

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

Illinois Municipal Electric Agency

)

Docket No. ER15-1232-000

**MOTION TO INTERVENE OUT OF TIME AND FILE LATE COMMENTS
AND COMMENTS
OF THE PJM POWER PROVIDERS GROUP**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or the "Commission"), 18 C.F.R. §385.212 and §385.214 (2014), the PJM Power Providers Group ("P3")¹ respectfully submits this Motion to Intervene Out of Time and Late Comments regarding the March 11, 2015, filing by the Illinois Municipal Electric Agency ("IMEA") in the above-captioned docket ("IMEA Filing").²

This proceeding involves IMEA's request for expedited action on a limited waiver of Sections E.2 and E.4 of Schedule 8.1 of the PJM Interconnection, L.L.C.'s ("PJM") Reliability Assurance Agreement Among Load Serving Entities in the PJM Region ("RAA") and other, related provisions contained in other governing PJM documents, including Section 11.7 of Manual 18, that are designed to limit the amount of capacity a utility operating under PJM's Fixed Resource Requirement ("FRR") Alternative may sell into the PJM Reliability Pricing Model ("RPM"). The IMEA states that because it will be required to provide PJM with its plan for meeting its capacity requirements under the FRR Alternative by April 11, 2015, and the Base Residual Auction ("BRA") for Delivery Year 2018/19 will begin on May 11, 2015, it is requesting commission action on its waiver request by April 10, 2015.

¹P3 is a nonprofit corporation dedicated to promoting policies that will allow the PJM region to fulfill the promise of its competitive wholesale electricity markets. For more information on P3 visit www.p3powergroup.com. The comments contained in this filing represent the position of P3 as an organization, but not necessarily the views of any particular member with respect to any issue.

² *Illinois Municipal Electric Agency*, Docket No. ER15-1232-000, dated March 11, 2015 ("IMEA Filing").

On March 13, 2015, the Commission set March 23, 2015, as the deadline to file comments, interventions and protests in this docket.

I. MOTION TO INTERVENE OUT OF TIME AND FILE LATE COMMENTS

P3 respectfully moves to intervene out of time and file comments in this process. Rule 214(d) of the Commission's regulations provides that, in acting on any motion to intervene out of time, the Commission will consider whether (i) the movant has good cause for failing to file the motion within the time prescribed; (ii) the granting of the motion will disrupt the proceeding; (iii) the movant's interest is not adequately represented by other parties in the proceeding; (iv) any prejudice to, or additional burdens upon, the existing parties might result from permitting the intervention; and (v) the motion conforms to the regulations set forth in Rule 214(b).

P3 respectfully believes that it has met all five conditions to be allowed an intervention out of time. First, P3 has been an active participant in numerous Commission dockets over the years and appreciates the necessity of intervening in dockets in a timely manner. The combination of P3's involvement in significant dockets at the Commission affecting the PJM market and the shortened time-frame in which this docket is proceeding (IMEA filed its waiver request approximately three weeks ago) contributed to P3's inability to prepare these comments within the shortened comment period. Second, P3 agrees to accept the record as it has developed to the date of the granting of this Motion. Third, as an association representing active participants in the PJM market whom are directly affected by the rules and regulations governing PJM's competitive marketplace, P3 has a unique and substantial interest in this proceeding that cannot adequately be represented by any other party. Fourth, granting P3's Motion will neither prejudice nor place additional burdens upon the existing parties to this proceeding. Fifth, P3's Motion complies with the requirements of Rule 214(b). Therefore, good cause exists for this Motion, and P3 respectfully requests that the Commission grant its Motion to Intervene Out of Time and to File Late Comments.

II. COMMENTS

A. IMEA's Proposed Waiver Request Should be Denied, as It Does Not Meet the Conditions for A Waiver of a Filed Tariff Rule and Would Constitute Anti-Competitive Behavior.

As the Commission is aware, this is the third request filed by the IMEA for a waiver of PJM rules for its FRR plan. While the Commission granted IMEA's first waiver request for the 2017/2018 Delivery Year,³ on March 9, 2015, the Commission issued an order denying IMEA's waiver request for the 2018/2019 Delivery Year.⁴ IMEA is making this third waiver request in response to the denial of its second waiver request.

IMEA's current waiver request is based upon the same facts and circumstances as its second waiver request, which this Commission denied in its March 9, 2015 Order. This third waiver request is essentially a Motion for Rehearing by the IMEA.

The Commission should deny this third waiver request for all of the reasons it previously denied IMEA's second waiver request, primarily due to the fact that the Commission has previously allowed a limited waiver request for the 2017/2018 Delivery Year with the understanding that IMEA would work in conjunction with PJM for a longer-term resolution of the issues. The Commission also stated that:

As the Illinois Commission and the Market Monitor explain, and the Commission noted in its Order Denying Rehearing, relieving Illinois MEA of its obligation to procure capacity from within the ComEd LDA could potentially result in a significant cost shift to other customers in the ComEd LDA if price separation occurs. Notwithstanding Illinois MEA's claims that "the only potential for harm if the waiver is granted would be if the ComEd LDA binds on the CETL for the 2018/2019 Delivery Year," and that the likelihood of that occurring is small, it nevertheless represents the potential for substantial costs to other load located in the ComEd LDA. If the ComEd LDA binds, PJM will purchase capacity within the ComEd LDA based on an internal capacity requirement that includes Illinois MEA's capacity obligation such that the rest of the load-serving entities in the ComEd LDA would be required to purchase more capacity at the higher ComEd LDA capacity price. **The application of an internal resource requirement is intended to protect the reliability of the PJM system, and we do not find, based on the record before us, that Illinois MEA has demonstrated that it should be relieved of its share of that internal resource requirement.**⁵

³ *Illinois Municipal Electric Agency*, 147 FERC ¶ 61,090 (2014), *order denying clarification and reh'g*, 150 FERC ¶ 61,040 (2015).

⁴ *Illinois Municipal Electric Agency*, 150 FERC ¶ 61,179 (2015) (March 9 Order).

⁵ March 9 Order, *supra*, at pp 10-11 (emphasis added; citations omitted).

While noting that it is in the process of pseudo-tying its resources to PJM so, in the future, they will qualify as fully deliverable and non-curtable capacity resources,⁶ nothing in the IMEA Filing is different from its prior waiver request which was denied. Furthermore, while IMEA states that it is in the process of pseudo-tying its external resources to PJM to overcome its external resource qualification issue, it has shown no proof that it has begun this work, nor has it shown that the completion of such a pseudo-tie would actually qualify its capacity as internal resources for FRR purposes in the potentially constrained ComEd LDA.

More importantly, despite the denial of the second request, all of the same market-distorting concerns remain in IMEA's third request. IMEA continues to seek new avenues towards obtaining waivers and exemptions of the FRR provisions, with this newest request to waive the FRR sales cap. As this Commission is aware, the FRR sales cap is specifically designed to protect competitive investment in the non-FRR regions of PJM.⁷ While offering general assertions that a waiver from the sales cap will "provide benefits to other Load Serving Entities in PJM,"⁸ IMEA conveniently ignores the long-standing necessity of the FRR sales cap to ensure that uncompetitive capacity does not otherwise distort the market and negatively affect other market participants.⁹

Furthermore, per the Commission's prior acknowledgment, PJM has submitted this issue to a stakeholder process which is currently ongoing. As PJM noted in IMEA's prior waiver request, the stakeholder process is the appropriate venue to "allow for concerns related to reliability and harm to third parties to be vetted and, as appropriate, inform any proposed changes" to the RAA or other PJM

⁶ IMEA Filing, *supra*, at p 2.

⁷ *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331 (2006), (Docket No. ER05-1410, *et al.*, September 29, 2006).

⁸ IMEA Filing, *supra*, at p 2.

⁹ It is important to note that IMEA has been in PJM since the inception of RPM and has known the FRR rules (which have not substantially changed) since RPM's inception in 2007.

governing documents.¹⁰ As PJM's stakeholder process has not yet concluded on this issue, IMEA's waiver request is premature and potentially thwarts other, more appropriate avenues to address its concerns. IMEA's waiver request, therefore, should be denied.

WHEREFORE, for the foregoing reasons, P3 respectfully requests that the Commission grant its Motion to Intervene Out of Time, accept these late-filed comments into the record, and reject the IMEA's third request for a waiver of the FRR and RAA provisions for the 2018/2019 PJM Delivery Year.

Respectfully submitted,

On behalf of the PJM Power Providers Group

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Dated: April 7, 2015

¹⁰ *Motion to Intervene and Comments of the PJM Interconnection, LLC*, Docket No. ER15-834-000, dated January 28, 2015, at p. 6.

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 7th day of April, 2015.

On behalf of the PJM Power Providers Group

By: /s/ Glen Thomas_____

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