UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection L.L.C.	**)**	**Docket No. ER24-98-000**

COMMENTS
OF THE PJM POWER PROVIDERS GROUP
AND PROTEST ONLY OF
SEVERABLE SECTION ON
PERFORMANCE PAYMENT ELIGIBILITY

Pursuant to the October 13, 2023, Combined Notice of Filings #1, issued by the Federal Energy Regulatory Commission ("FERC" or "Commission") in the above-captioned proceeding, The PJM Power Providers Group ("P3")[1] respectfully submits these comments[2] in response to PJM Interconnection, L.L.C.'s ("PJM") October 13, 2023 filing[3], pursuant to section 205 of the Federal Power Act ("FPA"),[4] regarding key reforms to the Reliability Pricing Model ("RPM") and related rules in the PJM Open Access Transmission Tariff ("Tariff") and Reliability Assurance Agreement Among Load Serving Entities ("RAA") designed to update the rules for (1) the Market Seller Offer Cap; (2) Capacity Performance; and (3) application of a forward-looking approach for determination of the energy and ancillary services revenue in the determination of Minimum Offer

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[1] P3 is a non-profit organization dedicated to advancing federal, state and regional policies that promote properly designed and well-functioning electricity markets in the PJM Interconnection, L.L.C. ("PJM") region. Combined, P3 members own over 83,000 MWs of generation assets and produce enough power to supply over 63 million homes in the PJM region covering 13 states and the District of Columbia. For more information on P3, visit www.p3powergroup.com.
[2] 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.
[3] P3 timely submitted a doc-less Motion to Intervene on October 18, 2023.
[4] 16 U.S.C. § 824d (2000).

Price Rule offer prices and the Market Seller Offer Cap[5] ("PJM Capacity Market Reforms").[6] PJM's Capacity Market Reforms in this proceeding compliment the reforms PJM is proposing in its companion FPA section 205 filing in Docket No. ER24-99-000. Those reforms are designed to enhance PJM's resource adequacy risk modeling and capacity accreditation processes and enhance testing requirements of capacity resources. P3 is also submitting comments in companion Docket No. ER24-99-000.

PJM requests that its proposed Capacity Market Reforms become effective within 60 days of its October 13, 2023, filing, on December 12, 2023. PJM states that such an effective date will provide sufficient notice to Market Participants in advance of all pre-auction deadlines for the Base Residual Auction ("BRA") associated with the 2025/2026 Delivery Year. For the reasons described herein, P3 urges the Commission to approve the PJM's Capacity Market Reforms, with the exception of the severable section on performance payment eligibility that the Commission should reject as described below.

I. INTRODUCTION

Reliability hangs in the balance in PJM. In the next decade, PJM will face significant reliability challenges as reserve margins are projected to fall below reliability standards due to rising demand, increasing retirements, and new capacity with the necessary attributes to ensure reliability not arriving.[7] The Commission is aware of the situation and recognizes that in PJM, like other regions in the country, action is required.

[5] For the purpose of these P3 Comments, capitalized terms not defined herein shall have the meaning as contained in the PJM's Tariff, Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. ("Operating Agreement"), or the RAA.
[6] *PJM Interconnection, L.L.C.*, Docket No. ER24-98-000, *Capacity Market Reforms to Accommodate the Energy Transition While Maintaining Resource Adequacy*, filed October 13, 2023 ("PJM Capacity Market Reforms" or the "filing").
[7] *See*, https://insidelines.pjm.com/pjm-details-resource-retirements-replacements-and-risks/

PJM's capacity market is the single most important tool available to ensure the region has sufficient capacity at the lowest possible cost. If reliability is going to be achieved in PJM, capacity markets must produce the correct price signals that are commensurate with the reliability needs of the system. Historically, PJM's capacity prices were competitive, market entry was significant, reserve margins were robust and the transition from a coal-dominated generation fleet to a gas-dominated generation fleet was going smoothly (leading to a dramatic reduction in NOx, SOx and carbon emissions from the power industry in the region).[8] The capacity market played an important role in welcoming new resources to the grid (including renewable resources) at prices that were substantially below the cost of new entry and units that were no longer economically viable received a market signal suggesting retirement. PJM's historically well-functioning capacity market not only ensured reliability, but facilitated a fleetwide transition, all the while relying on cost-efficient pricing.

PJM and its stakeholders recognize the value of the capacity market and have expressed their commitment to the capacity market as the vehicle for resource adequacy in PJM. As the Commission heard at the June 15th PJM Capacity Market Forum, consumers, suppliers, PJM, public interest groups and regulators were all nearly unified in their position that capacity markets should be reformed and not abandoned. There is a strong desire to have PJM's capacity markets working in a way that provide consumers comfort that they are achieving reliability at least cost and suppliers' confidence that PJM is a market in which at risk capital can be invested.

Unfortunately, PJM's capacity market faces significant challenges in the coming years. A combination of resource economics, state and federal policies, and imprudent regulatory and market rule changes, have diminished the value of the capacity product while increasing the risk

[8] *See*, https://www.pjm.com/-/media/library/reports-notices/special-reports/2023/2022-emissions-report.ashx

and difficulty in operating in the market. As a result, the current market rules do not instill the confidence necessary to attract investment and undermine reliability in the PJM footprint. Consider:

- In the last three auctions capacity prices cleared at historic lows;[9]
- Capacity market participation is shrinking significantly as the last three auctions have shown a steady decline in resources seeking capacity obligations;[10]
- Capacity auctions that once cleared nearly 6,000 MWs of new generation, cleared a mere 328 MWs in the last auction;[11]
- Investments driven by subsidies have overtaken those financed by merchant capital.[12]
- The number of constrained zones, a sign that local resource needs are not being met, is increasing;[13]
- Starting with the 2026/2027 delivery year, as a result of regulatory changes proposed by PJM and approved by the Commission, the capacity market reference resource will change from a peaking plant to a natural gas combined cycle plant that will be more dependent on less predictable energy revenues;
- The lack of a meaningful MOPR means that anyone investing in PJM will do so knowing that there are effectively no protections against the exercise of buy side market power;
- The decision to re-run the auction results in the last BRA in DPL South has undercut confidence that markets will operate in a transparent and nondiscriminatory fashion and resulted in prices that were not consistent with reliability needs in DPL South;[14]
- Performance risk in the PJM capacity market has resulted in variable and intermittent resources eschewing participation in the PJM capacity market; and,
- Winter Storm Elliott is a recent reminder that being a capacity resource in PJM comes with potentially billions of dollars of exposure to penalties.

As PJM's Board of Managers recognized, PJM's capacity markets need significant reform so that market confidence can be restored and long-term reliability in PJM assured. P3 thanks the

[9] *See*, https://www.pjm.com/-/media/library/reports-notices/special-reports/2023/energy-transition-in-pjm-resource-retirements-replacements-and-risks.ashx

[10] *See*, https://pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2024-2025/2024-2025-base-residual-auction-report.ashx at 2.

[11] https://pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2024-2025/2024-2025-base-residual-auction-report.ashx

[12] *See*, https://ieefa.org/resources/private-equity-pjm-growing-financial-risks

[13] In the 2024/2025 auction there were five constrained zones as opposed to three in the 2023/2024 auction.

[14] Former FERC Chairman Joseph Kelliher referred to the decision as, "politicized decision-making, ends-result oriented decision-making, rather than a commitment to market integrity, and raises concerns about PJM's commitment to capacity market rules that encourage generation entry and capital investment." See, https://www.p3powergroup.com/siteFiles/News/101345A3E8C1164BE3B1C65C460DD177.pdf

Board for initiating the CIFP stakeholder process that resulted in the October 13, 2023 filings. While PJM's filings, including the proposed Capacity Market Reforms, represent incremental improvements that should be approved by the Commission (except for one issue that should be severed and rejected) they alone will not result in a capacity market that will lead to the investments that will be required to sustain reliability in PJM. In many respects, these PJM filings represent a missed opportunity to take the bold steps necessary to return PJM's capacity markets to where they need to be, which is disappointing to P3 members.

However, P3 recognizes that the clock is ticking. PJM currently has an auction scheduled for June 2024 for the 2025-2026 delivery year. While the reforms presented by PJM will not remedy all the challenges plaguing the capacity market, they will make some important improvements and the Commission's action on both filings will allow the June 2024 auction to proceed on schedule with the proposed reforms in place. Going forward, PJM and stakeholders must continue to work to fully define and refine important details in the current proposal and confront issues left unaddressed in the CIFP process. The Commission has an important role in encouraging the next phase of capacity market reforms, while leaving the work of crafting durable solutions to PJM and its stakeholders.

With these thoughts in mind, P3 offers the following comments on specific issues presented in this PJM filing.

II. COMMENTS

A. PJM's Proposal Regarding Market Seller Offer Cap Makes Incremental Improvements to a Flawed Process.

The PJM Capacity Market Reforms make several important, if modest, changes to the existing MSOC framework and process. The proposed changes are just and reasonable and should be approved by the Commission. Among the changes the Commission should approve:

- PJM proposes to add a sentence that would make clear that Capacity Market Sellers may include a CPQR value where its risk model, along with supporting documentation, has been "review[ed] by an independent third party entity with experience in evaluating capacity performance insurance policies to confirm that the proposed valuation of risk is consistent with actuarial practices in the industry."[15] This is a positive change put forth by PJM and will provide capacity market sellers both the certainty in the type of documentation that is acceptable and some flexibility to reflect their independent view of risk.

- PJM proposes to allow offers to reflect CPQR on a stand-alone basis. All capacity resources in PJM have non-performance risk associated with the capacity supply obligation – even resources that can recover all going forward costs in the energy market. By allowing suppliers to reflect the full CPQR in their offers, the revised tariff would recognize that all obligations have risk as opposed to the current tariff which does not. The current tariff results in "over-mitigation and disincentivizes participation in the capacity market."[16] PJM's proposal fixes this specific flaw.

- PJM proposes tariff revisions that would allow PJM to "calculate an alternative unit-specific Market Seller Offer Cap based on the submitted documentation."[17] This change "would allow PJM to accept certain components of a unit-specific Market Seller Offer Cap that are consistent with the Tariff, rather than rejecting the entire requested unit-specific Market Seller Offer Cap outright."[18] P3 views this as a positive and long overdue change. Ultimately, PJM is responsible for setting the offer caps under the tariff and it should be provided with the administrative flexibility to do so.

[15] PJM Capacity Market Reforms at p. 12.
[16] *Id.* at p. 20.
[17] *Id.* at p. 32.
[18] *Id.*

- Finally, P3 supports PJM's proposed revisions to allow suppliers to submit segmented offers. For certain capacity resources, the ability to submit segmented offers is important and those units should have the ability to do so.

- PJM also proposes to allow capacity market sellers the opportunity to utilize a unit-specific CPQR. P3 supports the concept of a default CPQR option for capacity market sellers but has some concerns regarding the formula PJM has proposed, including the use of ATWACC (after tax Weighted Average Cost of Capital), CPF (Capital Recovery Factor) and APIR (Avoidable Project Investment Recovery), with PJM and the market seller to then run through an ill-defined "risk exposure." P3 suggests that PJM continue to evaluate the formula for a default CPQR to determine whether it is the most reliable and useful metric of capacity market risk.

While each of these proposed changes will allow capacity market sellers to better reflect the costs and risks of a capacity obligation, they, alone, will not address the issue of over-mitigation in the PJM capacity market. Ultimately, the market structure needs to recognize that capacity sellers are in the best position to evaluate the costs and risks associated with the units they own while being motivated to offer at levels that allow them to clear the market at levels that compensate for those costs and risks. These sellers should not have to "negotiate" with the IMM and PJM in advance of every auction on these matters. No reasonable businessperson desires a market in which the pricing of supply offers for every resource is delegated to external adjudicators like PJM and the IMM and if the capacity market is to attract the needed investment to maintain reliability a framework that allows market sellers to exercise their commercial judgement must eventually be developed. To be clear, P3 is asking the Commission to approve these changes because they are just and reasonable and will provide necessary, albeit modest, improvements to the current market rules; however, in doing so, the Commission should appreciate that PJM will remain an overly mitigated market that will struggle to attract and retain the resources needed for reliability without additional reforms. In approving this aspect of the filing, P3 urges the

Commission to signal to PJM that it is open to more durable reforms related to the mitigation of asset owners in PJM.

B. While Not Cause for Rejection, PJM's Proposal to Clarify Expectations Regarding Excusals From Performance Shortfalls Is Flawed.

In concept, P3 supports PJM's proposed removal of existing tariff language that a resource's availability would be considered in the calculation of a performance shortfall where "the seller's submission of a market based offer [is] higher than its cost-based."[19] P3 agrees with PJM that it is inappropriate to "penalize a Capacity Market Seller when it does not have market power and is scheduled by PJM on its market based offer."[20]

Beyond that change, PJM also proposes to add language to the Tariff's Non Performance exception provisions stating that a "Capacity Resource that is offline during a Performance Assessment Interval shall be included in the calculation of a Performance Shortfall unless the Office of Interconnection *affirmatively denies* a request to come online for such resource."[21] Given the myriad of other issues in this filing, P3 will not call for the rejection of ER24-98 because of this issue; however, P3 notes the following flaws with this addition to the Tariff.

Requiring a resource to receive an "affirmative den[ial]" from PJM dispatch is a flawed concept that would not work in practice and could jeopardize reliability. First, PJM Dispatch historically has not accepted or denied a request from a resource until that resource is close to synchronizing with the grid. PJM Manual 14D Section 7.4 specifies that a resource "must obtain approval from PJM at least 20 minutes prior to synchronizing the facility," and the experience of

[19] *Id.* at p. 36.
[20] *Id*.
[21] *Id.* at p. 37 (quoting proposed language in Tariff Attachment DD, section 10A(d-1)) (emphasis added).

market participants is that PJM operations does not even consider requests further than 30 minutes away from synchronization. Therefore, under PJM's proposal, a resource would be required to start up prior to receiving approval or denial (and therefore, an excusal) from PJM Dispatch. Because such a resource would not be paid for its startup costs, resources would be disincentivized to attempt to come online, even in situations where the resource would be needed for reliability and PJM Dispatch would approve its request to come online. PJM's proposal also essentially requires a resource to predict if and when it is needed; such decisions are properly the responsibility of PJM, the entity with vast amounts of information regarding the need for resources.

In addition, PJM's proposed tariff language could be understood as requiring a resource to receive an affirmative denial from PJM Dispatch for *each* five-minute PAI to be excused for that PAI. Such an obligation would be wholly impractical to implement and would burden PJM Dispatch's resources with numerous calls from resources requesting to come online.

Lastly, PJM explains that it believes this revision will allow "PJM dispatch [to] focus its attention on providing grid reliability."[22] In fact, PJM's proposal – by requiring resources to call PJM, perhaps repeatedly – would increase the number of calls to PJM Dispatch during emergency conditions and shift its resources and attention away from the challenges of addressing the capacity emergency.

C. P3 Supports PJM's Proposal on Transfer of Capacity Obligations.

In concept, P3 supports PJM's proposed tariff revisions to allow for the transfer of capacity supply obligations. Providing suppliers with this flexibility preserves reliability and allows risk to be managed on commercial terms. P3 has some concerns about administrative aspects of this proposal; however, the concept is a good one and the implementation related issues can be

[22] *Id.* at p. 37.

addressed – particularly before June 1, 2025, when this option would begin to be available for suppliers. P3 urges the Commission to support this part of the filing.

While not in this filing, PJM has said that it intends to remove the ability of generators to ex-post replace committed capacity units with non-committed capacity units in their portfolio for settlement purposes. P3 has strong concerns that PJM intends to remove this ability through a manual change, and P3 does not view the addition of the ability to transfer capacity obligations as proposed in this filing as an appropriate replacement for the power that generators currently have to manage capacity performance risk. P3 would urge PJM to not make such a change without Commission approval.

D. P3 Supports PJM's Removing of the "Physical Penalty" Option for FRR Resource.

As a matter of principle, P3 believes that FRR resources should have the same obligations to the grid as those resources participating in RPM auctions. PJM has identified one discrepancy as it relates to the availability of the "physical penalty" option to cure non-performance that is available to FRR entities but not RPM-committed resources.[23] PJM is appropriately proposing to remove this option so that all resources, regardless of whether that resource is in a FRR plan or not, have the same obligations to the grid. While there may be other differences that need to be addressed, P3 supports this narrow change and urges the Commission to adopt it.

[23] *Id.* at p. 57.

E. PJM's Proposal on Forward Looking Energy and Ancillary Offsets for MOPR and MSOC is Misguided but Should not be Cause for Rejection.

P3 remains concerned about the use of forward-looking EAS offsets and if this portion of the filing were severable would urge Commission rejection. While employing forward looking revenues is enticing in theory, predicting future energy prices is a fool's errand. P3 detailed its concerns with the forward-looking methodology in Docket No. ER22-2984[24] and those same concerns remain today. Forward energy markets are not liquid - particularly three years forward – and intervening events such as weather, war or other occurrences generally skew the prices in real time. Moreover, unlike historical numbers that are objectively known, future numbers rely on subjective considerations. The Commission ultimately dismissed P3's concerns in Docket No. ER22-2984, and P3 must assume that the Commission would do so again. Given the myriad of other issues in this filing and the Commission's stated desire for a forward-looking methodology, P3 will not call for the rejection of Docket No. ER24-98 because of this issue. In the future, P3 hopes that the Commission and PJM will recognize the shortcomings of the forward-looking methodology and revert to the transparent, predictable, and proven historical methodology.

, Beyond the future versus historical philosophical difference, P3 has a substantive concern with the effective date of PJM's proposal for this narrow issue. As proposed, PJM would apply this forward-looking EAS beginning in the 2025/2026 Delivery Year.[25] PJM's application of the forward-looking EAS to the VRR curve is not effective until the 2026/2027 Delivery Year.[26] If approved as proposed, this difference will result in a mismatch for the 2025/2026 Base Residual Auction and Incremental Auction where offer caps will be based on forward-looking considerations against a demand curve that relies on historical considerations. From a market

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[24] https://www.p3powergroup.com/siteFiles/News/FC5CA01019D43B121AC7ED5CFA629F87.pdf
[25] PJM Capacity Market Reforms at p. 61.
[26] *See,* PJM Interconnection, L.L.C., 182 FERC ¶ 61,073.

design perspective, MOPR, MSOC and the VRR Curve should all be using the same EAS methodology for any given delivery year. As such, P3 recommends the Commission ameliorate this mismatch by making the EAS changes proposed in the instant filing effective with the 2026/2027 Delivery Year, consistent with the Commission's earlier action in PJM's Quadrennial Review.[27]

III. PROTEST – SEVERABLE SECTION ON PERFORMANCE PAYMENT ELIGIBILITY.

FERC Should Reject PJM's Proposal to Limit Performance Payments to Committed Capacity Resources.

P3 does not support PJM's proposed changes to reduce the pool of resources eligible to receive performance payments to "committed Generation Capacity Resources that outperform their expected performance during a Performance Assessment Interval, up to their committed level of installed capacity."[28] This portion of the PJM filing should be severed (as consented to by PJM)[29] and rejected by the Commission**.**[30]

P3's opposition to this change is straightforward – in times of system stress all resources capable of addressing system needs should have every incentive to perform regardless of whether those resources are "committed" or not. While P3 appreciates PJM's desire to encourage resources to participate in the auction, reducing the pool of performance payment recipients, perhaps significantly, will in P3's view remove a very important incentive for performance in emergency conditions.

[27] *Id*.
[28] PJM Capacity Market Reforms at p. 44.
[29] The Commission has previously permitted a party to sever part of its filing, and the Commission accepted and rejected in part the filing. See *PacifiCorp*, 179 FERC ¶ 61,089 at PP 35, 39 (May 4, 2022).
[30] If FERC rejects PJM's changes regarding performance payment eligibility as P3 requests, the changes PJM made to balancing ratio must also be adjusted slightly. Since imports helping in an emergency would be eligible for performance payments, the proposed balancing ratio should be changed to reflect imports.

P3 appreciates that PJM consented to allowing this issue to be severable. The Commission should accept PJM's invitation and reject this portion of the filing. Should not committing in the capacity auction reveal itself as a problem, PJM and the Commission could always revisit this issue, but until then, it makes no sense in P3's view to remove this important incentive for performance in emergency conditions from the market. In those moments, PJM should be using all available resources to get out of emergency situations – including inviting uncommitted capacity into the market.

IV. CONCLUSION

The proposed Capacity Market Reforms in this proceeding, and the companion Section 205 filing in Docket No. ER24-99-000 that proposes reforms designed to enhance PJM's resource adequacy risk modeling and capacity accreditation processes and enhance testing requirements of Capacity Resources, are a good first step in what must be viewed as a longer-term commitment to serious reforms of PJM's capacity market. PJM's two Section 205 filings are not perfect. Various market participants, interested parties, and stakeholders will likely find fault in one or more of the many proposed reforms in these proceedings, just as P3 has found. But time is of the essence, and "perfect" is not the standard against which FPA section 205 filings are judged. PJM is working in haste to address resource adequacy issues that continue to grow in the wake of a changing resource mix and extreme weather events, and the reforms PJM has placed before the Commission are material improvements upon which PJM can and must build.

Except for the proposed changes to performance payment eligibility, P3 therefore urges the Commission to approve PJM's proposed Capacity Market Reforms as presented in this proceeding and detailed above but urges the Commission to encourage PJM to continue to work with stakeholders to present additional, needed capacity market reforms in the near future. P3 also requests that the Commission sever – as consented to by PJM – and reject PJM's proposal on performance payment eligibility.

Respectfully submitted,

On behalf of The PJM Power Providers Group

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Dated: November 9, 2023

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

Dated at Washington, D.C., this ninth day of November, 2023.

On behalf of the PJM Power Providers Group

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