

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.

)

Docket No. ER25-682-000

COMMENTS AND REQUEST TO SEVER
OF THE PJM POWER PROVIDERS GROUP

In accordance with the Federal Energy Regulatory Commission’s (the “Commission” or “FERC”) December 10, 2024, Errata Notice Extending Comment Period to January 6, 2025, in the above-captioned proceeding, the PJM Power Providers Group¹ (“P3”) submits these comments and request to sever² in response to the December 9, 2024, section 205 of the Federal Power Act filing by PJM Interconnection, L.L.C. (“PJM”) proposing to revise several aspects of PJM’s capacity market, known as the Reliability Pricing Model (“RPM”) (“PJM 205 Filing”).³

¹P3 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. 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.

² On December 11, 2024, P3 filed a doc-less Motion to Intervene.

³ *PJM Interconnection, L.L.C.*, Docket No. ER25-682-000 (filed December 9, 2024) (“PJM 205 Filing”).

I. COMMENTS AND REQUEST TO SEVER

While P3 appreciates PJM's efforts to put forth capacity market reforms that will address the looming supply/demand balance challenges and return PJM's capacity market to a regular and predictable market mechanism to support resource adequacy, the instant PJM 205 filing represents a mixed bag of positive improvements, unfortunate regressions and unnecessary diversions. Most critically, the region must return to an auction schedule that is timely, to allow the market to work as intended, sending accurate price signals that will lead to needed critical investment to address looming supply/demand challenges. Given the already compressed timeframe and the urgency of bringing much needed market certainty to PJM's capacity market, P3 wishes the PJM filing consisted entirely of positive market reforms. Unfortunately, this 205 filing includes provisions that are problematic and will hamper PJM's efforts to address reliability in the face of challenges presented by rising demand and shrinking supply.

The auctions impacted by these reforms are important ones.⁴ The 2025/2026 auction sent a signal to the market that more capacity is needed in PJM and the market is responding.⁵ An auction outcome that is not reflective of the current supply/demand dynamics would damage the

⁴ PJM proposes that most of the reforms in this filing are only applicable to the 26/27 and 27/28 base residual auctions.

⁵ Since the 25/26 auction results were announced, Constellation announced that it had entered into an agreement to restart the Three Mile Island nuclear facility (<https://www.constellationenergy.com/newsroom/2024/Constellation-to-Launch-Crane-Clean-Energy-Center-Restoring-Jobs-and-Carbon-Free-Power-to-The-Grid.html>), Middle River announced it was withdrawing the deactivation notice for its Elgin Energy Center (<https://www.utilitydive.com/news/middle-river-power-retire-elgin-power-plant-pjm-interconnection/726824/>), Homer City Redevelopment LLC announced that it was converting and restarting the retired coal facility with natural gas (<https://www.powermag.com/largest-pennsylvania-coal-fired-plant-will-convert-to-natural-gas/>) and Calpine announced it was accelerating its PJM development program (<https://www.calpine.com/calpine-accelerates-pjm-development-program/>). Similarly, LS offered in Docket No. EL24-148-000 that, "As a response to the July 2024 auction results, which indicated that the PJM capacity market is no longer in an excess capacity situation, LS Power restarted development of a portfolio of investment opportunities in both existing and new capacity resources in the PJM footprint." Exhibit 3, Testimony of Nathan Hanson, President Generation LS Power Development, LLC at p. 6.

current momentum and stoke investors' fears that PJM and FERC will go to extraordinary lengths to price outcomes below competitive levels.

P3 is cognizant of the limitations on FERC presented by a 205 filing and the restraints of *NRG Power Marketing, LLC v. FERC*, No. 15-1452 (D.C. Cir. 2017). Ideally, as part of its answer in this docket, PJM would agree to sever the most problematic aspects of the 205 filing (the treatment of RMR assets in capacity auctions and changes to the market oversight of resources with a must offer exemption) which PJM could easily do because the issues presented in the 205 filing can be considered separately, are not critically dependent on other parts of the filing and are before the Commission in other dockets.⁶ A less desirable alternative, given the uncertain legality of making substantive changes to a 205 filing, is to make changes to the PJM 205 filing that ameliorate certain problematic aspects of the current PJM filing.

A. P3 Agrees with Retaining the CT Reference Unit

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 at Combustion Turbine to a Combined Cycle.⁷ 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. Volatile capacity prices created by a Combined Cycle

⁶ P3 observes that, PJM could have addressed all the issues in this filing in separate 205 filings, but instead chose to put them together in a single filing even though each of these reforms could stand on their own and are not interdependent package of market revisions. Whether intentionally or not, PJM is tying the Commission's hands and forcing FERC into a Hobson's choice that could have been avoided had PJM elected a different filing strategy.

⁷ See *PJM Interconnection, L.L.C.*, Docket No. ER22-2984-000 (filed September 30, 2022). As P3 told the Commission, "Approval of PJM's filing will unnecessarily interject volatility into the PJM's capacity markets and increase the risk to reliable resources while denying the financial needs of the units that are and will be needed to support the PJM electrical system in the future." See Attachment A, Protest of The PJM Power Providers Group, Docket No. ER22-2984-000 at p 6. ("Attachment A, P3 2022 Protest")

reference unit will not manifest the stable market signals that are necessary to incentivize investment in new and existing capacity.

Fortunately, PJM has now put before the Commission the ability to undo the decision that never should have been made. P3 fully supports the Combustion Turbine reference unit as it is a unit that is more dependent on capacity market revenues and less exposed to the volatility of energy market revenues. Combustion Turbines are peaking, and not baseload, units that will pair nicely with intermittent renewable resources. The Combustion Turbine will feature a lower, but appropriate, offer cap and produce a curve that will have more slope which will reduce price volatility and yield a more stable environment for investment. Also, importantly, the CT reference unit significantly reduces the possibility of the elimination of penalty risk for non-performance because of a Net CONE at zero.

Attachment A contains P3's filing from 2022 which remains on point today. P3 offers this attachment to support the record in this case. As P3 said then and remains true today,

P3 supports the retention of the Combustion Turbine reference unit. CT units will not be as dependent on energy market revenues (because they do not run as often) and, as such, the Net CONE used to produce the VRR Curve will not be subject to the energy market volatility that will impact CCs given that CCs run more than CT. Correspondingly, the Net CONE will remain consistent with the methodology PJM has been using since 2006, and will continue to offer the longer-term transparency and stability that RPM was originally designed to provide. Moreover, as the grid evolves to incorporate more intermittent resources, smaller and more nimble units are going to be required to meet the reliability demands of the system, which between the reviewed reference unit choices, are better reflected in the form of gas-powered CTs.⁸

⁸ See Attachment A, P3 2022 Protest at pp. 17-18.

P3 would note that while the decision to remain with the Combustion Turbine is the appropriate one for the 2026/2027 and 2027/2028 auctions, there are still issues related to the setting of the VRR curve that need to be addressed going forward. As PJM and the Commission consider the reference unit for the 2028/2029 auction and beyond, there needs to be a recognition that state and federal policies may significantly increase or prevent the construction of certain technologies. PJM has commenced stakeholder discussions on these issues and looks forward to a successful resolution some time in 2025.⁹ P3 also continues to believe that over time, an historical calculation of EAS revenues is preferable as it is more transparent and less subjective.¹⁰

B. P3 Supports a Penalty Factor Based on RTO Net CONE

Non-performance charges or penalties are intended to incentivize performance of capacity resources during times of system stress. These non-performance charges are currently tied to the value of Net CONE of the LDA in which the non-performing or under-performing Capacity Resource is located. PJM is concerned that given the tightening supply/demand dynamics that certain LDAs could produce a Net CONE at or near \$0 which would effectively mean that resources in that LDA would have no incentive to perform during emergencies.

PJM proposes and P3 supports a move to a single uniform penalty rate based on the RTO Net CONE. Such a uniform penalty will effectively eliminate the possibility of a subset of PJM capacity resources having no exposure to penalty risk and therefore no incentive to perform. P3 appreciates that this revised penalty rate would only be applicable for the 2026/2027 and 2027/2028 delivery years as PJM considers moving to a fixed penalty rate that would apply

⁹ See <https://pjm.com/-/media/committees-groups/committees/mic/2024/20240710/20240710-item-07---quadrennial-review-of-the-vrr-curve-parameters.ashx>

¹⁰ See Attachment A, P3 2022 Protest at pp 9-15.

regardless of the Net CONE which could fluctuate annually. PJM has also struggled with the calculation of a forward-looking Energy and Ancillary Services and a move to a fixed penalty rate would help work around those challenges. However, as it relates to the proposed revised penalty rate in this filing, PJM's proposal is just and reasonable and merits Commission approval.

C. P3 Opposes PJM's Proposed Treatment of RMR Units in the Capacity Market.

PJM's proposed treatment of RMR Units in the capacity market represents an unfortunate regression from the current tariff paradigm. RMR Units are different than capacity resources - often limited in their operability, taking no rents from the market, whose remaining existence is completely independent of any capacity commitment period. While P3 appreciates the desire to address the concerns raised by state and consumer interests, if approved, the proposed changes will further send PJM down a road that will only prolong the successful resolution of the issues that created the RMR in the first instance while unnecessarily compromising reliability.

As the Commission has been informed on numerous occasions, RMRs are the result of a market failure. RMR resources are most likely retiring because the market did not provide them with the required financial support even though the resources are needed to preserve the reliable operation of the system. Had the market provided the necessary revenues, the RMR contracts would not be necessary. Of the last three RMR designations in PJM, and on the heels of capacity market clearing prices well below the cost of new entry, all three RMRs required or require multi-year transmission upgrade projects to alleviate the constraints resulting from the retirements of power generators, lasting as long as December 31, 2028, in the case of the Maryland RMRs. Allowing capacity prices to reflect scarcity is not only prudent, but also vitally important to direct capital where it is needed most.

RMR units are the canary in the coal mine as they warn of adverse conditions and the need to pay attention to signs to prevent more significant problems from arising. Yet, PJM, in an abrupt reversal from its earlier position, seeks to mask one of the most important warning signs the wholesale market has, leaving the detection at the mine mouth. As the PJM Independent Market Monitor (“IMM”) recently succinctly stated, “The need for RMR contracts is evidence of a failure in market design. It should never be the case that a resource does not clear in the capacity market auction and then, when it wants to retire as a result, is deemed critical to reliability and not allowed to retire.”¹¹

Regrettably, PJM seeks to replace a market failure with a market distortion. As the PJM Board stated, “...requiring participation of a deactivating unit in the capacity auction under the existing RMR agreements could distort the price signal and fail to incent the new build needed in Maryland and in the rest of the regional transmission organization (RTO),”¹² and PJM then reiterated a mere three months ago, “where an inferior product is being substituted for a superior one, it results in price suppression and prices signals that do not match the actual supply and demand balance.”¹³ Yet, in this filing, that is exactly what PJM asks the Commission to sanction. The inescapable reality is that RMR resources do not have the same commitments to the market that capacity resources do and yet PJM asks FERC to basically pretend that they do. Capacity resources have performance obligations, energy market must offer requirements and face stiff penalties for non-performance. RMR units in PJM do not. In fact, if RMR units

¹¹ See https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2024/2024q3-som-pjm.pdf at 5.

¹² See, <https://www.pjm.com/-/media/DotCom/about-pjm/who-we-are/public-disclosures/2024/20240919-pjm-board-response-consumer-advocates-letter-re-urgent-reforms-pjm-capacity-market-re-reliability-must-run-units.pdf> at 3.

¹³ See *Sierra Club v. PJM Interconnection, L.L.C.*, Complaint of Sierra Club, Natural Resources Defense Council, Public Citizen, Sustainable FERC Project and Union of Concerned Scientists, Docket No. EL24-148-000 (Sept. 27, 2024), Answer of PJM Interconnection, LLC, (Oct. 18, 2024) (“PJM Answer to RMR Complaint”) at p. 11.

would have been capable of performing as capacity resources and compensated appropriately, they would have cleared the capacity auction and not need an RMR contract from PJM in the first instance.

Again, a mere three months ago, PJM made a compelling case that stands in sharp contrast to its current proposal. As PJM offered in October, “Through an economic lens, reliance on resources that are not comparable to Capacity Resources would effectively substitute a potentially lower quality product (RMR resources) for a superior one (Capacity Resource). Such an outcome would misrepresent the supply of capacity and, all else equal, would result in artificially reduced clearing prices. While low capacity prices in and of themselves are natural when the system has adequate available resources, in the case where an inferior product is being substituted for a superior one, it results in price suppression and prices signals that do not match the actual supply and demand balance.”¹⁴ Well said, PJM. P3 could not agree more.

Attachment B contains the testimony of Dr. Roy Shanker which was prepared on behalf of P3 and offered into the previous complaint docket.¹⁵ Whether it is in response to the prior complaint or the instant PJM 205 filing, the impact on the market is the same if RMR units are committed into the market as price takers. As Dr. Shanker observes, in either case prices do not accurately reflect supply/demand dynamics and reliability is jeopardized as a result.¹⁶

PJM proposes that resources that meet certain requirements be placed into the auction with a bid of \$0/MW-day. While PJM attempts to ensure that RMR units will have some

¹⁴ See PJM Answer RMR Complaint at pp. 10-11.

¹⁵ See Attachment B, *Sierra Club v. PJM Interconnection, L.L.C.*, Protest of The PJM Power Providers Group, Docket No. EL24-148-000 (Oct. 24, 2024), Attachment 1, Affidavit of Roy D. Shanker, PhD. (“Attachment B, P3 Protest RMR Complaint”).

¹⁶ See Attachment B, P3 Protest RMR Complaint.

minimum performance capabilities, no matter how hard PJM tries, PJM cannot say the RMR units and Capacity Resources provide the same value even though the MWs are counted just the same to meet the reliability requirements.¹⁷ Apples are not oranges no matter how much sugar you put on the apples.

And then bizarrely and with minimal justification and no stakeholder input, PJM suggests that it will run multiple planning models when there is ambiguity regarding the ability of the RMR unit to meet the proposed prerequisites that would force it to participate in the auction.¹⁸ The Commission needs to reject this idea quickly. Markets demand certainty of administrative measures and market participants rely on PJM's planning parameters to provide that certainty to inform many business decisions. The inclusion or exclusion of RMR resources will impact CETO and CETL calculations that form the basis of the planning parameters. The notion that market participants will submit offers not knowing whether RMR units are going to be included in the auction with \$0/MW-day offers is not an outcome that the Commission can endorse. Efficient auctions require clear and accessible information that leave no room for misinterpretation, or they become ripe for dispute. Disputes arising from ambiguity will certainly lead to more auction delays which in turn will further delay investment in badly needed energy infrastructure. P3 is not sure where this idea came from, but it needs to be rejected without hesitation.

Moreover, PJM is also setting itself up for significant turmoil in the third Incremental Auction. To the extent that an RMR unit experiences a catastrophic failure (which is certainly

¹⁷ PJM makes this point clearly in the filing, "the RMR resource will not be required to offer into the Day-ahead Energy Market (i.e., the energy market must-offer), will not be subject to intra-Delivery Year rating, operational testing, or resource deficiency charges, and will not be eligible for Non-Performance Charges for underperformance or bonus payments for over-performance." PJM 205 Filing at p. 26.

¹⁸ See PJM 205 Filing at footnote 50.

possible for a unit that has every intention of retiring), PJM will need to procure capacity to replace that unit in the third incremental auction. With the capacity gone and unavailable and no previous price signal sent to support it, the zone will almost certainly be severely short when several hundred MWs are not available. In the best-case scenario, PJM can purchase sufficient replacement capacity (albeit at a likely higher price). In the worst-case scenario, the zone has insufficient capacity months ahead of when it is needed.

Finally, the Commission also needs to consider whether this contrived scheme will create a significant disincentive for resources owners to agree to an RMR agreement. RMR units are needed to preserve reliability and RMR agreements are voluntary. By requiring RMR units to in essence participate in capacity markets, PJM is injecting additional uncertainty and risk for the owners of these resources that are seeking to exit the market.¹⁹ Although under PJM's proposal RMR units would not face strict capacity performance penalty risk, there could be consequences for non-performance under the RMR agreement and to the unit owner's reputation if the unit, that is retiring, fails when needed. The Commission should be very concerned that in an effort to reduce capacity market prices, an incentive is being created to exit the market even faster that would lead to even more complicated reliability challenges.

While P3 is firmly of the mind that the RMR related provisions in this filing should not be accepted, if the Commission embraces PJM's invitation to modify PJM's proposal consistent with PJM's overall objectives, it should insist on the following changes:

¹⁹ See *Sierra Club v. PJM Interconnection, L.L.C.*, Protest of The NRG Companies in EL24-148-000 (Oct. 24, 2024). NRG states that had a requirement like the one proposed by PJM in this docket been in place, it would have deactivated its Indian River unit and not entered an RMR.

1. The notion of running multiple planning models must be rejected.²⁰
PJM should decide prior to the posting of the parameters whether it intends to force an RMR unit into an auction and craft the parameters based on that decision. Capacity sellers should submit one offer based on one set of parameters. If subsequent adjustments need to be made based on the status of the RMR unit, those adjustments can be made in the incremental auctions. FERC should insist PJM's compliance filing only allows for the running of one model based on a single set of parameters.
2. PJM should calculate specific ELCC values for RMR units based on their reduced obligations to the market. RMR units do not share the same risks of penalties that other resources do, and that reduced penalty risk should be reflected in the units' ELCC values. FERC can direct PJM to undertake these calculations and factor them into the planning parameters for any auction in which RMR resources are forced to participate.
3. The Commission also should consider whether RMR units should be required to participate in the auction as price takers. RMR units that can perform during all emergencies may incur incremental going forward costs above the costs necessary to perform only during the identified transmission contingencies. It is inefficient to add costly

²⁰ See PJM 205 Filing at footnote 50.

performance obligations on an RMR resource if there may be lower cost capacity available to consumers. Requiring an RMR resource to reflect those incremental costs in its capacity offer will allow consumers to access potentially lower cost resources rather than being forced to take RMR capacity and all of its inferior attributes.²¹ The Commission could direct PJM to account for this possibility in its compliance filing.

D. Proposed Changes Related to the Must Offer Exception and Market Power Are More Appropriately Addressed in Docket ER25-785

P3 is struggling to understand why PJM would place proposed tariff changes related to the must offer requirement and market power in this 205 filing knowing that on December 20, it planned to and eventually did make a 205 filing to eliminate the must offer obligation for all capacity resources except Demand Response.²² Whether FERC accepts or rejects PJM's proposed tariff changes to eliminate the must offer exemption for intermittent and storage resources will have a material bearing on the market power considerations and the appropriate tariff language to support it. Since PJM's proposed tariff language specifically mentions "Generation Capacity Resource" and "Intermittent Resources, Storage Resources, Hybrid Resources" in this docket, the proposed tariff language will make no sense if FERC approves PJM's submittal in Docket No. ER25-785 since Demand Response would be the only resources

²¹ If an RMR resource is not selected to provide capacity, the RMR performance obligation should reflect that and the consumers paying the RMR costs would avoid the incremental operations and maintenance costs. If an RMR is selected, it would likely include the incremental costs in its RMR agreement, but consumers would get the benefit of the capacity revenue offsetting those incremental costs.

²² See *PJM Interconnection, L.L.C.*, Extending the Capacity Must-Offer Requirement to All Generation Capacity Resources, Docket No. ER25-785-000 (December 20, 2024).

to continue to enjoy a must offer exemption. The language would be obsolete within days under this scenario.

PJM has even further muddled the waters by indicating in Docket No. ER25-785 that when it submits its answer in this docket that it will “consent” to changes to clean up the tariff language.²³ However, the Commission can only do that if it knows the outcome of Docket No. ER25-785 which is on a later disposition track than this proceeding. How can the Commission possibly know how to “clean up” the tariff language in this docket without knowing the disposition of ER25-785? If the Commission is scratching its head, it’s for good reason.

Again, P3 urges PJM to consent in its answer to a severing of the changes to Tariff Attachment DD, section 6.6(g) and Attachment DD, section 6.6A(c). Doing so would allow the Commission to reject these changes in this docket and direct any changes, if necessary, as part of PJM’s compliance obligation in ER25-785. PJM should have chosen this path in the first instance and there is still an opportunity available to PJM to put issues related to market power and the must offer exemption in a more appropriate posture for consideration.

If the Commission is forced to deal with this misplaced issue in this docket, it should understand that PJM’s Filing Letter and proposed Tariff revisions are not consistent. Those differences introduce material challenges and confusion for market participants. Based on PJM’s filing letter, PJM states that it intends to include in its assessment of market power, “an asset manager or commercial manager that exercise[s] influence over the Sell Offer decision associated with the underlying Capacity Resource.”²⁴ However, in its proposed tariff revisions, PJM makes no such reference to asset managers or commercial managers. Regardless of

²³ See *id.* at pp. 30-31.

²⁴ See PJM 205 Filing at p. 78 n 238.

whether the cited language was inadvertently left out of the tariff revisions or mistakenly included in the filing letter, PJM’s contemplation of such a broad application of rules around common control pose significant risks for capacity market participants. Many companies manage the assets of other companies and a blanket requirement to hold all aspects of such an arrangement accountable for the others, even between unrelated entities, is an unnecessary compliance trap for these companies. PJM concedes multiple times in the filing that this language is not necessary and P3 respectfully submits that the confusion it would create by its addition would do more harm than good.

E. Given the Current Legal Posture of Reactive Power Policy, P3 Supports PJM’s Proposed Reactive Power Tariff Revisions

As PJM notes, in Order No. 904, the Commission found that “transmission rates are unjust and unreasonable to the extent they include charges associated with the provision of reactive power within the standard power factor range.”²⁵ Thus, the Commission directed transmission providers to submit compliance filings to update their respective *pro forma* open-access transmission tariffs to prohibit the inclusion of such charges in transmission rates through a compliance filing to be made within 60 days of the effective date of the final rule.²⁶ The Commission also found that Section 205 filings may accompany a transmission provider’s Order No. 904 compliance filing.²⁷

In this Section 205 Filing, PJM proposes “two discrete revisions—that are severable from all other aspects of this filing— to remove the impact of reactive power revenues from the capacity market beginning with the upcoming 2026/2027 Base Residual Auction”: (1) removal

²⁵ See Order No. 904, at P 51; PJM 205 Filing, p. 81.

²⁶ See PJM 205 Filing at p. 82, citing 89 Fed. Reg. 93410 (Nov. 26, 2024).

²⁷ See Order No. 904 at P 225.

of the addition of \$2,546/MW-year in reactive service revenues to the calculation of the net EAS Offset used to determine the Net CONE of the Reference Resource for the 2026/2027 Base Residual Auction, and (2) for certain Generation Capacity Resources subject to the provisions of the MOPR, the addition of new tariff language limiting the inclusion of reactive services revenues or ancillary services revenues in the net EAS revenue estimate component of default New Entry MOPR Floor Offer Prices.²⁸

P3 was one of numerous interested parties that filed a petition for rehearing of Order No. 904, raising substantive legal and procedural issues with the Order's findings.²⁹ P3 members continue to litigate the Commission's decision to eliminate reactive power compensation and believe the decision to do so was in error. However, given the current legal posture of the pending matters, PJM was essentially required to propose reforms consistent with Order No. 904. P3 supports PJM's proposal to make the reforms effective for the 2026/2027 delivery year as a reasonable approach to an unfortunate decision.

II. CONCLUSION

P3 appreciates that this filing puts the Commission in a difficult spot. After multiple delays to the 2026/2027 auction, PJM has offered a mixed bag of positive and negative market reforms that the Commission must consider within significant legal and time constraints. Providing the PJM markets with the needed certainty and returning the auctions to a regular cadence while adjudicating this filing is no small task, but it must be done. With that in mind,

²⁸ See PJM 205 Filing at pp. 82-83.

²⁹ *Request For Rehearing of The Indicated Generation Parties*, Compensation for Reactive Power Within the Standard Power Factor Range, FERC Docket No. RM22-2-001, dated November 18, 2024.

P3 offers the following three options to the Commission (and PJM) in the order in which they should be pursued.

Option 1 – P3 urges PJM in its answer to consent to making each of the proposed reforms in the Section 205 filing severable. The five main proposals in PJM’s 205 filing are sufficiently independent to allow for separate consideration of each. Moreover, since the 205 filing was made by the PJM Board and not on behalf of PJM stakeholders there is no stakeholder deal that needs to be preserved, which was an important consideration in *NRG Power Marketing, LLC v. FERC*. PJM made this “deal” with itself – it has the power to undo it. Making the reforms severable is PJM’s decision and it would allow FERC to press forward with the needed market reforms while allowing the auction to proceed on PJM’s desired schedule.

Option 2 – The Commission should approve PJM’s proposed tariff revisions related to the reference unit and the revised penalty factor and PJM’s proposal related to reactive power. The reforms related to the reference unit and penalty factor enjoy broad support and will make material improvements to the upcoming auctions and the reactive power changes are an acceptable reaction to a flawed decision. The RMR-related reforms are the subject of a separate complaint, have proven to be highly controversial and could be the subject of ongoing litigation that could be disruptive to future auctions. Similarly, the provisions related to market power and the must offer requirement are more appropriately addressed in Docket ER25-785. If the Commission issues a deficiency notice in this proceeding, it should request that PJM consent to

severing the five discreet portions of the filing so they can be appropriately adjudicated in this and other proceedings.³⁰

Option 3 – The least desirable of all the options is for the Commission to test the edges of *NRG Power Marketing, LLC v. FERC*, and approve the filing while making substantive changes to PJM’s filing as P3 suggests. P3 fears the litigation risks associated with such an adjudication and worries that the inevitable challenges will perpetuate market uncertainty at a time when exactly the opposite is needed. However, if the Commission goes down this road, it should insist that PJM calculate appropriate ELCC values for RMR units forced into the auction as price takers and reject PJM’s absurd notion that auctions can be conducted with multiple sets of parameters and outcomes.

P3 thanks the Commission for consideration of these comments and hopes the Commission appreciates P3’s aspiration to quickly position PJM’s capacity markets to provide the structure and certainty needed to meet the undeniable reliability challenges with market-based solutions that will be the least costly to consumers. P3 believes in capacity markets and hopes to see them structured in a way that achieves that vision in short order. Approving certain

³⁰ See, e.g., *California Indep. Sys. Operator Corp.*, 171 FERC ¶ 61,120, at P 31 (2020) (noting the “Commission staff asked whether the individual elements of CAISO’s proposal are severable” in a deficiency letter); and *PacifiCorp*, 179 FERC ¶ 61,089, at P 35 (2022) (“In response to the Deficiency Letter question regarding the severability of PacifiCorp’s proposed Tariff modifications, PacifiCorp states that it is willing to sever from the rest of the filing package the proposed changes in Tariff section 38.4.3 regarding the timing of responding to deficient interconnection requests.”).

aspects of PJM's filing, rejecting others and placing PJM on a definite path to address the remaining shortcomings will be a helpful start to getting there.

Respectfully submitted,

On behalf of The PJM Power Providers Group

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January 6, 2025

CERTIFICATE OF SERVICE

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

Dated at Washington DC, this 6th day of January, 2025.

On behalf of The PJM Power Providers Group

/s/ Diane Slifer

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