that, “[i]f capacity auction prices are depressed as contemplated by the Complaint, it would be a rational response by any single investor to a faulty market signal to reconsider investment opportunities, regardless of the size of the system-wide need for new capacity.”<sup>13</sup> LS Power also notes that it is “considering development of an investment portfolio of over 2,000 MW of new Battery Storage capacity across 11 sites in the PJM footprint with an aggregate potential investment of over \$5 billion.”<sup>14</sup>

These are the exact types of investments that PJM and the Commission should be looking to encourage—and these investments of at-risk capital free from rate payer obligations for costs overruns and other challenges are precisely the types of investments that will benefit all consumers—especially those consumers who struggle to pay their electricity bills. As Complainants advance policies in other venues that have enormous consumer costs associated with them<sup>15</sup>, it is laughable for them to suggest that P3 and others are focused on higher prices and blind to inequitable burdens. Just the opposite is true, P3 is trying to harness the power of markets to produce the lowest costs to consumers. Complainants would not pursue their many policies before the Commission and elsewhere if they shared that vision.

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<sup>13</sup> See Protest of Calpine and LS Power, Exhibit 3, at 9, Testimony of Nathan Hanson President, Generation LS Power Development, LLC On behalf of LS Power Development, LLC (Oct. 24, 2024).

<sup>14</sup> See *id.* at 7.

<sup>15</sup> For example, the Cato Institute observes that, “the unsubsidized cost of offshore wind exceeds \$120/MWh and is among the most expensive generation resources.” Travis Fisher, *Unpacking the High Cost of Offshore Wind Policy*, Cato Institute (Jan. 10, 2024), [https://www.cato.org/blog/unpacking-high-cost-offshore-wind-policy#:~:text=The%20Levelized%20Cost%20of%20Energy%20\(LCOE\)&text=LCOE%20is%20a%20straightforward%20way,the%20most%20expensive%20generation%20resources](https://www.cato.org/blog/unpacking-high-cost-offshore-wind-policy#:~:text=The%20Levelized%20Cost%20of%20Energy%20(LCOE)&text=LCOE%20is%20a%20straightforward%20way,the%20most%20expensive%20generation%20resources). For context, the average load-weighted energy price in PJM in 2023 was \$31.08 (Monitoring Analytics, LLC, *2023 Annual State of the Market Report for PJM* (2024), [https://www.monitoringanalytics.com/reports/Market\\_Messages/Messages/2023-som-pjm-press-release.pdf](https://www.monitoringanalytics.com/reports/Market_Messages/Messages/2023-som-pjm-press-release.pdf)). The Sierra Club has championed offshore wind in New Jersey (<https://www.sierraclub.org/new-jersey/offshore-wind>) and Maryland (<https://www.sierraclub.org/maryland/offshore-wind>).

Similarly, Complainants lament that RMRs are likely to become more prevalent in PJM.<sup>16</sup> P3 does not aspire to such a market and, unlike Complainants, advocates for market rules that avoid RMRs in the first instance.<sup>17</sup> RMRs are a sign of market failure and are infinitely avoidable if the market is structured properly.<sup>18</sup> If Complainants want to be part of a future that avoids RMRs, they should focus on creating sustainable market rules that will send appropriate market signals to incent least cost solutions to consumers—not one-off changes to manufacture lower prices in a specific zone.

P3 is not opposed to having thoughtful conversations about capacity market reforms that include changes to the treatment of RMRs. However, those conversations should not be siloed and driven by the litigation-driven problems of one zone. Candidly, PJM has bigger problems than RMRs. If nothing changes, PJM will hold an auction in December with a historically high offer cap, an extremely steep demand curve and a market that is largely devoid of penalties for the non-performance of capacity resources. OPSI, P3 and PJM have all expressed concerns and called for action.<sup>19</sup>

It is also striking that with all the filings made in this docket, how little time was dedicated by the supporters of the complaint to the replacement rate should the Commission grant the complaint (which P3 strongly believes it should not do). The Commission should be

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<sup>16</sup> See Complaints' Answer at 9-11.

<sup>17</sup> Complainants argued before the Commission in 2022 that PJM had a capacity over procurement problem and advanced policies that led to the substantial increase in the capacity market offer cap and the creation of an extraordinarily steep demand curve. *PJM Interconnection, L.L.C.*, Docket No. ER22-2984-000, Motion for Leave to File Answer and Answer of the Sierra Club, et al. (Nov. 4, 2022).

<sup>18</sup> See Monitoring Analytics, LLC, *2024 Quarterly State of the Market Report for PJM: January through June*, at 5 (Aug. 8, 2024), [https://www.monitoringanalytics.com/reports/PJM\\_State\\_of\\_the\\_Market/2024/2024q2-som-pjm.pdf](https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2024/2024q2-som-pjm.pdf).

<sup>19</sup> See OPSI Letter to PJM Interconnection, L.L.C. (Sept. 27, 2024), <https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/2024/20240927-opsi-letter-re-results-of-the-2025-2026-bra.ashx> and The P3 Group Letter to PJM Board of Managers in response (Oct. 2, 2024), <https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/2024/20241002-p3-letter-re-opsi-letter-addressing-results-of-25-26-bra.ashx>.

careful not to declare something broken without a clear vision of how to fix it. The practical effects of including RMRs in capacity auctions cannot be glossed over. Assuming anything about an RMR unit three years ahead of the delivery year is a fool's errand—yet that will be in the inevitable result if the Commission grants to complaint. Guessing wrong about the status of a future RMR contract could lead to either a capacity shortfall or an inaccurate price signal – both of which will not be helpful to address PJM's reliability challenges.

Moreover, NRG, the only party in this docket currently operating a unit under a RMR arrangement in PJM, explains that “RMR treatment is already a relatively unattractive prospect for the owner of a deactivating unit.”<sup>20</sup> NRG details the nuances of its RMR—including the fact that it may be able to deactivate sooner than anticipated because transmission upgrades were completed ahead of schedule.<sup>21</sup> It is easily foreseeable that future RMR units have different dynamics than the ones facing the units in the retiring units BGE zone—yet if the Commission grants the Complaint, it will need to find a replacement rate that works for all circumstances. The risk of unintended consequences is enormous here.

Fortunately, there is a viable path forward. P3 implores the Commission to be mindful of where PJM currently stands and where it needs to get to. PJM has a proven history of delivering reliable power to consumers and harnessing the power of markets to drive down the price of that reliable power. Changes to market rules are going to be needed to meet the challenges presented by significant load growth and an evolving supply mix. Addressing this challenge is going to require regulatory focus and vision. Distractions and red herrings, like this

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<sup>20</sup> See Protest of the NRG Companies at 8 (Oct. 24, 2024).

<sup>21</sup> NRG states very clearly that they would not have accepted a RMR contract for Indian River 4 if it included a mandatory capacity obligation. Also, as noted, the unit will be able to retire ahead of schedule because of early completion of transmission upgrades. It is unlikely that a unit with a capacity obligation would be able to do so.

complaint, will not help the Commission achieve its number one goal, system reliability, when it is so clear that PJM is going to need “a lot of capacity.”<sup>22</sup> Step one is to reject the complaint. Step two will be to thoughtfully consider the 205 that will be filed by PJM in a month. If the PJM capacity market is structured correctly, future RMRs can be avoided, and the complaint will be appropriately and thankfully mooted.

Respectfully submitted,

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Dated: November 7, 2024

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<sup>22</sup> See *supra* note 4.



CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the Official Service List compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 7<sup>th</sup> day of November, 2024.

On behalf of The PJM Power Providers Group

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