

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

PJM Interconnection, L.L.C.

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Docket No. ER25-1073-000

**COMMENTS OF
THE PJM POWER PROVIDERS GROUP**

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”)¹ and the Commission’s January 28, 2025, Combined Notice of Filings #1, The PJM Power Providers Group (“P3”)² submit these comments³ on PJM Interconnection, L.L.C.’s (“PJM”) January 28, 2025 Order No. 904 compliance filing in the above-captioned proceeding.^{4 5}

I. BACKGROUND

On October 17, 2024, the Commission issued Order No. 904 directing transmission providers to revise their tariffs to prohibit the recovery of the costs of reactive power within the standard power factor range.⁶ The Commission directed transmission providers to make a compliance filing no later than March 28, 2025, revising their tariffs to eliminate any charges related to the provision of reactive power within the standard power factor range in transmission

¹ 18 C.F.R. §§ 385.211.

² 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.

³ 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.

⁴ *PJM Interconnection, L.L.C.*, Docket No. ER25-1073-000, Order No. 904 Compliance Filing of PJM Interconnection, L.L.C. (Jan. 28, 2025) (“Filing”).

⁵ P3 filed a doc-less motion to intervene in this proceeding on January 30, 2025.

⁶ *Compensation for Reactive Power Within the Standard Power Factor Range*, Order No. 904, 189 FERC 61,034 (2024) (“Order No. 904”).

rates. Although the Commission required most transmission providers to request an effective date within 90 days of their compliance filing, the Commission provided certain regional transmission organizations and independent system operators, including PJM, with flexibility to propose a later effective date to allow them to develop and implement any changes to capacity and energy market rules that may be necessary to accommodate this final rule's elimination of compensation for the provision of reactive power within the standard power factor range.⁷

On January 28, 2025, PJM submitted its compliance filing in the above-captioned docket, which proposes revisions to Schedule 2 of the PJM tariff to (1) prohibit charging transmission customers for costs associated with reactive power compensation within the standard power factor range, and (2) establish a "transition mechanism" that would permit generation owners that have been committed to provide capacity through the Reliability Pricing Model for the 2025/2026 delivery year and that meet certain other requirements to receive existing reactive power compensation provided in their Commission-accepted rate schedules until June 1, 2026.⁸ Generation owners that did not meet these criteria would no longer be compensated for their reactive power effective April 1, 2025.

PJM was required to submit this compliance filing in accordance with Order No. 904. P3 raised numerous challenges to Order No. 904, both in protest and on rehearing, and P3 continues to challenge the legality of Order No. 904 on appeal.⁹ Given that PJM is under this compliance

⁷ *Id.* at P 194.

⁸ *PJM Interconnection, L.L.C.*, Docket No. ER25-682-000, Revisions to Reliability Pricing Model (Dec. 9, 2024).

⁹ P3 currently has a petition for review of the Commission's October 17, 2024 Order (RM22-2-000; RM22-2-001; 189 FERC 61,034 (2024); 189 FERC 62,127 (2024)) ("Order No. 904") pending at the U.S. Court of Appeals for the 5th Circuit. See *Vistra Corp., et al. v. FERC*, 5th Cir. Case No. 25-60055, et al. ("P3 Reactive Power Appeal"). Nothing contained herein shall constitute a waiver of any positions or statements made by P3 in the P3 Reactive Power Appeal.

obligation under Order No. 904, P3 is filing these comments for the limited purpose of addressing PJM's proposed transition mechanism.¹⁰

II. COMMENTS

As PJM acknowledges in its filing, the auction rules for base residual auctions ("BRA") conducted through the 2025/2026 delivery year were premised on the availability of reactive power compensation under Schedule 2 of the PJM tariff.¹¹ Specifically, the Net Cost of New Entry ("Net CONE") used to establish the Variable Resource Requirement Curve and the Minimum Offer Price Rule Floor Offer Price ("MOPR Floor Offer Price") included in their formulation an Energy and Ancillary Services Offset ("EAS Offset") that assumed that resources would receive revenues for reactive power under Schedule 2.¹²

PJM proposes to account for this reality by adopting a transition mechanism that would allow resources¹³ with a capacity commitment for the 2025/2026 delivery year to continue to receive reactive power compensation until June 1, 2026—*i.e.*, through the 2025/2026 BRA delivery year.¹⁴ P3 agrees that it is only logical that generation resources that were committed to provide capacity for the 2025/2026 delivery year based on offer rules and a demand curve premised on the availability of reactive power compensation under Schedule 2 be allowed to receive such

¹⁰ For the avoidance of doubt, nothing in these comments should be interpreted as waiving any of the arguments raised in the rehearing request submitted by P3 and numerous other parties. P3 continues to believe that Order No. 904 and its requirement that transmission providers eliminate reactive power is unjust, unreasonable, and unlawful.

¹¹ Filing at 3-4, 13-14.

¹² *Id.*

¹³ While P3 believes that the Commission must approve PJM's proposal to allow resources committed through the 2025/2026 delivery year to continue to receive reactive power until June 1, 2026, P3 notes that PJM's filing would eliminate reactive power compensation for resources committed for the 2024/2025 delivery year on April 1, 2024—prior to the end of the 2024/2025 delivery year. P3 believes that the Commission should direct PJM to allow resources committed to provide capacity through the 2024/2025 delivery to continue to receive reactive power payments until June 1, 2025.

¹⁴ Filing at 9.

compensation until the conclusion of the 2025/2026 BRA delivery year when PJM has proposed to sunset the inclusion of the EAS Offset in these BRA inputs.¹⁵

Rejecting PJM's proposal to continue to compensate resources for reactive power through the 2025/2026 delivery year would be inconsistent with a fundamental premise of Order No. 904: that generation resources should pass the costs associated with providing reactive power within the standard power factor range onto their energy and capacity customers.¹⁶ Even if generation resources could assign their reactive power costs to capacity customers going forward, the rules applicable to the 2025/2026 BRA and prior BRAs prevented them from reflecting these costs in their capacity supply offers.¹⁷ And the BRA was cleared using a demand curve that assumed that resources would recover their reactive power costs under Schedule 2 of the PJM Tariff.

Additionally, retaining reactive power compensation for resources that have been committed to provide capacity through the 2025/2026 delivery year is required by the Filed Rate Doctrine and the rule against retroactive ratemaking. The Filed Rate Doctrine and rule against retroactive ratemaking prohibit retroactive changes to the rates, terms, and conditions of FERC-jurisdictional service.¹⁸ Although these doctrines prohibit public utilities or the Commission from

¹⁵ *Id.* at 14; *PJM Interconnection, L.L.C.*, Docket No. ER25-682-000, Revisions to Reliability Pricing Model at 84 (Dec. 9, 2024) (“PJM is proposing to sunset reactive power revenue components from capacity market calculations beginning with the upcoming 2026/2027 Delivery Year, but to include reactive power revenue inputs up through the 2025/2026 Delivery Year since reactive revenues have already been included in avoidable cost calculations associated with the 2025/2026 Base Residual Auction.”).

¹⁶ *See, e.g.*, Order No. 904 at P 105 (“[W]e find that to the extent there are *de minimis* variable costs associated with providing reactive power within the standard power factor range, generating facilities in RTO/ISO markets could seek to recover such costs through energy and capacity markets.”).

¹⁷ P3 continues to question whether generators can, in fact, recover reactive power costs through the capacity market. P3 further notes that resources that do not sell capacity are clearly not able to recover reactive power costs through the capacity market.

¹⁸ *Old Dominion Elec. Coop. v. FERC*, 892 F.3d 1223, 1226 (D.C. Cir. 2018) (explaining that the FPA “empowers the Commission to fix or change rates and charges, but only prospectively.... the Commission has no authority under the [FPA] to allow retroactive change in the rates charged to consumers.”). *See also Okla. Gas & Elec. Co. v. FERC*, 11 F.4th 821, 829 (D.C. Cir. 2021) (explaining that the Filed Rate Doctrine “is shorthand for the interconnected statutory requirements that bind regulated entities to charge only the rates filed with FERC and to change their rates only prospectively.”).

proposing to make rate changes effective prior to the date of a filing, the courts have recognized that “determining retroactivity ‘is not always a simple or mechanical task.’”¹⁹ The courts have recognized, for instance, that a nominally “prospective” tariff change violates the rule against retroactive ratemaking when it attaches new legal consequences to past actions, such as impairing the rights a party possessed when he acted, increasing a party’s liability for past conduct, or imposing new duties with respect to transactions already completed.²⁰ In the context of capacity market auctions, courts have found that this prohibition is violated where resources are committed to an auction based on inputs that are subsequently and retroactively changed.²¹

Eliminating reactive power compensation for resources that were committed through the BRA based on auction rules premised on the availability of reactive power compensation would violate the Filed Rate Doctrine and rule against retroactive ratemaking. Capacity market sellers submitted offers to sell capacity through the 2025/2026 delivery year that excluded the costs of reactive power capability because they had the right to recover their reactive power costs by establishing a reactive power rate schedule, and PJM cleared the market using a demand curve calculated based on inputs that assumed the availability of such reactive power compensation. Eliminating reactive power compensation for resources that have been committed to provide reactive power through the 2025/2026 delivery year would thus attach new legal consequences to these capacity market sellers’ offers by prohibiting these resources from recovering a revenue stream assumed into their capacity offers and the market as a whole at a time when these sellers have no ability to revisit their capacity market offers and commitments.

¹⁹ *PJM Power Providers Group v. FERC*, 96 F.4th 390, 398 (3d Cir. 2024).

²⁰ *Id.*

²¹ *Id.* at 399.

III. CONCLUSION

For the foregoing reasons, P3 respectfully requests that the Commission issue an order consistent with its comments in this docket.

Respectfully submitted,

On behalf of The PJM Power Providers Group

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February 18, 2025

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served upon the individuals designated on the Commission's official service list for this proceeding.

Dated at Washington, D.C., this 18th day of February, 2025.

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