

## TESTIMONY OF THE PJM POWER PROVIDERS GROUP (P3)<sup>1</sup>

### I. Introduction

My name is Glen Thomas, and I am submitting this testimony on behalf of the PJM Power Providers Group (“P3”). P3 is a coalition of energy providers committed to ensuring that PJM markets deliver reliable, affordable, and efficient electricity to millions of customers. Our member companies own approximately 88,000 megawatts of generation assets and are active participants in PJM’s markets. Our members own virtually all forms of generation, and some provide competitive retail services as well.

Importantly, P3 members rely on signals from the competitive market to make decisions to build, maintain and retire capacity resources. P3 members do not have access to a utility rate base and therefore bear all financial and operational risks associated with providing capacity in the PJM. Relying on this market structure, consumers in PJM states have saved billions of dollars over the traditional vertically integrated model.

P3 supports capacity markets as an integral part of a properly designed and well-functioning competitive market. If designed right and clearing prices are reflective of market conditions, capacity markets will deliver the reliability necessary to sustain the grid and prices that allow consumers to benefit from the pressure on price that markets provide. Unfortunately, capacity markets have been subjected to multiple regulatory interventions that have undermined that value, but, overall, PJM’s capacity market structure remains essential to the reliability of the bulk power system, the facilitation of new investment, and the protection from long-term reliability risks at the least cost to consumers.

The challenge that PJM, FERC, PJM states and PJM stakeholders face is calibrating the capacity construct to support the needs of the future. P3 respectfully submits that the fundamental tenants upon which the capacity market is designed remain sound and viable. However, there are certainly improvements that can be made and, importantly, temptations to interfere with and stray from these core tenets must be resisted. The PJM states have an important role to play; however, at the end of the day, FERC is the ultimate regulator of PJM and, if resource adequacy is to remain in the purview of PJM, then FERC must be the ultimate steward of the capacity market upon which 67 million people depend.

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<sup>1</sup> 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 88,000 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](http://www.p3powergroup.com).

## **II. History of Capacity Markets in PJM**

PJM's capacity markets were created to answer the question of how reliability will be maintained in a competitive market structure. Prior to the restructuring of many PJM states in the late 1990s, vertically integrated utilities were largely responsible for maintaining sufficient resources on their system. While utilities had the ability to "pool" resources to maximize efficiency, utilities, under the purview of their state regulatory commissions, were the entities responsible for resource adequacy.

While that system worked, it proved to be extremely expensive, with limited reliability results. Policymakers rightly concluded that consumers could benefit from the efficiencies of being in a large regional market disciplined by competition. State legislators, governors and commissioners realized that costs to consumers could be driven down by introducing competitive forces into what had been the traditional domain of vertically integrated monopolies. To achieve that efficiency, states passed laws that changed power generation from a cost-of-service regulatory paradigm in which resources were rewarded for being more efficient to drive down the ultimate costs to consumers.

As part of that transition, the states urged PJM to provide a mechanism that protected reliability in a competitive construct. A capacity construct was PJM's answer to that question.

The first iteration of the capacity market centered on the Installed Capacity (ICAP) requirement and a short-term Capacity Credit Market. Under this system, Load Serving Entities (utilities or retail suppliers) were obligated to procure sufficient capacity to meet their forecasted peak demand plus a reserve margin. They could fulfill this obligation through self-supply, bilateral contracts, or by purchasing capacity credits through PJM's monthly or daily capacity credit auctions. These credits represented commitments by generators to be available during peak periods and were tradable in a limited, short-term market. However, this structure did not involve a centralized auction with uniform clearing prices, and it lacked mechanisms for pricing capacity based on location, was susceptible to market power and did not provide visibility into future reliability concerns.

This first-generation capacity market faced several significant shortcomings that ultimately led to the development of PJM's Reliability Pricing Model (RPM) in 2007. The market's short-term nature and lack of liquidity resulted in volatile and opaque prices, which failed to provide a stable or reliable signal for new investment or long-term resource planning. Furthermore, because the market did not account for transmission constraints or local reliability needs, it treated capacity as geographically interchangeable, leading to potential reliability risks in constrained areas. These limitations, combined with growing concerns about future resource adequacy in the mid-2000s, prompted PJM and its stakeholders to

design RPM as a forward-looking, competitive auction process that would better reflect the value of capacity, support new investment, and address locational reliability requirements.

While the RPM construct was tweaked regularly following its institution, the Capacity Performance (CP) changes of 2015 were the most significant reforms since the transition to RPM in 2007. PJM introduced the CP construct in response to growing concerns about the reliability of capacity resources, particularly during extreme weather events like the 2014 Polar Vortex. The event exposed flaws in the existing capacity rules—primarily that generators were being paid for simply being available, with limited penalties or incentives tied to actual performance during critical system conditions. PJM concluded that the existing rules did not adequately ensure that resources would be available when most needed, undermining the value of capacity as a reliability product.

FERC approved PJM's new CP construct in 2015 because it aligned with the Commission's goals of ensuring just and reasonable rates, improving resource adequacy, and enhancing system reliability.<sup>2</sup> Capacity Performance introduced a new, more stringent product definition requiring capacity resources to be available and responsive during all hours of the year, particularly during emergency conditions, with significant non-performance penalties and corresponding bonuses for over-performance. FERC found that the framework better reflected the true reliability value of capacity and created stronger incentives for operational readiness, fuel assurance, and investment in resource flexibility. While controversial and opposed by some stakeholders, FERC ultimately determined that Capacity Performance was a just and reasonable market reform to ensure the reliability of the bulk power system.

In the late 2010s and early 2020s, FERC undertook several major reforms of the PJM capacity market, primarily in response to concerns about state-subsidized resources, market competitiveness, and reliability. The most significant of these reforms was the Minimum Offer Price Rule (MOPR), which focused on how to reconcile PJM's capacity market with increasing state-level energy policies, such as subsidies for renewables and nuclear power. Multiple decisions related to the MOPR began a series of decisions that led to several auction delays and policy reversals from the Commission. The result was a period from 2021 to 2024 that featured multiple legal challenges, delayed auctions, volatility pricing and significant market exit without corresponding entry. Fortunately, PJM submitted targeted FERC filings at the end of 2024 to address some of the regulatory gaps. The PJM capacity auctions are now on track to resume their regular three-year forward cadence and the next two auctions will feature a very specific cap and floor on clearing prices.

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<sup>2</sup> See , <https://www.reedsmith.com/en/perspectives/2015/06/ferc-approves-pjm-capacity-market-reforms-over-cha>

P3 welcomes the return to a regular three-year cadence of auctions to provide a stable and predictable signal that reflects market conditions. While enhancements can always be considered and made, if appropriate, the Commission should be measured and mindful of unintended consequences. History has proven that the capacity market is most successful when participants – supplier and consumers – have confidence in the stability and predictability of the construct.<sup>3</sup> That stability has been lacking over the last several years, but P3 is hopeful that there is a path forward that can lead to its restoration.

### **III. Fundamental Tenets of the PJM Capacity Market**

The history of the capacity market construct provides an important context for evaluating any prospective changes; however, perhaps more important are the core tenets of the capacity market design that allow it to provide value. It is critical to recognize these tenets, which form the foundation for the PJM capacity construct, as the Commission evaluates how to best move forward.

#### **1. Resource Adequacy**

- First and foremost, the PJM capacity market is about reliability. When functioning properly, the capacity market ensures that PJM secures enough *committed* capacity three years in advance to meet expected peak demand plus a reserve margin. The procurement is specifically tied to the 1 in 10 reliability standard which ensures that the capacity market is grounded in NERC’s reliability standard.

#### **2. Competitive Procurement**

- The PJM auction is competitive: resources offer to provide capacity, and PJM selects the lowest-cost set of offers needed to meet reliability targets. Competitive forces discipline prices and ensure that consumers are supplied capacity at least cost.

#### **3. Locational Pricing**

- Capacity must be deliverable, i.e., its output must be capable of reaching load to have value. Capacity prices can vary by location to reflect differences in

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<sup>3</sup> Since 2011, over 26 GW of new natural gas combined cycle plants have been added to the PJM Grid. These plants are: Birdsboro, Carroll County, CPV Fairview, CPV St. Charles, CPV Three Rivers, Guernsey, Hickory Run, Hill Top, Indeck Niles, Jackson Generation, Lackawanna, Long Ridge, Lordstown, Middletown, Moxie Freedom, Newark, Oregon, Panda Hummel, Panda Liberty, Patriot Power, Potomac Energy Center (Stonewall Combined-Cycle) Project, PSEG Keys Energy Center, Sewaren, South Field, Tenaska Westmoreland, West Deptford, Woodbridge, York 2 Energy Center and York Energy Center (Delta Power Project).

transmission constraints and resource adequacy needs (e.g., congested areas with less generation may have higher capacity prices).

#### **4. Performance Obligations and Penalties**

- Resources that clear the auction have firm obligations: they must perform (be available) during emergency conditions. If they fail to perform when called upon, they face financial penalties and as the Commission saw after Winter Storm Elliot, those penalties can be significant.

#### **5. Technology Neutrality**

- All resource types — fossil fuel, nuclear, renewables, storage, demand response — compete equally, provided they can meet reliability and performance requirements.

#### **6. Prices that Are Reflective of Market Conditions**

- It is important that capacity market prices reflect the fundamentals of the market. When supply is low, prices should be higher to attract more investment and when supply is high, prices should be low to encourage less efficient resources to retire.
- Moreover, the market was designed with the assumption that over time prices should generally be around the cost of new entry – adjusting according to the market conditions that reflect the cost of new construction. The Commission has recognized that “a legion of prior Commission orders hold[] that the purpose of capacity markets is to attract and retain sufficient capacity to maintain reliability requirements, and to do so, prices need to average out over time to the cost of new entry.”<sup>4</sup>

#### **7. Protections from Market Power**

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<sup>4</sup> *Calpine Corp. v. PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,035, at P 157 (2020) (citing, e.g., *ISO New England Inc.*, 158 FERC ¶ 61,138, at P 52 (2017) (“[T]he purpose of the FCM is to enable [the RTO] to procure sufficient capacity to ensure reliability.... [T]o do so, the FCM will need to clear, on average, over time, at or near Net CONE.”); *N.Y. Indep. Sys. Operator, Inc.*, 144 FERC ¶ 61,126, at P 26 (2013) (“In order to encourage new resources to be built in the new capacity zone when they are needed, capacity prices on average over time must approximate the net cost of new entry in the new capacity zone. Otherwise, developers will be reluctant to build the new capacity that will be needed as load grows and resources retire over time.”); *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331, at P 91 (2006) (“If capacity prices approximate the Cost of New Entry in some years and fall significantly below the Cost of New Entry in the other years, the average capacity price over time would be less than the Cost of New Entry. Such a result would not encourage new entry, since a potential new entrant would not expect to receive revenues over time that covered its fixed costs.” The Commission further concluded that the new entry price adjustment provision at issue, “encourage[d] new entry by ensuring that new entrants do not see a precipitous decline in prices after entry, [while] also encourage[ing] existing generators not to retire prematurely.”))

- For consumers and suppliers to have confidence in market outcomes, strong protections against both supply and demand side market power are required.

### **III. Capacity Market Prices Over Time**

When thinking about PJM’s capacity market prices over time, it is important to ask the question “compared to what?” It’s axiomatic that capacity is not free. There are real costs associated with developing and constructing capacity that must be recovered. Moreover, ongoing operational costs must be recovered for plants needed to meet reserve requirements when those plants are not running. If the dollars are not coming from the capacity market, they need to come from somewhere else, or the capacity resource will exit the market.

Accepting that capacity is something that consumers need to pay for, PJM capacity prices have fared quite well when compared to other models and remained relatively flat since the inception of RPM in real terms, which stands in sharp contrast to transmission costs in PJM. Moving forward, the Commission should be mindful that to date, despite the near constant hand-ringing by some parties, PJM’s capacity has proven to be a tremendous value for consumers – achieving reliability at prices well below the Cost of New Entry.

- **PJM Market Prices Compared to the Cost of New Entry**

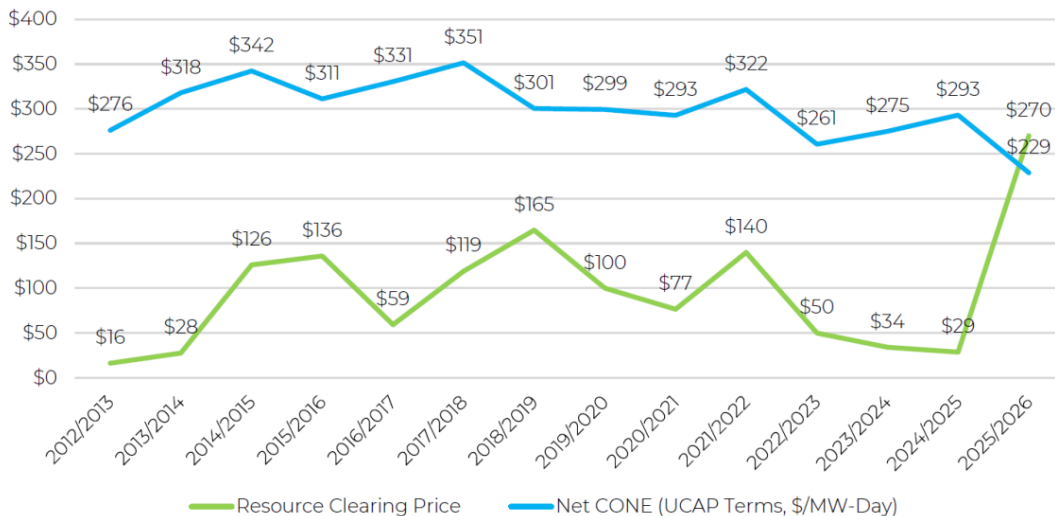
The chart below shows how PJM RTO capacity prices compare to the costs to build a new plant in PJM.<sup>5</sup> It should be noted that the capacity market was designed based on the principle that over time capacity market prices will average around Net CONE.<sup>6</sup> As the chart below clearly demonstrates, capacity prices have consistently cleared below (in some cases dramatically so) Net CONE and providing extremely low cost capacity to PJM’s consumers.

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<sup>5</sup> Governor Josh Shapiro and The Commonwealth of Pennsylvania v. PJM Interconnection, L.L.C. Docket No. EL25-46. Aksomititis Declaration, Exh. A, “PJM Capacity Auction Evaluation” (Dec. 23, 2024), at 21, Figure 3.

<sup>6</sup> *Id.*, at fn. 3.

Figure 3: Base Auction RTO Resource Clearing Price and Net CONE<sup>45</sup>



- PJM Capacity Market Prices Compared to FRR**

PJM Capacity Market prices and Appalachian Power Company's (APCo) Fixed Resource Requirement (FRR) prices represent two distinct approaches to meeting reliability obligations within the PJM footprint. FRR prices are generally based on embedded costs of the utility's generation fleet, which often results in higher costs than the RPM clearing price. While this approach can provide cost certainty and local resource control, it may also lead to less economically efficient outcomes compared to the competitive pricing in PJM's centralized market. Specifically, while in the 24/25 delivery year, PJM RTO consumers are paying \$28/MWday for their capacity while consumers in the APCO service territory are paying \$464.74.<sup>7</sup>

- PJM Capacity Market Prices Compared to California RA Prices**

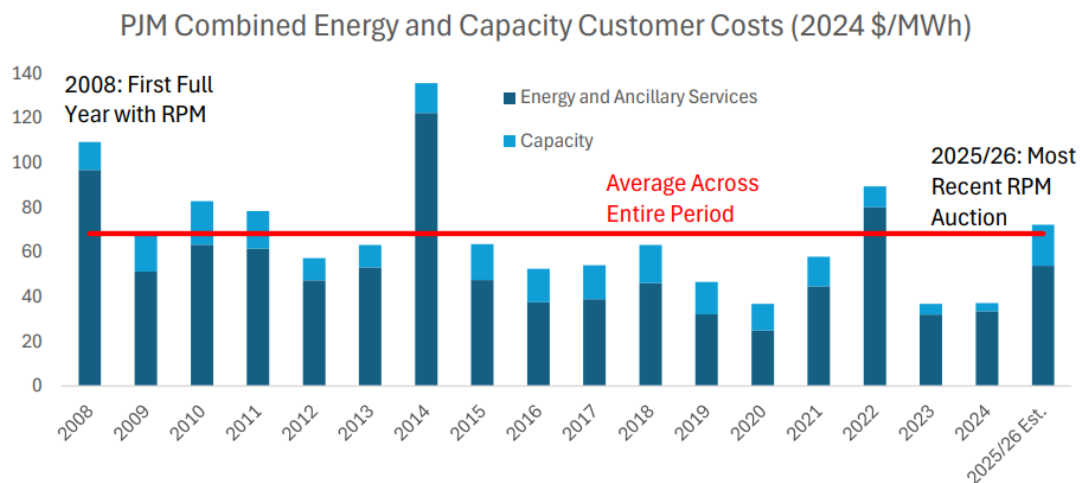
PJM Capacity Market prices and California Resource Adequacy (RA) prices differ significantly due to structural and regulatory differences in how each market ensures resource sufficiency. PJM's Capacity Market, a centralized, auction-based system, typically results in more transparent and competitive pricing. As reserve margins have tightened substantially in California, partly due to retirements of dispatchable resources and a recognition of the limited reliability contributions of solar, prices have escalated dramatically. While a similar tightening led to an RTO price of \$269/MW-day in PJM's

<sup>7</sup> <https://www.pjm.com/-/media/DotCom/markets-ops/settlements/frr-lse-capacity-rates/2024/schedule-8-1-appendix-2.pdf>

last Base Residual Auction, recent bilateral prices in California have exceeded \$1300/MWday.<sup>8</sup>

- **PJM Generation Prices Compared to Transmission Costs**

In real terms, the cost of generation (energy and capacity) to consumers has been relatively flat since the inception of RPM. While there has been some volatility due to factors like the Polar Vortex, COVID and the Ukraine War, the overall trend related to generation has been flat for 17 years. The chart below shows the combined real (in 2024 dollars) wholesale market energy, ancillary services, and capacity costs per megawatt hour of load in PJM from the full first calendar year in which the RPM was in effect – 2008 - to the most recently-completed RPM auction for the 2025/26 delivery year.<sup>9</sup>



Source: Monitoring Analytics, LLC, 2024 State of the Market Report for PJM, Table 11. Estimated costs for 2025/26 based on RPM auction results and energy forward prices from S&P Global. Adjusted for inflation using GDP deflator as reported by the U.S. Federal Reserve.

The trend in generation costs stands in sharp contrast to the trend in transmission costs, which have steadily increased in PJM since the inception of RPM as shown in the chart below<sup>10</sup>.

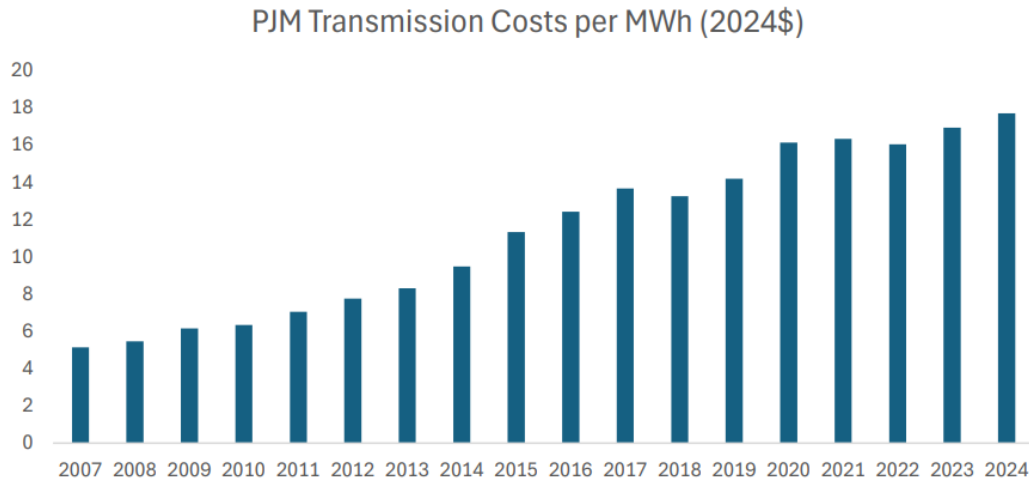
<sup>8</sup> See, <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/community-choice-aggregation-and-direct-access/2024-market-price-benchmarks-revised-20241105.pdf>.

<sup>9</sup> <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=23DDB363-E222-CF9D-B1CD-96646DB00000> at 10

<sup>10</sup> *Id* at 11.



**Figure 5**



Source: Monitoring Analytics, LLC, 2024 State of the Market Report for PJM, Table 11. Adjusted for inflation using GDP deflator as reported by the U.S. Federal Reserve

#### **IV. The Role of the States and FERC**

The PJM states played a large role in the creation of the capacity market in PJM and will continue to play a pivotal role in its success. In some respects, the PJM capacity market has overachieved and allowed consumers and policymakers to get comfortable with very low priced capacity. That said, defining an appropriate role for the state regulatory bodies in PJM is an important piece of the puzzle moving forward.

PJM is first and foremost an interstate wholesale electricity market. Fourteen separate political jurisdictions (13 states and the District of Columbia) participate in the PJM market and the very nature of a regional market lends itself to federal oversight. The framers of our Constitution recognized the need for federal oversight of interstate trade and the same logic that led to that conclusion can be applied to the interstate power markets. States have a natural and understandable motivation to act in their self-interest. Imagine what would happen if each state in an interstate market had the ability to set a lower reserve margin for its utilities than another state set for its utilities? Cross subsidization issues would drive a race to the bottom. Federal regulation of interstate commerce prevents that motivation from becoming punitive or inequitable.<sup>11</sup>

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<sup>11</sup> See 16 U.S.C. §824(b)(1), (d); *Hughes v. Talen*, 578 U.S. 150; 154-55 (2016).

State policymakers, particularly state utility commissions in Maryland, Pennsylvania, New Jersey, Delaware and DC, played an enormous role in the development of PJM as an interstate power pool and the transformation of PJM into the interstate power market that it is today. In the late 1990s, many states in the PJM footprint were motivated to restructure their electric utilities to bring the benefits of competitive market to the generation sector. With the development of non-utility generation and the promulgation of FERC Orders 888 and 2000, states saw an opportunity to bring the benefits of competitive generation to consumers. States realized that the competitive power rates were lower than the embedded cost of services rates for generation, states saw the technology advances that the competitive telecommunications market brought to that utility sector, and states seized the opportunity to bring these same benefits to the competitive power generation space. Legislatures passed laws, governors signed bills and state regulatory commissions oversaw massive restructurings of their utilities - - all with the goal of bringing the benefits of competitive generation to their respective state's consumers.

As part of this transition, many tough decisions needed to be made by state policy makers. Among other things, state regulators evaluated and adjudicated stranded costs claims. Traditional utility programs for conservation and low income consumers had to be modified. Consumers were educated on how to evaluate offers from competitive suppliers while competitive suppliers needed to be licensed and regulated to protect consumers.

While it may have been overlooked and unappreciated at the time, the transition of the wholesale markets to support the competitive retail market was driven by state regulators in the PJM footprint. State regulators recognized that the success of the retail market was inextricably dependent on the success of the regional wholesale market. Reliability was a priority for state regulators and control of generation adequacy was being moved from the state level (through the IRP process) to the FERC-regulated RTO level. Instead of state regulators deciding that a new power plant was needed after a prudency review, many states in PJM affirmatively decided to rely on private investment of at risk capital based on wholesale market signals to fulfill the generation needs of the region. Such a change in policy was not without risk, but these states appreciated those risks and moved forward accepting those risks because of the anticipated benefits of competitive wholesale markets.

In addition to the provision of adequate generation resources, the pricing of those resources was moved to the purview of the regional market. Bid-based pricing and locational marginal pricing were introduced in 1997. State commissions in the PJM footprint were very active in the FERC proceeding to establish a bid-based market for energy in PJM and played very active roles in the transformation of PJM from an interstate power pool to a Regional Transmission Organization and a competitive regional wholesale power market. State regulators actively promoted the creation of an independent board of directors to oversee PJM. States encouraged FERC to expand PJM to other regions.

The cooperation between state commissions and FERC was extraordinary during this period of time. Countless public and private meetings occurred between regulatory staffs and commissioners, all with a common goal of creating a robust regional market. Indeed, FERC pushed for the creation of the Organization of PJM States (OPSI) to formalize a role for state commissions. State commissions did not always agree with each other and FERC did not always agree with the proposals offered by individual states or the collective states. However, decisions were made and the markets advanced.

States were at the table at every step throughout this process and knew that many issues were moving from their regulatory purview to that of FERC, because the states understood the tremendous advantages of being in an RTO. More efficient transmission systems, access to low cost resources across a broad geographic footprint, and improved reliability with lower reserve margins were just some of the supporting reasons that states expressed for joining a RTO. As the Pennsylvania Public Utility Commission wrote to the Commission in 2003, “[T]he interests of ratepayers are best served by bringing greater regional competitive forces to bear on wholesale and retail energy prices, not by indulging the proprietary interests of local monopolies. Competition can best be promoted by the continued expansion and development of a seamless transmission network and wholesale energy markets administered by RTOs.”<sup>12</sup> History has proven the states correct as PJM currently estimates its total annual value to consumers at \$2.8 to \$3 billion.

In the 25 years since PJM became an RTO, there have been numerous attempts by states to reclaim some of the regulatory jurisdiction that was relinquished in the early part of the century. New Jersey and Maryland promoted regulatory schemes that were judicially determined to set the wholesale price of power in contravention of federal law and the Supremacy Clause of the Constitution.<sup>13</sup> While the motivations of New Jersey and Maryland were slightly different, the conversations that led to the state policies are instructive. During the state level debates concerns were expressed about reliability, congestion, wholesale prices, power imports from other states, and the inability of wholesale power markets to develop new generation. As a general matter, while all of these issues are important to state regulators, these issues are nonetheless under the regulatory purview of FERC as the regulator of the regional wholesale market.

Given the very nature of a regional market, it is not only appropriate, but necessary that certain regulatory decisions be made at the regional/federal level as the action of one state could impact the market of the 13 other states in the PJM region and perhaps undermine the efforts of another state to achieve its desired policy outcome. The Pennsylvania Public Utility Commission succinctly made this point to a federal court about New Jersey’s efforts

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<sup>12</sup> See Comments of the Pennsylvania Public Utility Commission, Docket No. ER03262-001, Sept. 28, 2003.

<sup>13</sup> *Ibid.*

to advance a state interest (subsidizing a new natural gas fired power plant) at the expense of the regional wholesale market:

“The PAPUC contends that state-sponsored subsidies such as New Jersey’s LCAPP are counterproductive and interfere with the efficient operation of RPM. Under the RPM mechanism, capacity prices respond to market conditions, increasing when and where capacity is scarce and decreasing when and where capacity is plentiful. When RPM’s capacity prices are high, it indicates that there is demand for additional capacity and new capacity resources should be provided. When RPM’s capacity prices are low, it indicates that there is no need for new capacity to enter the market and higher-cost capacity resources should be retired. These pricing signals help to ensure that there is sufficient capacity available to meet reliability requirements.

State-sponsored subsidy programs like the LCAPP program distort these pricing signals and interfere with the proper functioning of the market. When state subsidies incent generators to enter the market below their true economic costs, capacity prices fall in the short term. **This price decline affects not only the state where the subsidized generator is located but significantly impacts market operations across the PJM region and discourages capacity investment at cost-based prices.** Although this reduction in price of capacity investment may seem positive, the actual costs of distorting the market’s pricing signals greatly outweigh perceived short term “benefits” resulting from lower capacity prices. Lower capacity prices reduce the incentive for new capacity to enter the market even if that new capacity would be more efficient than the subsidized generators and even if that new capacity is needed to ensure reliability. Because more efficient resources are excluded from the market by the subsidized participants, state subsidy programs result in higher prices in the long-term.” (emphasis added)<sup>14</sup>

While states certainly have an interest and need to be constantly vigilant, informed, and proactive, the regulatory authority over the wholesale market rests with FERC. States rightly voluntarily entered such an arrangement in the early 2000s saving their customers billions of dollars, the courts upheld this arrangement, and the Commission should not be afraid to proactively continue its proper oversight and regulatory role that it was given to it by Congress through the Federal Power Act.

The Commission appropriately did exactly that in 2016 in regard to the efforts of AEP and FirstEnergy to secure a purchase power agreement (PPA) from their regulated affiliates without a competitive bid process. Under the Commission’s affiliate power sales restrictions, no wholesale sale of electric energy or capacity may be made between a

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<sup>14</sup> PAPUC Amicus Brief at 13-14, 766 F.3d 241It.  
[http://www.puc.state.pa.us/General/pdf/FERC/DN\\_EL16-33-000.pdf](http://www.puc.state.pa.us/General/pdf/FERC/DN_EL16-33-000.pdf)

franchised public utility with captive customers and a market-regulated power sales affiliate without first receiving Commission authorization under section 205 of the Federal Power Act.<sup>15</sup> However, the Public Utilities Commission of Ohio approved precisely what the Commission proscribed and the Commission appropriately required the state commission-approved PPA (which was a wholesale sale of power) to be effectuated consistent with FERC standards.<sup>16</sup>

It is not the Commission's prerogative to second guess the environmental, economic or other goals of the states. As the Supreme Court specifically concluded in *Talen v. Hughes*, it is not the Commission's job to tell a state that it cannot pursue its clean generation or other goals.<sup>17</sup> It is, however, the job of the Commission, as the Pennsylvania PUC points out above, to evaluate how generation will participate in the wholesale market. FERC has exclusive jurisdiction over wholesale market rates - which includes the PJM capacity construct. The Federal Power Act demands such a role for the Commission and the Supreme Court has affirmed that role.

## **VII. Recent Reforms Need Time to Be Implemented**

Since PJM's last capacity auction in July 2024, several significant changes have been implemented to its capacity market rules that need time to be absorbed by the market. These changes are significant and need some time to be understood. PJM is scheduled to have two auctions in 2025 which should, in theory, provide insights into what these changes mean for reliability for the system and costs to consumers. Among these changes are:

- **Inclusion of Reliability Must-Run (RMR) Units in Capacity Auctions**

FERC approved PJM's proposal to include certain Reliability Must-Run (RMR) units, such as the Wagner and Brandon Shores units in Maryland, as price-takers in upcoming capacity auctions for the 2026/2027 and 2027/2028 delivery years.<sup>18</sup> These units, which had planned retirements but agreed to continue operations temporarily to support grid reliability, were previously excluded from capacity calculations. Their inclusion means that 1975 MWs that did not participate in the 25/26 auction will be required to be placed into the auction for 26/27 and beyond at a price of \$0/MWday.

- **A Must Offer Obligation on All Capacity Resources Except Demand Response**

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<sup>15</sup> 155 FERC ¶ 61,101.

<sup>16</sup> Note that AEP and FirstEnergy eventually withdrew their respective requests for PPA's between their generation companies and their regulated affiliates.

<sup>17</sup> *Id.*, fn. 11.

<sup>18</sup> <https://www.pjm.com/pjmfiles/directory/etariff/FercOrders/8045/20250214-er25-682-000.pdf>

On February 20, 2025, the Commission approved PJM's request to revise its Tariff so that, beginning with the 2026/2027 Delivery Year, the categorical must-offer exemption will no longer apply to Intermittent, Capacity Storage, and Hybrid Resources.<sup>19</sup> The rule change will require these resources either to offer into the auction or relinquish their Capacity Interconnection Rights. It is very unclear at this point just what impact that this rule change will have on market dynamics as now a significant portion of the existing supply and queue will now be subject to must offer obligations that were previously not in place.

- **A Price Cap and Floor on the 26/27 and 27/28 Auctions**

On April 21, 2025, the Commission approved PJM Interconnection's proposal to implement a temporary cap and floor for its next two Base Residual Auctions (BRAs), covering the 2026/27 and 2027/28 delivery years.<sup>20</sup> This "collar" sets a price cap of \$325/MWday a price floor of \$175/MWday. The cap and floor aim to provide short-term cost certainty for consumers and revenue stability for capacity resource owners amid challenges such as rapid load growth, power plant retirements, and delays in new generation development. While FERC described the measure as a "balanced approach," some stakeholders, including PJM's market monitor, suppliers and consumer advocates, expressed concerns about the proposal. That said, with the filing approved, from now until May 31, 2028, PJM's capacity prices will be bound on both the high and low side.

- **The Reliability Resource Initiative (RRI), Queue Reform and Surplus Interconnection**

PJM's Reliability Resource Initiative (RRI), Queue Reform, and Surplus Interconnection policies are key components of its broader effort to modernize grid planning and ensure resource adequacy. RRI, which the Commission approved on February 11, 2025,<sup>21</sup> is a targeted initiative to allow high reliability value projects to navigate the PJM queue more quickly. The response to RRI has been robust with over 11 GW's of nuclear, natural gas and storage resources slated to come online and resources in the RRI initiative must participate in ten consecutive capacity auctions following acceptance. PJM's queue Reform was implemented to streamline PJM's previously backlogged interconnection process by adopting a first-ready, first-served cluster approach, improving transparency and reducing delays for new generation projects seeking to connect to the grid. Complementing this, the Surplus Interconnection process allows existing interconnection customers to sell unused transmission capability to new entrants, making better use of

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<sup>19</sup> <https://www.pjm.com/pjmfiles/directory/etariff/FercOrders/8050/20250220-er25-785-000.pdf>

<sup>20</sup> <https://www.pjm.com/pjmfiles/directory/etariff/FercOrders/8120/20250421-er25-1357-000.pdf>

<sup>21</sup> <https://www.pjm.com/pjmfiles/directory/etariff/FercOrders/8035/20250211-er25-712-000.pdf>

available grid capacity and expediting the integration of new resources without triggering full restudies. Together, these reforms help resources come online more quickly in PJM addressing frequently cited concerns about the queue backlog.

- **Retention of the Combustion Turbine Reference Resource**

In 2022, PJM made a mistake when it placed a Section 205 filing in front of the Commission to change the VRR reference unit from a Combustion Turbine to a Combined Cycle. The flaw of the Combined Cycle was obvious at the time – Combined Cycles are baseload units that run with greater frequency and are therefore more exposed to the vagaries and volatility of energy market revenues. Fortunately, PJM and the Commission recognized the downside of switching the reference unit and approved PJM’s proposal, filed in 2024, to retain the Combustion Turbine; however, it remains unclear how the revised VRR curve will interact with the numerous other market reforms in the upcoming auctions.<sup>22</sup>

## **VIII. Conclusion**

PJM’s capacity market is critical to maintaining a reliable, cost-effective electric system for millions of Americans. It provides essential forward price signals, drives efficient investment, protects consumers from supporting inefficient resources, and supports the evolution of the grid toward a more diverse and resilient future.

The PJM Power Providers Group respectfully urges the Commission to affirm the continued importance of the capacity market structure, to reject efforts to undermine its core design, and to encourage ongoing stakeholder-driven improvements that enhance the market’s effectiveness. The history of the capacity markets is complicated and the bumps along the way are undeniable, but the overall performance of the construct as it relates to costs and reliability are undeniable. This past performance should provide the Commission with a degree of optimism that if structured properly PJM’s Capacity Markets can address the challenges that await on the horizon.

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<sup>22</sup> <https://www.pjm.com/pjmfiles/directory/etariff/FercOrders/8045/20250214-er25-682-000.pdf>