

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

PJM Interconnection, L.L.C.

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**Docket Nos. ER15-623-000
EL15-29-000**

*THE PJM POWER PROVIDERS GROUP'S REQUEST FOR CLARIFICATION AND IN THE
ALTERNATIVE REQUEST FOR REHEARING*

Pursuant to section 313 of the Federal Power Act (“FPA”), 16 U.S.C. § 825*l*, and Rule 713 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.713, the PJM Power Providers Group (“P3”)¹ hereby respectfully requests clarification and in the alternative requests rehearing of the Order issued June 9, 2015, in the above-captioned proceeding,

At the outset, it is important to note that P3 sincerely appreciates the Commission’s strong leadership in addressing the reliability needs of PJM. By largely approving of PJM’s proposed Capacity Performance filing as proposed by PJM, the Commission appropriately recognized the shortcomings of PJM’s capacity market rules and the need to change those rules in order to meet the reliability needs of the grid. As the owners of generation assets in PJM, P3 members are prepared to answer the challenge of performing to these new higher standards provided that market prices are allowed to reflect the heightened risk. Over time, the emphasis

¹ 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 87,000 MW of generation assets and over 51,000 miles of electric transmission lines in the PJM region, serve nearly 12.2 million customers, and employ over 55,000 people in the PJM region, encompassing 13 states and the District of Columbia. This request for clarification and in the alternative rehearing request represents 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, please visit www.p3powergroup.com.

that Capacity Performance places on actual performance during peak demand will bring PJM's capacity market closer to its stated goal of ensuring an adequate and reliable supply of power when it is needed most at competitive prices.

While P3 generally supports the Commission's order, P3 is also aware of several issues contained in the order that will require additional consideration and perhaps future Commission modification. While reserving our right to seek potential future modifications, P3, at this time, seeks clarification or, in the alternative, requests rehearing on two discrete, yet important, issues that would benefit from Commission clarification. Specifically, in its initial filing PJM supported the market policy that units operating within their approved operating parameters would not be subject to Non-Performance Charges. Conversely, the Commission's order suggests that units that are operating within their approved parameters may still be subject to penalties which could lead to both PJM and unit owners being in difficult, if not untenable, positions. Unless clarified, unit owners could be assessed potentially significant penalties for performing exactly as they committed to perform. The Commission should either clarify that this illogical result was not intended or, in the alternative, require PJM to amend its tariff language to recognize that units operating within their approved parameters should not be subject to Non-Performance charges.

Secondly, the Commission should provide further guidance on the specific "Performance Quantifiable Risks" that can be included in Avoidable Cost Risk calculations for units seeking to submit offers above the market seller offer cap. While both PJM and the Commission expressly supported tariff provisions that allow risks of fulfilling the obligation to offer capacity to be reflected in capacity offer cap calculations, the Commission should go one step further and direct

PJM to specifically enumerate known risks in addition to permitting the reflection of all reasonable risks undertaken to support a capacity offer.

REQUEST FOR CLARIFICATION

I. Unit Specific Parameters & Non-Performance Penalties

In response to the observed performance shortfalls in PJM's aggregate fleet revealed by the extreme winter events of 2014, PJM submitted proposed changes to its tariff on December 12, 2014, to address issues related to generator performance during peak demand conditions. Among the changes PJM offered was the creation of the Capacity Performance product that would have more strict performance requirements than PJM's existing capacity product and steeper penalties for non-performance. The proposal also allowed generators additional flexibility to reflect market risk in their capacity offers. As PJM succinctly offered as a reason for the change, "the current RPM market design is not providing sufficient deterrents to poor performance, or sufficient incentives for good performance."² P3 generally supported PJM's proposal as a material improvement to the PJM capacity market design despite having some reservations regarding certain aspects of the proposal.

On June 9, the Commission conditionally approved PJM's proposed filing. The Commission agreed with PJM "that a resource adequacy construct that fails to provide adequate incentives for resource performance can threaten the reliable operation of PJM's system and force consumers to pay for capacity without receiving commensurate reliability benefits."³ Accordingly, the Commission accepted the bulk of PJM's proposal. However, the Commission found PJM's proposed revisions relating to operating parameters to be unjust and unreasonable.

² *PJM Interconnection, L.L.C.*, , Docket No. ER15-623-000, Dec., 12, 2014, at p 7.

³ *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208 (2015) ("FERC Order") at P 5.

In its initial filing, PJM made clear that it was seeking to redefine its approach to operating parameters, moving away from generic technology class operating parameters to unit specific determinations.⁴ In doing so, PJM proposed eliminating its current default parameters and replacing them with “unit-specific parameters for [...] resources that are based on [...] physically achievable operating design characteristics for the following parameters: (i) Economic Minimum; (ii) Economic Maximum; (iii) Minimum Down Time; (iv) Minimum Run Time; (v) Maximum Daily Starts; (vi) Maximum Weekly Starts; (vii) Maximum Run Time; (viii) Start-up Time; and (ix) Notification Time.”⁵ PJM proposed to develop these unit specific parameters in close consultation with the Independent Market Monitor as well as the unit owner.

Importantly, PJM asserted that, “The expectation is for the resource to be available when called upon, consistent with its unit-specific parameter limited schedule values, irrespective of previous dispatch history.”⁶ PJM’s view, with which P3 agrees, is that resource availability must be measured consistent with that unit’s approved operating parameters. The logical consequence of such a policy is that a unit that is operating consistent with its parameters and performing exactly as it committed to perform should not be subject to performance penalties.

However, the Commission order casts doubt on this position and PJM has indicated that its interpretation of the order is that unit owners operating within their parameters could still be subject to Non-Performance charges.⁷ PJM has subsequently repeated the strict interpretation of

⁴ *PJM Interconnection, L.L.C.*, Docket No. EL15-29-000, Dec., 12, 2014, at p 9.

⁵ *Id.*

⁶ *Id.*

⁷ In the June 9 Order, the Commission interpreted language in the ER15-623 Filing “to mean that if PJM does not schedule a resource during a Performance Assessment Hour due to any operating parameter limitations specified in a market seller’s energy offer, the resource will be subject to Non-Performance Charges.”

the Commission's directive.⁸ While P3 agrees that unit owners should not be able to use operating parameters as a shield from poor performance, certain physical realities must be recognized. Many units that are capable of being very valuable capacity resources are simply not able to perform with no notice. Indeed, most units have design characteristics that make them efficient and cost effective capacity resources in other ways. It is both unrealistic and very expensive to expect that all units be available instantaneously regardless of the actual capability of those units and unreasonable to penalize those which are performing to their PJM-approved unit specific characteristics. The Commission should clarify this point and specifically instruct PJM that units operating within their PJM-approved parameters and following PJM dispatch instructions are not subject to Non-Performance charges.

II. Capacity Performance Quantifiable Risk

Additionally, P3 believes that the Commission should provide further guidance to PJM on the ability of generators to quantify risk as part of the offer cap calculation for offers above the default Market Seller Offer Cap. Generators that have mandatory capacity offer obligations must be able to reflect all risks of fulfilling that capacity obligation, including the new and substantial penalty risk. Generation owners will have the incentive to reduce the cost of risk to be competitive, for example, through prudent capital investment that mitigates exposure to performance penalties. Those units with costly risks will be priced out of the market and be supplanted by more cost-effective resources. Consistent with the Commission determination that risk components of ACR calculations must be “quantifiable and reasonably supported,”⁹ risks calculations are best estimated and quantified by the unit owner as each unit owner will have

⁸ See, <http://pjm.com/~media/committees-groups/committees/mrc/20150625/20150625-item-03b-capacity-performance-compliance-obligation.ashx> at page 4.

⁹ FERC Order at P 353.

differing degrees of risk aversion for any given risk and for the range of risks in total. In order for Capacity Performance to be successful the unit owner's exposure to these risks and the cost of mitigating risk need to be able to be reflected in the offers that generators submit. As the Commission stated, "...the Avoidable Cost Rate calculation should reflect the cost of becoming a capacity resource under the new capacity market construct and that, for some resources, the overall physical and capital expenditures required to ensure performance during emergency operations are extensive, presenting additional costs which are not currently reflected in the Avoidable Cost Rate calculation."¹⁰

Several generators flagged this issue as a concern in their initial comments to the Commission. PJM, in its February 13 Answer, acknowledged and agreed that clarifications suggested by several generators were appropriate. As PJM articulated, "Given the importance of these risk premiums to reasonably reflect a seller's costs of committing as a Capacity Performance Resource, and the inherent challenges in quantifying such risks, these are reasonable modifications."¹¹

Given the widespread agreement from both the Commission and PJM that reflecting appropriate risks in capacity performance offers is critically important, P3 believes that specific guidance for both generators and PJM is appropriate. While PJM offered a definition for "Capacity Performance Quantifiable Risk" in its initial filing and agreed in its answer that additional guidance was appropriate, P3 requests that the Commission specifically direct PJM to file tariff revisions including those PJM supported in its February 13th Comments. For example, in that filing, PJM supported Exelon-proposed tariff language as follows:

¹⁰ *Id.*

¹¹ *PJM Interconnection, L.L.C.*, Answer of PJM Interconnection, L.L.C., Docket No. ER 15-623-000, Feb. 13, 2015, at p. 90

CPQR (Capacity Performance Quantifiable Risk) consists of the risks and costs associated with assuming the obligations of a Capacity Performance Resource. CPQR applies solely for offers for a Capacity Performance Resource.

CPQR shall be based on the reasonably supported business judgment of the Capacity Market Seller. CPQR shall be considered reasonably supported if it is based on risk management practices generally used by the industry to model or value risk and if it is based on risk management practices used by the Capacity Market Seller to model or value risk in other aspects of the Capacity Market Seller's business. Such reasonable support shall also include an officer certification that the modeling and valuation of the CPQR was developed in accord with such practices. Provision of such reasonable support shall be sufficient to establish the CPQR. CPQR risks and costs include: (i) risks associated with incurring NonPerformance Charges as a Capacity Performance Resource and (ii) quantifiable costs and risks associated with the realization of the assumed energy and ancillary services margin, which include but are not limited to:

- Unit Outage Risk – Unit outage risk is the risk that a Capacity Performance Resource fails and that energy expected to be produced by that Capacity Performance Resource was sold forward and must be replaced in the spot energy market with energy purchased at a potentially higher price.
- Volatility Risk - Volatility risk is the risk that the energy market price actually received by a Capacity Market Seller is lower than the energy market price assumed in the Avoidable Cost Rate Calculation (especially given that the energy prices used in the Avoidable Cost Rate Calculation are established based on historical energy prices).
- Liquidity risk - Liquidity risk is the risk that a Capacity Market Seller's need to sell a large quantity of energy will impact energy market prices (i.e., a forward sale of energy from a large unit or units may reduce the resulting forward energy price paid to such capacity unit).¹²

The enumeration of specific risks, such as those above, would provide additional clarity regarding risk elements that are expected to be included, thwarting potential disagreement among PJM, the IMM and the unit owner. In the past, the ACR process has taken on the air of a negotiation rather than a calculation. Specific language addressing the types of risk that are acknowledged to be part of a unit owner's considerations, as suggested above, will reduce the

¹² See *PJM Interconnection, L.L.C.*, Motion to Submit Reply Comments and reply Comments of Exelon Corporation, Docket No. ER15-623-000, Feb. 4, 2015, pp 30-31.

subjectivity associated with the current ACR process and more clearly allow appropriate levels of risk to be reflected in offers.

REQUEST FOR REHEARING, IN THE ALTERNATIVE

P3 respectfully requests that the Commission provides the two clarifications requested above. In the event the Commission decides not to clarify one or both of the issues above, P3 seeks rehearing pursuant to Rule 713(c), 18 C.F.R. § 385.713(c) (2015). P3 includes the following statement of issues and specification of errors:

Specification of Error: The Commission erred in not providing specific provisions stating that generators operating within their unit specific parameters will not be subject to Non-Performance Charges. The Commission's decision in this regard is not the result of reasoned decision-making.¹³

Argument: In its initial filing, PJM contemplated a market structure in which unit owners that were operating within their PJM-endorsed unit specific parameters and following PJM dispatch would not be subject to Non-Performance charges. This policy decision by PJM was logical, appropriate, just and reasonable. By their very nature, different generating units have different operating parameters. This diversity is valuable to the grid as it allows for a healthy mix of generation assets that are capable of meeting the needs of the system.

Under PJM's initial proposal, once PJM, the IMM and the unit-owner agree to operating parameters and the generating unit clears the capacity auction, that unit is committed to providing capacity to the grid consistent with that unit's parameters. As PJM succinctly

¹³ See *City of Kansas City vs. Dep't of Housing and Urban Dev.* 923 F.2d 188,189 (D.C. Circuit, 1991) applying *Motor Vehicle Mfrs. Assn. v. State Farm Mutual Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

stated, “The expectation is for the resource to be available when called upon, consistent with its unit-specific parameter limited schedule values, irrespective of previous dispatch history.” This is the market policy that PJM requested, the policy is just and reasonable and the Commission provided no grounds upon which to reject it. Accordingly, the Commission should grant rehearing and specifically instruct PJM to file tariff language that clearly states that generation units that are following PJM dispatch and operating within their parameters will not be subject to Non-Performance Charges.

Specification of Error: The Commission erred in not requiring that PJM include detailed tariff language defining Capacity Performance Quantifiable Risk. The Commission’s decision in this regard is not the result of reasoned decision-making.¹⁴

Argument: While the Commission appropriately supported PJM’s proposal to allow generators to reflect the additional risks associated with Capacity Performance obligations in ACR calculations, the Commission failed to take the additional step of directing PJM to include specific tariff provisions addressing risk. Given the importance of appropriately reflecting generator risk in capacity market prices, the Commission should have availed itself of the opportunity to provide specific guidance along the lines of the language in the above P3 request for clarification. The Commission failed to do so and as a result failed in its obligation to engage in reasoned decision-making.

¹⁴ See *City of Kansas City vs. Dep’t of Housing and Urban Dev.* 923 F.2d 188,189 (D.C. Circuit, 1991) applying *Motor Vehicle Mfrs. Assn. v. State Farm Mutual Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

CONCLUSION

For the foregoing reasons, P3 respectfully requests that the Commission provide the clarifications sought by P3 above. In event that the Commission does not provide the clarifications detailed above, P3 asks that its requests for rehearing be granted.

Respectfully submitted,

On behalf of the PJM Power Providers Group

/s/ Glen Thomas

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July 9, 2015

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served copies of the foregoing document upon each person designated on the official service lists as compiled by the Office of the Secretary in the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Washington, D.C., this 9th day of July 2015.

On behalf of the PJM Power Providers Group

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