UNITED STATES OF AMERICA
BEFORE
THE FEDERAL ENERGY REGULATORY COMMISSION

PJM Capacity Market Forum **Docket No. AD23-7-000**

POST-TECHNICAL CONFERENCE COMMENTS
OF THE PJM POWER PROVIDERS GROUP

The PJM Power Providers Group ("P3")[1] appreciates the opportunity to submit these post-technical conference comments pursuant to the Federal Energy Regulatory Commission's ("FERC" or "Commission") June 30, 2023, Notice of Request for Comments to the June 15, 2023, forum held at FERC in the above captioned proceeding to discuss the PJM Interconnection, L.L.C. ("PJM") capacity market.

The June 15th PJM Capacity Market Forum ("Forum") was a productive discussion that clearly communicated to the Commission the near universal desire of PJM stakeholders and regulators to maintain capacity markets as the means to achieve resource adequacy at the least cost to consumers in the PJM region. Consumers, suppliers, PJM, public interest groups and regulators were all nearly unified in their position that capacity markets should be reformed and not abandoned. P3's view that "PJM's capacity market is the single-most important tool

[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 87,000 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. 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. For more information on P3, visit www.p3powergroup.com.

available to ensure the region has sufficient capacity at the lowest possible cost"[2] seemed to be shared by all presenters which should give the Commission confidence that there is a shared sense of destination by PJM stakeholders. As a starting point, this is an important and positive takeaway from the June Forum.

Similarly, among Forum participants there was a recognition that changes will be necessary from the current construct which is sending price signals that are encouraging the retirement of existing resources and the entry of only heavily subsidized resources that will not be sufficient to sustain reliability. If capacity market changes are not made, PJM is on course to have insufficient capacity well before the end of the decade. In short, the Forum was a call to keep, but reform with urgency, the PJM capacity construct.

Unsurprisingly, P3 has a view on why PJM faces its current predicament and the steps necessary to change course. P3 submitted the attached letter, Attachment A, to the PJM Board in March of this year detailing the reasons P3 believes that the capacity market is currently failing to retain and attract the resources necessary to sustain reliability.[3] P3 will not repeat those reasons here as most of the decisions are pending federal court review, but instead notes that the current unsustainable state of the capacity market was materially driven by decisions that were made by FERC and PJM. Since regulatory decisions created the current predicament, the ability to correct the course rests with PJM and FERC as well. These comments will focus not on these past transgressions (which are important to understand so they are not repeated), but instead focus on a meaningful and feasible process moving forward.

[2] *See,* P3 March 7, 2023 letter to Board of PJM Interconnection L.L.C. , https://pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20230307-p3-letter-regarding-critical-issue-fast-path-process-addressing-the-capacity-market.ashx ; *See also* Attachment A at p. 1.

[3] *See,* Attachment A, The PJM Power Providers (P3) March 7, 2023, letter to Board of PJM Interconnection L.L.C.

I. Areas of Agreement among Forum Participants

PJM has a looming reliability problem which PJM and virtually every stakeholder acknowledges. Similarly, PJM and virtually every stakeholder acknowledges that PJM does not currently have the market structure necessary to address the looming problem. Fortunately, PJM has commenced a stakeholder process to hopefully place in front of the Commission a series of proposals that will change the capacity market so that it can be the means of achieving resource adequacy in the region. Ideally, there will be sufficient support from the Commission for such reforms. While both bars are high, it is imperative that they be cleared.

While not fully probed at the June 15th Forum, P3 suspects that there is broad stakeholder support beyond the high-level support for capacity markets that can guide future reforms. P3 respectfully submits that given the broad support for capacity markets, there is a broad appreciation of the need to retain resources that are needed for reliability and to attract merchant capital to build the resources that are necessary to sustain reliability. Nearly all parties acknowledge that additional investments in non-subsidized resources are going to be needed in PJM – particularly considering the ever-increasing flood of retirements and the multiple challenges facing the market entry of queued intermittent resources.[4]

Moreover, nearly all parties acknowledge that subsidized wind, solar and nuclear resources will continue to play an increasing role – particularly in the energy market. To state the obvious, wind, solar and nuclear resources garner their valuable subsidies when they produce

[4] *See*, https://www.pjm.com/-/media/committees-groups/committees/mc/2023/20230501/20230501-item-06---the-reliability-landscape---a-look-forward.ashx at 15. PJM notes that in 2022, only 2000 MW (700 of which were renewable) achieved commercial operation, despite over 30,000 MW of generation having signed interconnection agreements. As of June 2023, only 250 MW of renewable generation has come online in 2023 despite over 40,000 MW having approved interconnection agreements. https://www.pjm.com/-/media/library/reports-notices/testimony/2023/20230601-testimony-of-manu-asthana-us-senate-committee-energy-natural-resources.ashx at footnote 3.

energy. These resources will be motivated to do so under all circumstances – even if the energy market prices are below zero. As a result, other resources that do not enjoy a production tax credit will become increasingly reliant on capacity market revenues to justify entry to the market as opportunities to recover costs in the energy market wane.

The capacity market cannot be a regulatory afterthought if the Commission is serious about sustaining reliability in PJM. The capacity market must be meaningful and viable. The capacity market should send a high price signal when capacity is needed in certain regions, and it should send a low-price signal with the market is oversupplied. Right now, capacity is needed in certain regions in PJM yet the market is sending a retirement signal. Something must change.

Finally, P3 would also submit that there is near universal support for avoiding out of market solutions to reliability challenges. Reliability Must Run or RMR contracts can only be used to address temporary transmission system challenges and not resource adequacy deficiencies. These contracts are costly to consumers as they are called upon to provide a revenue stream to units that do not actively participate in PJM's energy and capacity markets.[5] Out of market solutions are both a symptom and a disease as they reflect a failure of the market to produce the resources that are needed and their use can spread if the market structure is not cured. Both PJM and FERC should not accept out of market solutions being the "new normal."

II. A Principled Path Forward

Against this backdrop, P3 offers the following thoughts on how the Commission can begin the process of restoring the capacity market to be the tool for delivering resource adequacy

[5] The Reliability Must Run contract for the Indian River Power Plant in the DPL South zone is reported to cost the average customer $6.45 per month. *See*, https://www.delawareonline.com/story/news/local/2022/08/03/coal-powered-indian-river-power-plant-shutdown-delayed/65384383007/

at the least cost to consumers. As stated before, there is near universal support for achieving this goal - P3 offers the following suggestions on how to get there:

1. **Stop making anti-market decisions**. P3 will resist the temptation to revisit the multiple decisions over the last three years that significantly impaired the capacity market to achieve its stated purpose. However, suffice it to say that confidence in PJM's capacity construct is essential to attracting merchant capital and that confidence is eroded when PJM files and the Commission endorses filings such as the MOPR[6], recent changes to the VRR curve[7], and the re-running of an auction to change the results as was recently evinced in the decisions related to 24/25 BRA.[8] Similarly, the Commission, over PJM's objections, approved changes to Market Seller Offer Cap[9] and the Operating Reserve Demand curve[10], both of which further eroded confidence in PJM's markets. While it is difficult to predict what future issues may be presented to the Commission, in all matters, the Commission must thoughtfully consider the impact its decisions will have on market confidence – especially considering the articulated need to attract investors to the market and the need to overcome the skepticism created by the decisions of the last three years.

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[6] P3 notes that the Commission did not "endorse" the effective elimination of the MOPR, but rather, as a result of PJM's actions, was put in a position in which the elimination of a significant market protection could occur without Commission support to do so.

[7] *See,* 182 FERC ¶ 61,073 (February 14, 2023).

[8] *See,* 182 FERC ¶ 61,109 (February 21, 2023).

[9] *See,* 176 FERC ¶ 61,137 (September 2, 2021).

[10] *See,* 177 FERC ¶ 61,209 (December 22, 2021).

2. **Continued Focus on Reliability.** The Commission deserves appropriate credit for drawing attention to the multiple looming reliability challenges facing most every area of the country.[11] PJM is not the only region facing these challenges; however, the commitment to capacity markets in PJM might be unique among the RTOs. Now is the time to follow through on the market rules that will bring about the changes that are necessary to reverse the trend. For example, PJM has proven that capacity markets can attract capital when protections are in place to protect against buyer side market power and capacity suppliers had flexibility to express costs and risks in their bids. Capacity markets are not a failed experiment. They only fail when they are not structured properly.

3. **Offer Cap Reform** – It is essential that any PJM capacity market reform order address the current supplier-stifling Market Seller Offer Cap. Since the FERC approved changes to the MSOC in 2021, capacity market sellers have been subjected to a process that no reasonable businessperson would find acceptable. The current process in which the PJM Independent Market Monitor ("IMM") reviews every single offers' view on costs and risks must end. 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 every year on these matters. Any market power concerns can and should be addressed through less burdensome means than one that requires every single offer to go through a frustrating

[11] *See*, https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2023.pdf.

and opaque process. P3 has historically supported an offer cap of Net CONE * B with a safe harbor for bids below a certain level which was put in place by the Commission's Capacity Performance Order in 2015 in recognition the significant risks faced by capacity suppliers. As was recently experienced in Winter Storm Elliot, being a capacity supplier in PJM comes with potential bankruptcy-inducing risk. Suppliers need to be able to reflect their view of those risks in their bids or else they will seek to exit the market because the capacity market compensation is just not worth the risk.

4. **Rigorous Accreditation** – It is important that all capacity resources be effectively evaluated to determine the resource's ability to contribute energy at time of peak demand. P3 supports PJM's efforts to put in place a more granular level of accreditation that specifically reflects the ability of individual capacity resources to contribute to reliability. It is important that the accreditation be fair and transparent allowing PJM and the resource owner to develop an agreeable capacity accreditation prior to the auction. At the end of the day, PJM and the Commission need confidence that the cleared capacity is sufficient to maintain resource adequacy at system peak.

5. **Buyer Side Market Power Protections** – P3 again reiterates the need for and importance of meaningful protections from the exercise of buyer market power in PJM. Currently, there are none and any rational investor looking at PJM would need to consider the vulnerability of any investment to buyer side market power before committing capital to the PJM market. In PJM's history there have been multiple examples of the exercise of buyer market power and there is no reason to believe the

market is immune from such market-damaging activity in the future. As P3 told the PJM Board in 2021, "The majority of resources in PJM are not receiving material subsidies and PJM has clearly articulated views that wholesale capacity rates for unsubsidized resources are not just and reasonable if the rates for unsubsidized capacity resources are suppressed by the effects of subsidy-skewed clearing prices."[12] The only thing that has changed since 2021 is the effective elimination of the MOPR without a FERC order to support it due to a 2-2 split among the commissioners at the time. In fact, as recently as July 27, 2023, PJM offered to stakeholders that the, "Objective of capacity market power mitigation is to return the capacity market to outcomes that would prevail in a competitive market…. (which) requires mitigation of uncompetitive offers to competitive levels."[13] Consistent with that goal, PJM market needs a sensible MOPR and it currently has no such thing. Whether the federal court returns this issue to FERC or not, the gap in market rules needs to be addressed.

If the Commission can address this year the five points above, P3 believes that PJM's capacity market can start the journey of restoration. Given the turmoil of the last three years, the turnaround may not be immediate, but it needs to start. P3 appreciates that the list of items that needs to be addressed is significant, but PJM and FERC need to advance confidently down the path of restoring PJM's market-based mechanism for restoring resource adequacy before the RTO is stuck in a place in which costly out of market decisions are the only options.

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[12] *See*, https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20210602-p3-letter-re-minimum-offer-price-rule.ashx at 4.

[13] *See*, https://pjm.com/-/media/committees-groups/cifp-ra/2023/20230727/20230727-item-02a---cifp---pjm-proposal-update---july-27.ashx at 27.

III. Pitfalls that Should be Avoided

While the June 15th Forum revealed points of high-level agreement among PJM stakeholders that should provide the Commission comfort, there were several ideas presented at the June 15th Forum that P3 suggests either should be either avoided or viewed as longer term priorities. P3 offers the following comments on some of those issues.

1. **FERC Should Not Abandon the Central Tenets of PJM's Capacity Market**. At the June 15th Forum, there were some limited suggestions of moving to a different resource adequacy construct such as the ones approved for SPP or MISO. Most of those suggestions were quickly rebuffed by the June 15th panelists. The Commission should not force this conversation onto the PJM stakeholders, but rather make a commitment to working to fix what PJM already has. Moreover, the IMM's thoughts notwithstanding, there appears to be a general acceptance of a capacity market structure that obligates capacity resources to perform during emergencies or face penalties. The Commission should not encourage PJM to move to an "availability payment" type structure that offers no consequence for non-performance.

2. **Seasonal Capacity.** PJM has suggested in its stakeholder process that it should move to a seasonal capacity market in order to address the different reliability risks in summer and winter. While P3 agrees that there are material differences between the winter and summer as it relates to resource performance, moving to a seasonal capacity market in which suppliers must submit multiple offers and PJM has to clear multiple markets, is a very significant change to the PJM capacity construct that will be difficult to understand

and implement in the timeframes set forth by PJM. To be clear, P3 is not opposed to a seasonal market if structured properly; however, P3 does not believe that such a significant change should be part of the October filing. An issue of this magnitude simply needs more time to be discussed and understood.

3. **Interregional Transfers**. P3 is concerned that increasing interregional transfer capability is not going to be the reliability panacea that many envision. From a reliability perspective, PJM is currently more likely to be in a position of exporting out than it is importing in.[14] As PJM's reserve margins shrink to single digits, the ability to move power out of PJM will diminish and exports out of PJM raise the prospect of higher energy and capacity prices for PJM consumers if out of region customers are consuming energy from PJM capacity. In some respects, this is the ultimate lose-lose for PJM consumers as they would be asked to pay for the transmission upgrades that will lead to higher energy and capacity prices once the upgrades are in place. To be sure, P3 appreciates the value of broader markets in which energy can move freely across large areas; however, increasing the ability to move power out of PJM will only exacerbate the current capacity challenges facing the region.

4. **Distractions.** To be certain, there are issues beyond the capacity market that need to be addressed; but none of those issues obviate the need for capacity market reforms. There will be some who call for energy market reforms, interconnection queue reforms, and better gas-electric coordination. P3 will be among those voices. While these issues are

[14] *See*, https://www.pjm.com/-/media/committees-groups/committees/mrc/2023/20230724/20230724-winter-storm-elliott-event-analysis-and-recommendation-report.ashx at pp. 44 - 48.

important, nothing will substitute for the need to address the current challenges facing PJM's capacity construct. PJM's is focused on these capacity market matters. The Commission should be too.

IV. Conclusion

Capacity markets are the glue that holds PJM together. They provide confidence to regulators and legislators that there are sufficient resources to meet the grid's needs while providing consumers with a cost competitive means of achieving that goal. Capacity markets have historically been able to deliver robust reserve margins at prices well below the cost of new entry while allowing older less efficient units to retire and inviting 50,000 new megawatts into the grid.[15] This Commission can get these markets back to where they once were and need to be in the future. The clock is ticking, and the reliability of the PJM grid remains in the balance.

Respectfully submitted,

On behalf of The PJM Power Providers Group

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August 4, 2023

[15] *See,* Pre-filed Statement of Manu Asthana on behalf of PJM Interconnection, L.L.C. re the upcoming June 15, 2023 Capacity Market Forum, AD23-7, at 3.

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 4th day of August, 2023.

On behalf of The PJM Power Providers Group

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Attachment A

The PJM Power Providers Group (P3)
March 7, 2023 Letter to the
PJM Interconnection, L.L.C. Board

THE P3 GROUP

March 7, 2023

VIA ELECTRONIC DELIVERY

The PJM Board of Managers
c/o Mark Takahashi, Chairman
PJM Interconnection, L.L.C.
2750 Monroe Boulevard
Audubon, PA 19043

Dear Chairman Takahashi and Board Members:

The PJM Power Providers Group ("P3")[1] would like to thank the PJM Board of Managers ("Board") for launching the Critical Issue Fast Path ("CIFP") process to elevate the urgency of issues related to the capacity market and to put PJM stakeholders on a timeline for action before the end of the year. Like the Board, P3 recognizes the need to have a functioning capacity market in PJM that utilizes competitive market pressures to provide sufficient resources to consumers at competitive prices. We are pleased to see that the Board shares that vision.

PJM's capacity market is the single-most important tool available to ensure the region has sufficient capacity at the lowest possible cost. A mere four years ago, 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). The capacity market played an important role in welcoming new resources to the grid (including renewable resources) and units that were no longer economically viable received a market signal suggesting retirement.

P3 rejects the assertions of some parties that the capacity market is a flawed construct. In its initial phase, the Reliability Pricing Model ("RPM") Capacity Market retained resources that were otherwise facing retirement

[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. The views expressed in this letter represent the position of P3 as an organization, but not necessarily the views of any particular member with respect to any issue.

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decisions due to poor market design and impending state and federal environmental initiatives. The best historical example of the capacity market working was with the Mercury and Air Toxics Standards ("MATS") that led to nearly 30,000 MW of retirements while also attracting more than enough capital to reinvest in some units or invest in new resources and technologies. What some feared was an impending reliability problem, turned into a non-event because of the capacity market. Finally, the implementation of Capacity Performance ("CP") in the wake of the 2014 Polar Vortex provided even stronger reliability incentives at prices that were competitive.

Unfortunately, the capacity market is under undeniable duress and absent significant changes, will be challenged to achieve its promise. As evidenced by PJM's recent "Resource Retirement, Replacements and Risks" report, PJM needs its capacity markets to be functional to meet the challenges of the future. Current market dynamics do not reflect the urgency of the moment. In short, where we are now will not get us to where we need to be. Consider the events of the last several months:

- Capacity prices are at historic lows, which is inconsistent with PJM's report detailing looming reliability challenges,
- Capacity market participation is shrinking significantly as the last three auctions have shown a steady decline in resources seeking capacity obligations,
- Capacity auctions that once cleared nearly 6,000 MWs of new generation, cleared a mere 328 MWs in the most recent auction,
- The number of constrained zones is increasing,
- The quantity, location and quality of new resources are insufficient to sustain reliability as PJM recently noted,
- The DPL-South matter has undercut confidence that markets will operate in a transparent and non-discriminatory fashion, and,
- The events of December are a recent reminder that being a capacity resource in PJM comes with potentially billions of dollars of exposure to penalties for relatively short-term failures.

As PJM launches the Critical Issue Fast Path process, P3 would like to share its perspective on why in a relatively short period of time the capacity market has lost its vitality. P3 has sharply criticized recent actions by PJM and FERC which, in P3's view, have diminished the capacity markets to the point where reliability-needed resources are not receiving sufficient compensation to remain viable and asset owners are no longer able to exercise independent judgment about the resources they own. To be sure, factors outside of PJM's control, including state and federal policies, have played a role in shaping the dramatic downslide of the capacity market. However, there are several specific actions that were entirely within PJM's and FERC's control that led, and will continue to lead, to reliability challenges, if not addressed. Specifically, P3 offers the following examples of actions in the recent past that are contributing to the capacity market malaise:

1. **Market Seller Offer Cap** – As the result of Commission action and PJM inaction, asset owners are seriously constrained in their ability to make independent judgments regarding the costs and risks associated with the facilities they own. This is an untenable proposition for any rational business owner and is not sustainable in PJM. P3 appreciates that PJM continues to identify this issue as a concern, but the reality is that the last three Base Residual Auctions have been run under administratively set offer caps that are simply not sustainable. Resources are no longer able to reasonably reflect future energy price uncertainty, nor their risk of performance under the current MSOC that is inconsistent with the Capacity Performance design. This dynamic must change and P3 is pleased to see this issue among those identified by the Board to be addressed by the CIFP process.

2. **The 24/25 Base Residual Auction Re-run**. Perhaps most troubling and most difficult to resolve is the considerable undermining of market confidence resulting from the decisions in and around the 24/25 BRA. P3 has no issue with rules being considered on a prospective basis, but retroactively changing capacity market rules to a get a desired answer is entirely antithetical to a sound market design and kryptonite for capital investment. While the DPL South issue was portrayed as a unique event that is unlikely to reoccur, the damage to PJM's reputation has been done Overcoming the impact of PJM's actions in this matter will be perhaps the highest mountain to overcome if it wants to restore the confidence that will be necessary to attract the investments that are clearly going to be needed to achieve resource adequacy.

3. **MOPR -** As P3 has offered to PJM, FERC and the federal court on multiple occasions, the lack of meaningful protections from the exercise of buyer-side market power from the state subsidization of specific resources is a pall over the market that will dissuade merchant capital from the market. The lack of protections against the exercise of buyer market power is something that any rational investor would need to consider and, unfortunately, remains a deterrent from those considering deploying merchant capital in PJM.

4. **VRR Reforms** –PJM's reforms to the VRR curve will negatively impact the capacity auctions for resources seeking to enter or remain in the market at same time that PJM is predicting energy shortages in the region (delivery years between 2026 to 2030). PJM made significant changes to the reference unit and the calculation of the EAS offset (among other things) that will interject significant uncertainties and volatility into capacity auctions which create a difficult environment to attract investment. P3 notes that suppliers in the past could reflect such uncertainties in their offers but can no longer do so under the current MSOC. Without relitigating those matters here, P3 wishes to reiterate that these reforms will hurt and not help attract and retain resources at a time PJM is saying those resources will be needed.

5. **Real Time Operational Decisions--** The events of last December are a chilling reminder that being Capacity Resources in PJM comes with billions of dollars of exposure to penalties. The events of Winter Storm Elliott also shone a light on a new set of risks suppliers must now consider: (1) inaccurate load forecasting that leads to under-commitment of the needed resources to ensure reliability; (2) opaque

operational decisions that leave resource owners confused and uncertain; (3) the non-performance of other entities such as gas producers and transmission providers, and (4) non-performance of units outside of PJM that led to significant exports out of PJM while PJM consumers paid high energy prices and PJM suppliers paid hefty penalties.

P3 appreciates that many of the decisions referenced above have complicated histories associated with them and most of them are being reviewed by federal courts, but the Board needs to appreciate that the cumulative impact of these decisions have been deleterious to investment in PJM. P3 looks forward to trying to correct things moving forward. P3 would like nothing more than to have a capacity market that gives regulators and PJM stakeholders more confidence that the grid will have a sufficient and sustainable resources to meet projected demand. The fact that capacity markets were once mostly capable of achieving that purpose makes us confident that with leadership from PJM, capacity markets can be restored to their original promise.

As the Board anticipates the results of the CIFP process, P3 offers the following thoughts as to issues that should be addressed in that process as well as issues beyond that process that the Board should consider:

- **Restore Confidence in PJM's Capacity Markets** – Market-damaging regulatory actions need to stop. This restoration of confidence begins with PJM carefully considering all decisions through the lens of restoring confidence in its markets. Past actions by PJM, such as those related to the MOPR, the revised VRR parameters and the "do-over" of the capacity auction for the 24/25 delivery year, were all individually problematic and cumulatively destructive. Similar actions in the future must be avoided if PJM is serious about attracting merchant investment in capacity. P3 cannot predict what future decisions come before the Board, but in its decisions the Board should consider the message it is sending to those looking to invest at-risk dollars in PJM.

- **Market Seller Offer Cap** – Simply stated, capacity market sellers need flexibility to reflect their costs, risks, and tolerance for future energy market uncertainty in their capacity market offers. P3 supports a return to an offer cap that appropriately targets market power while allowing asset owners to exercise reasonable commercial judgement and provides a meaningful Safe Harbor for offers below a certain level. Such a construct has been approved by FERC before and would provide consumers with confidence that market power would not be exercised and provide suppliers the ability to appropriately submit their offers.

- **Penalty Reform** – P3 supports a penalty structure that is more in line with the risks and compensation that is provided to capacity resources. For example, under the current penalty structure and offer cap provisions, a $28.92/MWday clearing price as recently cleared for the 24/25 delivery year and a PAI of 23 hours as was just seen during Winter Storm Elliott, would wipe out five years of capacity revenues for any resource with a capacity obligation (assuming a balancing ratio of 0.8). If a reasonable MSOC were reinstated, then the penalty structure may not require significant adjustment. However, without the ability to reflect the cost of the risk suppliers face from disproportional penalties, the exposure must be reduced and/or capped. The market cannot continue in its current state that subjects suppliers to significant penalties without the opportunity to reflect the cost of that risk in their offers.

- **No Changes to Planning Parameters after Offers are Submitted** – As a result of the recent FERC decision regarding the 24/25 auction, PJM has the ability for the first time in its history to change the BRA planning parameters after capacity offers are submitted. This is an untenable position for market participants who rely heavily on those parameters for commercial transactions. P3 and other parties, have offered a wide range of potential solutions that can prospectively address any concerns that PJM and FERC may have while providing confidence to suppliers that planning parameters will not change after offers are submitted. This issue can be easily addressed and should be in the CIFP.

- **More Transparency Around PJM Operations -** As details following Wither Storm Elliott emerge, it has become clear that PJM has significant discretion around calling a Performance Assessment Interval ("PAI"). Market Participants have insufficient signals as to when a PAI will be called other than when as a last resort, demand response is triggered. There needs to be more specific steps that make clear when a PAI will happen so that the event is foreseeable and manageable. It is unclear how exports are treated during an emergency, and this must be made clearer both from a rule perspective and real time operations data posting. Additionally, there needs to be clearer rules on what are the determinants that drive PJM's decision to terminate a scarcity event, especially when market signals indicate no scarcity, as they did during many PAIs during Storm Elliott. Some of these changes may be addressed in PJM manuals and not in the October FERC filing, but it is very important that PJM provides this transparency.

- **Marginal Accreditation for ELCC Resources -** P3 is supportive of marginal accreditation for ELCC resources and open to a conversation about ELCC applying to all resources.

- **Meaningful Protections from Buyer Side Market Power -** PJM cannot continue to ignore the lack of any meaningful protections to the market from the exercise of buyer side market power through subsidization. While this issue is beyond the immediate discussion, this hole in the PJM tariff is a gapping one that needs to be filled if PJM is serious about attracting merchant resources to the grid.

- **Reforms to PJM Market Mitigation Rules** – P3 believes a longer-term conversation is required surrounding the Three Pivotal Supplier Test and market mitigation in general. P3 believes in strong measures (on both the buy and supply side) to prevent the exercise of market power; however, the current structure goes beyond what is necessary and in doing so is unnecessarily disruptive to appropriate commercial activity. P3 suggests that after the current CIFP, the Board consider a similar exercise regarding market oversight of both buy and sell side activities.

- **FRR Reform** – FRR plans need to commit resources at the same reserve level as the RPM BRA. Also, FRR resources and their performance should be subject to like kind penalties as other capacity resources within the PJM market. These are surgical fixes to a long-standing imbalance in the tariff.

P3 remains open to discussing other issues in the process, but it is critical that the above listed issues be addressed and, as such, P3 supports a delay of the currently scheduled BRAs to address these concerns. Again, P3 applauds the Board for launching the CIFP process focused on capacity market reforms and P3 members hope to be able to stand up before the Board later this year and endorse a PJM package that includes these elements. Restoring PJM's capacity market can be achieved, and the consumers and suppliers of PJM deserve nothing less.

Respectfully submitted,

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