

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

Joint Consumer Advocates	)	
	)	
v.	)	
	)	<b>Docket No. EL25-18-000</b>
PJM Interconnection, L.L.C.	)	
	)	

**PROTEST**  
**OF THE PJM POWER PROVIDERS GROUP**  
**AND THE ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to the November 19, 2024, Combined Notice of Filings #1 and the December 3, 2024 Notice of Extension of Time issued by the Federal Energy Regulatory Commission (the “Commission” or “FERC”) in the above-captioned proceeding, the PJM Power Providers Group<sup>1</sup> (“P3”) and the Electric Power Supply Association<sup>2</sup> (“EPSA”) protest the November 18, 2024,

---

<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 83,000 MWs of generation assets and produce enough power to supply over 63 million homes in the PJM region covering 13 states and the District of Columbia. For more information on P3, visit [www.p3powergroup.com](http://www.p3powergroup.com). This protest represents the position of P3 as an organization but not necessarily the views of any particular member with respect to any issue.

<sup>2</sup> EPSA is the national trade association representing competitive power suppliers in the U.S. EPSA members provide reliable and competitively priced electricity from environmentally responsible facilities using a diverse mix of fuels and technologies. EPSA seeks to bring the benefits of competition to all power customers. This pleading

complaint filed by the Joint Consumer Advocates (“Complaint”) against PJM Interconnection, L.L.C. (“PJM”).

The Joint Consumer Advocates’ Complaint offers a wide-ranging list of suggested revisions to the PJM capacity construct.<sup>3</sup> P3 filed a doc-less Motion to Intervene on November 19, 2024. EPSA filed a doc-less Motion to Intervene on November 20, 2024. On November 26, 2024, P3 and EPSA filed a motion to dismiss the Complaint without prejudice so that PJM could pursue tariff changes pursuant to its proposed path forward to sequentially present market reforms to FERC while striving to return the base residual auctions (“BRAs”) to a regular three-year forward cadence.

As detailed below, P3 and EPSA urge the Commission to reject this grab-bag Complaint so that the capacity market reforms that are pending before the Commission and being developed in PJM’s stakeholder processes can be systematically and efficiently addressed. Complainants’ recycled assertions and chaotic demands come nowhere close to meeting the Federal Power Act (“FPA”) Section 206 burden to support Commission action. Dismissal of the Complaint is required to restore order to the PJM Capacity construct, so that the market can deliver on its promise of delivering reliability at the least cost to consumers.

## **PROTEST**

If the Commission does not grant the P3 and EPSA motion to dismiss, P3 and EPSA urge the Commission to reject the Complaint in its entirety quickly. The Complaint does not meet its burden under Section 206 of the FPA. Under Section 206, the Complainant bears the burden of

---

represents the position of EPSA as an organization but not necessarily the views of any particular member with respect to any issue.

<sup>3</sup> *Joint Consumer Advocates v. PJM Interconnection, L.L.C.*, Docket No. EL25-18-000 (filed November 18, 2024) (“JCA Complaint”).

proving that a rate, charge, classification, rule, regulation, practice, or contract is "unjust, unreasonable, unduly discriminatory, or preferential." Section 206 represents a high bar that demands significant evidence and support to clear. The Complaint comes up short in every regard on this front.

The Complaint is also a poorly timed and thinly argued attempt to disrupt PJM's efforts to return PJM's capacity construct to a regular and predictable market-based mechanism to ensure resource adequacy in the PJM footprint. The Commission needs to quickly shut down this Complaint so PJM and its stakeholders can appropriately focus on reforming the PJM capacity market to meet the challenges associated with significant load growth in a manner that assures that reliability is achieved at the least cost to consumers. At this critical moment, PJM and its stakeholders should be rolling up their collective sleeves and working together to bring enduring solutions to the Commission – not litigating unconstructive complaints that are heavy on woes, thin on support, light on solutions and likely to or already have come before the Commission in a more thoughtful manner.

Many of the issues identified are the subject of pending Section 205 proceedings that are on track for disposition in February. Those issues demand focused attention from the Commission, PJM, and its stakeholders in the FPA Section 205 proceedings in which they are pending. PJM has either filed proposed tariff revisions or committed to working with its stakeholders on virtually every issue identified in the Complaint through an aggressive process, so that more complete proposals can be put in front of the Commission in due course.<sup>4</sup>

---

<sup>4</sup> See *PJM Interconnection, L.L.C.*, Docket No. ER25-682-000 (filed December 9, 2024) ("PJM 205 Capacity Market Filing"); *PJM Interconnection, L.L.C.*, Docket No. ER25-712-000 (filed December 13, 2024) ("PJM RRI

Commission action here, other than a dismissal of the Complaint, would only disrupt these ongoing processes in an unproductive manner, introducing further uncertainty and delay. Further, it should be noted, that PJM's decision to make a Section 205 filing with respect to any portion of its capacity market design is not indicative that the capacity market, or any part of it, is unjust and unreasonable. As the Commission is well aware, the standards for approving a Section 205 filing and granting a Section 206 complaint are very different and the Commission has regularly found that there can be more than one just and reasonable rate. Similarly, PJM's willingness to engage with stakeholders in prospectively improving certain aspects of a market design is far different than unilateral litigation to upend both a Commission-approved market design and PJM and stakeholders' efforts to return the capacity market to a three-year forward cadence – a goal supported by nearly all stakeholders including the Joint Consumer Advocates.

Stability and predictability are essential to a properly functioning capacity construct and restoring the regular cadence of three-year forward BRAs is critical to achieving that goal. One of the reasons PJM and stakeholders find themselves in the current predicament is because a series of auction delays has resulted in the need for a compressed auction cycle in which market participants are conducting pre-auction activities for the next auction (2027/2028) before the current auction (2026/2027) has been run.

Finally, it is important for the Commission to reject the Complaint and not allow it to sit unresolved. The Complaint asks for a refund effective date of November 18, 2024. PJM

---

Filing"); *PJM Interconnection, L.L.C.*, Docket No. ER25-785-000 (filed Dec. 20, 2024) (the "PJM Must Offer MSOC Filing").

should not run auctions with the threat of resettlement hanging over the market – supplier participation could be significantly chilled by such a specter.

**I. The Complaint Rests on the Flawed Premise that the 2025/2026 Clearing Prices were “Exorbitant”<sup>5</sup>**

Despite the hyperbole of complainant’s claims that the BRA capacity prices for the 2025/2026 Delivery Year were “exorbitant”, and prices “set new records” and “soared” resulting in “ballooning” charges,<sup>6</sup> facts dictate the results were otherwise. The 2025/2026 results were in fact not extreme, but rather in line with where capacity prices should be under the market as specifically designed, because they signal a market seeking to attract new resources and retain existing ones – particularly following years of suppressed prices that drove resources out of the market.

The July 2024 auction was the first time that the RTO capacity price cleared above Net Cost of New Entry (“Net CONE”) in over a decade and a half.<sup>7</sup> While the recent clearing prices did represent an increase from the unsustainably low clearing prices in the 2022/2023, 2023/2024 and 2024/2025 Delivery Year auctions<sup>8</sup>, the recent prices were wholly consistent with a grid that cleared over 99% of the capacity offered<sup>9</sup> and thus needs “a lot of capacity” as PJM CEO Manu

---

<sup>5</sup> JCA Complaint at pp. 4, 22.

<sup>6</sup> JCA Complaint at p. 2.

<sup>7</sup> See Protest of The PJM Power Providers Group, Attachment 1, Affidavit of Roy J Shanker PhD on behalf of The PJM Power Providers Group at 29, tbl.1 (Oct. 24, 2024). (Attachment A to this filing); *see also*, Protest of the Electric Power Supply Association, Attachment 1, Affidavit of Paul M. Sotkiewicz, PhD on behalf of the Electric Power Supply Association at PP 39-57 and Table 1, Docket No. EL24-148-000 (Oct. 24, 2024) (Attachment C to this filing); *see also*, Protest of Talen Energy Corporation, Attachment A, Affidavit of A. Joseph Cavicchi at PP 8-15, Docket No. EL24-148-000 (Oct. 21, 2024); *see also*, Protest of Vistra Corporation and Alpha Generation, Attachment 1, Declaration of Scott W. Niemann at PP 45-54, Figures 9-11, Docket No. EL24-148-000 (Oct. 24, 2024).

<sup>8</sup> *See id.*

<sup>9</sup> See PJM 2025/2026 Base Residual Auction Report at 10 (July 30, 2024), *available at*: <https://pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2025-2026/2025-2026-base-residual-auction-report.ashx>

Asthana warned in October of last year.<sup>10</sup> These prices that were slightly above Net CONE for the RTO can hardly be considered evidence that PJM's tariff is unjust and unreasonable.

Indeed, the design of the PJM capacity market is explicitly intended to ensure that resources can recover an average of Net CONE over the life of an asset. Thus, in some years one would expect prices to clear below Net CONE, while in others, prices would exceed Net CONE. As the Complaint correctly acknowledges, auction prices over the last decade have consistently fallen well below Net CONE. In that context, a single auction with an RTO clearing price slightly above Net CONE after a decade of prices below Net CONE, in no way indicates that the prices for the most recent auction were too high and thus demonstrated that the market is not just and reasonable. Complainants appear to be arguing that the demand curve the Commission approved as just and reasonable was only just and reasonable for the portion of the demand curve that yields low prices. However, the evidence the Commission used to make its just and reasonable determination was the demand curve would meet the 1-in-10 planning standard at just and reasonable prices across a variety of supply/demand scenarios, including supply/demand scenarios when the demand curve would yield higher prices.<sup>11</sup>

Tellingly, at the same time the Complaint ignores the context of years of low auction prices, only to assert that one high-priced auction justifies the conclusion that the market is no longer just and reasonable, the Complaint alleges that evidence of years of low prices justifies fundamental changes to the calculation of Net CONE solely for the purpose of lowering it substantially to reduce market prices. The Complaint alleges that, because generation was added to the grid during those years of low prices, it must be the case that Net CONE is artificially

---

<sup>10</sup>See PJM Inside Lines, *Asthana at OPSI: 'We Need Capacity'* (Oct. 22, 2024), <https://insidelines.pjm.com/asthana-to-opsi-we-need-capacity/>

<sup>11</sup>See <https://www.pjm.com/pjmfiles/directory/etariff/FercDockets/6885/20220930-er22-2984-000.pdf>

inflated. P3 and EPSA have no choice but to respond to this non sequitur. New entry decisions do not fit well into the overly simplistic cartoon Complainants have drawn. Resource developers base entry decisions on expectations of capacity prices over a resource's life, with expected near-term prices especially important. Once a development decision has been made, expenditures typically start before the resource offers into the capacity market. Having made the decision to bring a new resource online, it is not surprising a new resource may be willing to offer below the cost of new entry to be sure the resource clears the market and starts collecting capacity revenues as soon as possible. Thus, offers below Net CONE do not suggest that we are over-estimating Net CONE, they suggest that the decision-making process is more complicated than Complainants would have the Commission believe. Moreover, given that PJM is now facing capacity resource challenges, which were recognized before the most recent auction, it is self-evident that the region did not incent sufficient new generation during the past decade to meet the current capacity needs. But again, it is most critical that market participants can rely upon accurate price signals over the long term to incent market entry and exit.

## **II. PJM Has Commission Approved Mechanisms to Address Market Power**

The Complaint claims the BRA is “rife with market power” and that an increased BRA “price spike” is the “byproduct of a market power problem.”<sup>12</sup> Veiled allusions are not facts. These allusions are particularly unavailing for an auction that cleared essentially every MW offered. The Commission has a commendable commitment to ongoing oversight of the markets.<sup>13</sup> If Complainants believe there is a market power issue, the Commission has approved mechanisms

---

<sup>12</sup> JCA Complaint at p. 7.

<sup>13</sup> See, e.g., Grid Reliability & Resilience Pricing & Grid Resilience in Reg'l Transmission Orgs. & Indep. Sys. Operators, 162 FERC ¶ 61,012 at P 10 (2018) (“As part of its ongoing oversight of wholesale electric markets, the Commission continues to evaluate its current rules and has issued several orders to ensure that our rates in our markets remain just and reasonable and not unduly discriminatory or preferential.”).

to address market power. FERC has approved market mitigation rules that are applied to address such market power concerns in the PJM market. Tellingly, the Complaint does not even allege that the existing market rules are not just and reasonable or that the market mitigation rules were not followed. Thus, in short, if market power is being exercised, there is a process to address it and the Complaint does not allege the process is inadequate or was not followed.

PJM has heavy oversight mechanisms to address market power. The Independent Market Monitor (“IMM”) has oversight of PJM’s markets, and PJM recently addressed the IMM’s concerns over the last BRA auction prices.<sup>14</sup> Furthermore, there are FERC enforcement referrals that may be made by the IMM or any market participant through a hotline. Complainants admit they have not used either the FERC Enforcement Hotline or Dispute Resolution Services.<sup>15</sup> Additionally, PJM has an external third-party PJM Compliance Line that may be called.<sup>16</sup> Market power is appropriately addressed through Commission approved FERC enforcement methods, not through wholesale market design changes requested in a complaint.

In fact, as P3 and EPSA and others have documented, it is more likely that PJM’s market power mitigation is overly restrictive to the point that it is discouraging participation by

---

<sup>14</sup> See *PJM Response to IMM Report on 2025/2026 Base Residual Auction* at pgs. 5-6 (Oct. 11, 2024) available here <https://www.pjm.com/-/media/library/reports-notices/reliability-pricing-model/20241011-response-to-imm-25-26-bra-report.ashx> (“PJM Response”). PJM has addressed allegations made recently by the IMM stating the “IMM’s report makes a serious allegation that the must-offer obligation exemption that applies to certain resource types led to the “exercise of market power through [...] withholding” and resulted in an “increase the clearing prices above the competitive level.” The IMM has not shared evidence with PJM to support this conclusion. To the extent evidence is provided to support the IMM’s claim, PJM will act swiftly to make necessary changes. At this time, we have significant concern with such a statement being publicly made without supporting evidence.” PJM Response at p. 5. PJM further states that “The allegation that market power was exercised in the 2025/2026 BRA is a significant one that requires careful consideration, analysis, and support. PJM reiterates its desire for the IMM to share its analysis concluding market power was exerted and urges the IMM to include analysis supporting its conclusion if further claims are made.” PJM Response at p. 6.

<sup>15</sup> JCA Complaint at p. 54.

<sup>16</sup> See <https://www.pjm.com/-/media/about-pjm/who-we-are/qa-where-to-direct-pjm-questions-or-concerns.ashx>



resources that do not have a must offer obligation. Absent evidence to the contrary – and no compelling evidence has been provided in any of the pending dockets – the most plausible explanation for resources choosing not to participate is that they believed their offers would not be able to cover the risks of accepting a capacity obligation, which further tightens supply and harms consumers.<sup>17</sup> Thus, Complainants would have the Commission exacerbate a problem they have mis-labeled as market power.

### **III. Concerns Related to RMRs are Being Litigated in Other Dockets**

#### **a. PIO Complaint**

The Complaint rehashes many of the same faulty assertions and proposes a similarly flawed replacement rate as in the Public Interest Organizations’ (“PIOs”) Reliability Must Run (“RMR”) complaint.<sup>18</sup> P3,<sup>19</sup> EPSA,<sup>20</sup> PJM<sup>21</sup> and others have extensively replied with expert testimony to the PIOs RMR complaint and have already addressed the issues again restated by Complainants. The robust responses to the PIO RMR complaint will not again be restated here; rather the P3 Protest, P3 Answer, and EPSA Protest are attached as Attachment A, B and C, respectively, and incorporated by reference herein.

---

<sup>17</sup> See generally Joint Protest of the Electric Power Supply Association and the PJM Power Providers, Docket No. ER25-785-000 (Jan. 10, 2025).

<sup>18</sup> *Complaint of Sierra Club, Natural Resources Defense Council, Public Citizen, Sustainable FERC Project and Union of Concerned Scientists*, Docket No. EL24-148-000, (Sep. 27, 2024) (“PIO RMR Complaint”).

<sup>19</sup> See *Protest of The PJM Power Providers Group*, Docket No. EL24-148-000 (Oct. 24, 2024) (“P3 Protest PIO Complaint”) (“Attachment A”); see also, *Answer of The PJM Power Providers Group*, Docket No. EL24-148-000 (Nov. 7, 2024) (“P3 Answer PIO Complaint”) (“Attachment B”).

<sup>20</sup> See *Protest of the Electric Power Supply Association*, Docket No. EL24-148-000 (Oct. 24, 2024). (“EPSA Protest PIO Complaint”) (“Attachment C”).

<sup>21</sup> See *Answer of PJM Interconnection, L.L.C.*, Docket EL24-148-000, (Oct 18, 2024) (“PJM Answer to PIO RMR Complaint”).

**b. PJM Has Proposed Changes to the Treatment of RMRs**

The issues raised by the Complaint regarding RMRs are addressed by PJM in a Section 205 filing that was submitted to the Commission on December 9<sup>th</sup> and scheduled for Commission disposition by February 7<sup>th</sup>.<sup>22</sup> P3 and EPSA have offered additional thoughts on the same issue in ER25-682.<sup>23</sup> The Joint Consumer Advocates “support” PJM’s proposed tariff revisions in the December 9<sup>th</sup> filing; however, they also offer that “it is sensible for PJM not to count on capacity from resources whose RMR arrangements do not impose capacity-like obligations.”<sup>24</sup> P3 and EPSA agree that RMR resources have fundamentally different obligations to the market than capacity resources and therefore should not be counted as meeting the reliability requirement. Either way, if the Commission approves PJM’s December 9<sup>th</sup> Section 205 filing and the Commission has not acted on this Complaint, Complainants will have the burden of proving the new tariff provisions related to RMR units are unjust and unreasonable – something they clearly have not done.

**c. A Successful *Pro Forma* RMR Agreement Would be Difficult to Develop, and Given its Complexity, Should be a Product of a Stakeholder Process, Not Litigation.**

The Complaint seeks a standard RMR agreement. As already explained and addressed by EPSA in its Protest to the PIO RMR complaint “the differences in the timing of the auctions and the duration of commitments are critical when considering the treatment of RMR units in PJM’s RPM Auctions, because RMR arrangements are, by their nature, designed to be short-term,

---

<sup>22</sup> See *PJM Interconnection, L.L.C.*, Docket No. ER25-682-000 (filed December 9, 2024) (“PJM 205 Capacity Market Filing”).

<sup>23</sup> See *PJM Interconnection, L.L.C.*, Comments and Request to Sever of The PJM Power Providers Group, Docket No. ER25-682-000 (filed January 6, 2025) (“P3 Comments and Request to Sever”); *PJM Interconnection, L.L.C.*, Comments of the Electric Power Supply Association, Docket No. ER25-682-000 (filed January 6, 2025) (“EPSA Comments”).

<sup>24</sup> *PJM Interconnection, L.L.C.*, Protest of Joint Consumer Advocates, Docket No. ER25-682-000 (filed January 6, 2025) (“JCA Protest”) at p. 8.

temporary agreements.”<sup>25</sup> Given the complexity of aligning commitment periods with auction schedules, and reliability and performance standards across resource types, this is an issue that is properly left to be addressed by PJM and its stakeholders, not through litigation. While P3 and EPSA are skeptical that such an agreement can be drafted, especially one that ensures system reliability—which is, after all, is the purpose of an RMR unit—only one developed and vetted by all parties in a stakeholder process will likely achieve its goals. PJM has indicated that it is prepared to engage in just such a process and that is the proper venue to develop a proposal for the Commission’s review.

#### **IV. P3 Agrees that Changes Should be Made to ELCC Calculations But Litigation is Not the Proper Forum**

The Complainants parrot arguments of the IMM related to the calculation of ELCC methodologies.<sup>26</sup> The Complainants argue that the use of thermal resources’ summer ratings in ELCC accreditation leads to an understatement of capacity values. These arguments are not new, were recently rejected by the Commission,<sup>27</sup> and are the subject of active stakeholder discussions. P3 and EPSA agree that ELCC reforms are appropriate and that the means to assess winter capability should be refined. For instance, the selection of the ELCC inputs and their relative weighting and interaction is extremely complex and has a significant impact not only on price but on the ability to ensure that resources can support system-wide resource adequacy.<sup>28</sup> Importantly, thermal accreditation has nuanced and offsetting interactions with

---

<sup>25</sup> EPSA Protest PIO Complaint at p. 24.

<sup>26</sup> See JCA Complaint at pp. 27-28.

<sup>27</sup> 186 FERC ¶ 61,080 at PP 135-7.

<sup>28</sup> See <https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/2024/20241002-p3-letter-re-opsi-letter-addressing-results-of-25-26-bra.ashx>, at 2. “P3 agrees with OPSI that reforms are needed to the ELCC process to allow resources to more appropriately reflect their contributions to reliability.”

other planning parameters, like the forecast pool requirement. Litigation is ill suited to produce a result that appropriately accredits resources so that the capacity construct is both cost-effective and reliable. LS Power, a P3 and EPSA member, has introduced a problem statement and issue charge in an effort to improve the calculation of these important inputs, which stakeholders unanimously supported and are actively working to develop.<sup>29</sup> That is the appropriate venue to address such a complex and sensitive issue.

PJM anticipates making a filing to improve ELCC calculations that would allow the changes to be in effect for the 27/28 BRA. While P3 and EPSA would have appreciated the changes being made earlier, under the circumstances, PJM's approach is prudent. Given the realities of the calendar and the nuances of ELCC calculations, targeting the December 2025 BRA makes sense to P3 and EPSA.

Beyond the specific ELCC issue, bringing issues that are being actively discussed in the stakeholder process to the Commission in the form of a complaint is certainly something that any stakeholder is entitled to pursue; however, the Commission should be wary of any complaint that merely cuts and pastes one stakeholder's position and asks FERC to endorse that outcome – while that stakeholder process is still going on. These types of end runs are not healthy and will ultimately put the Commission in the position of litigating ideas that have not received the benefit of more thorough analysis and stakeholder deliberations. The Commission should consider the message it would send to PJM and other RTO stakeholders if end runs like this are

---

<sup>29</sup> See <https://www.pjm.com/-/media/DotCom/committees-groups/task-forces/elccstf/postings/data-transparency-issue-charge.ashx>

rewarded as stakeholders will quickly take their concerns to FERC and devalue the discussions at the RTO level.

**V. Imposing a Must Offer Obligation on All Resources, Including DR, Is Not a Quick or Easy Fix and Is Before the Commission in Docket No. ER25-785**

The Complaint also repeats arguments that other parties have offered that argue that all resources should be required to offer into the capacity market. While not new, all these arguments ignore a central tenet of the capacity market – resources with a capacity commitment must be able to perform when called upon or face significant penalties. Solar resources struggle to perform when the sun is not shining and wind resources are very ineffective when the wind is not blowing. It is completely logical that PJM cannot rely on them in all circumstances, and it is similarly logical that these resources would not want to assume the risks of non-performance and the associated penalties unless their offers were able to reflect the perceived risk. While the allure of bringing more megawatts into the market to lower price is tempting, the reality is that doing so could jeopardize reliability if the actual performance capabilities of resources are not considered and appropriately reflected in any proposal to extend the must offer requirement. A broad-brush requirement, as suggested by the Complainants, is not prudent and will most certainly lead to unintended consequences.

Moreover, as PJM has identified, there are serious questions of how risk would be appropriately recognized by resources that have very different operating characteristics than traditional capacity resources.<sup>30</sup> How can resources that are physically unable to perform in

---

<sup>30</sup> See *PJM Interconnection, L.L.C.*, Docket No. ER25-785-000 (filed Dec. 20, 2024) (the “PJM Must Offer MSOC Filing”).

certain periods due to their inherent characteristics, e.g., solar at night, appropriately price that risk into their offers under the current market seller offer cap regime? Resources that are not able to submit offers that reflect risk are likely to decide that energy-only status is more economically rational. Such a decision would deprive PJM of capacity that would be available when prices are expected to cover risk or when the Commission eventually approves a more reasonable market seller offer cap regime. PJM attempted to do address this question in a December 20<sup>th</sup> Section 205 filing in which it sought to impose a must offer obligation on all intermittent resources while also attempting, albeit insufficiently, to address the risk issues that present in expanding the must offer requirement to a broad range of resources.<sup>31</sup> The fact that both P3 and EPSA and the Joint Consumer Advocates agree, albeit for different reasons, that PJM came up short and that the December 20<sup>th</sup> 205 filing is evidence that resolving this issue is not nearly as simple as the Joint Consumer Advocates, PJM, or other parties portray.<sup>32</sup> Now more than ever, the Commission should take care to not give in to ideas that will make the challenge harder.

The Joint Consumer Advocates would go so far as to impose a must offer requirement on Demand Response, which PJM did not do as part of the December 20<sup>th</sup> Section 205 filing. An extension of the must offer requirement to include Demand Response invites a whole new level of issues and concerns that would need to be addressed. P3 and EPSA continue to believe that the process for setting generator market seller caps is flawed and a deterrent to investment in

---

<sup>31</sup> *See id.*

<sup>32</sup> *See PJM Interconnection, L.L.C.*, Joint Protest of Electric Power Supply Association and The PJM Power Providers Group, Docket No. ER25-785-000 (Jan. 10, 2052) (“EPSA P3 Protest Must Offer MSOC Filing”); *see also PJM Interconnection, L.L.C.*, Protest of Joint Consumer Advocates, Docket No. ER25-785-000 (Jan. 10, 2052) (“JCA Protest Must Offer MSOC Filing”).

PJM.<sup>33</sup> Imposing a must offer requirement and a market seller offer cap on Demand Response would elevate those concerns to a whole new level. Demand response comes in many flavors and the considerations for participation in DR programs are as varied as there are participants. Understanding the dynamics of the demand response capacity for every manufacturing facility, educational institution, hospital or retail store and imposing both a must offer requirement and market seller offer cap is not a path to adding MWs to the grid. Further, Demand Response is essentially a new resource each time it is offered. Surely, Complainants are not suggesting that an industrial customer that is willing and able to offer Demand Response in one auction is obligated to offer Demand Response in all future auctions. Such a requirement is more likely to drive Demand Response out of the market. The Commissions should harbor no illusions of how difficult imposing a must offer obligation on Demand Response would be.

## **VI. PJM Already Has a Stakeholder Process to Discuss Net CONE and Load Forecast**

The Complainant calls on the Commission to direct PJM to convene stakeholder proceedings to discuss Net CONE and the Load Forecast. Fortunately, the Commission does not need to do that as PJM stakeholders are actively engaging in those discussions right now.<sup>34</sup> P3 will remain actively engaged in those discussions in hopes of one day bringing thoughtful reforms to the Commission in a stakeholder-endorsed Section 205 filing. In the meantime, there is no reason for the Commission to take any action on this aspect of the Complaint.

---

<sup>34</sup> PJM intends to file in July changes to the Net CONE for the delivery years 28/29-31/32. *See* <https://www.pjm.com/-/media/DotCom/committees-groups/committees/mic/2024/20241126-special/item-1-a-2024-11-26-quadrennial-review-update---updated.pdf>. PJM's Load Analysis Subcommittee is always evaluating ways in which to improve the load forecast. *See* <https://www.pjm.com/committees-and-groups/subcommittees/las>

## CONCLUSION

P3 and EPSA urge the Commission to reject the Complaint and allow needed capacity market reforms to be addressed in due course. Complainants have not even come close to meeting their burden of establishing that the PJM's current tariff is unjust and unreasonable. Moreover, granting the Complaint would most certainly invite further auction delays, increase market uncertainty, drive investment away and upend the ongoing stakeholder processes that are addressing many of the issues raised in the Complaint. Some of the Complainants suggestions are more likely to remove capacity than add capacity. In short, granting the Complaint would create an enormous mess that PJM, the Commission, and stakeholders would struggle to clean up. There is no reason to go down this road. Instead, the Commission should view dismissal of the Complaint as an opportunity to send a message that it is serious about restoring respect for the PJM stakeholder process and order to the PJM capacity construct, so that the market can deliver on its promise of delivering reliability at the least cost to consumers. Rejecting the Complaint strongly and quickly would send exactly that message.

Respectfully submitted,

On behalf of The PJM Power Providers Group

By: /s/ Glen Thomas

Glen Thomas

Diane Slifer

GT Power Group

101 Lindenwood Drive, Suite 225

Malvern, PA 19355

gthomas@gtpowergroup.com 610-768-8080

Respectfully submitted,



On behalf of the Electric Power Supply Association

By:           /s/Nancy Bagot          

Nancy Bagot, Senior Vice President  
Sharon Theodore, Vice President, Regulatory  
Affairs  
Electric Power Supply Association  
1401 New York Avenue, NW, Suite 950  
Washington, DC 20005  
(202) 628-8200  
[NancyB@epsa.org](mailto:NancyB@epsa.org)

January 23, 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 23<sup>rd</sup> day of January, 2025.

On behalf of The PJM Power Providers Group

/s/ Diane Slifer

By: Diane Slifer

GT Power Group

101 Lindenwood Drive, Suite 225

Malvern, PA 19355

[dslifer@gtpowergroup.com](mailto:dslifer@gtpowergroup.com)

610-768-8080