Testimony of the PJM Power Providers Group (P3)

Joint Meeting of The New Jersey Senate Environment and Energy Committee

and the New Jersey Assembly Telecommunications and Utilities Committee

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The PJM Power Providers Group ("P3")[1] is a non-profit organization made up of power providers whose mission is to promote properly designed and well-functioning competitive wholesale electricity markets in the 13-state region and the District of Columbia served by PJM Interconnection. Combined, P3 members own more than 84,000 megawatts of generation assets in PJM, produce enough power to supply over 20 million homes and employ over 40,000 people.

P3 is opposed to NJ Senate Bill No. S3560 and NJ Assembly Bill No. A5330. If adopted as law, these bills would implement a costly system of subsidies paid for by New Jersey residents and businesses. These bills are vague in that they lack the simplest of procedural protections and transparent review to ensure that select nuclear facility owners are not enriched at the expense of New Jersey consumers because of undisclosed revenue shortfalls. Confidentiality of expenses and revenues is a privilege that is reserved for participants in competitive procurement processes, not for businesses that are seeking handouts from consumers. At a minimum, the information should be made a part of a public regulatory process and subject to the challenges of experts and the offerings of competitive providers. Anything less is guaranteed to burden the consumers of New Jersey with needless higher costs.

Despite reports to the contrary, PJM's markets are working well for New Jersey. Power prices in New Jersey are at historic lows, reliability is high, air emissions have plummeted and the generation mix is as diverse as it has ever been. That is not to say that the markets are perfect (they are not) and that there are no issues that need to be addressed (there are). Fortunately, both the Federal Energy Regulatory Commission ("FERC") and the PJM Interconnection, LLC ("PJM") are working hard to address those concerns.

P3 firmly believes that subsidies to specific resources undermine the very benefits of competitive markets. Subsidies distort markets and are contagious. Consumers lose as subsidies invariably

[1] The views expressed in this testimony are those of P3 as an organization and do not necessarily reflect the view of any individual P3 member with respect to any issue. For more information on P3, see www.p3powergroup.com.

drive up the price of power for all as generators compete to get the best subsidy, rather than producing the most reliable and efficient power.

P3 members compete against each other to provide New Jersey consumers the power they need at the prices they want. They invest billions of dollars with the hope and expectation that they will be able to fairly compete. Fair competition provides tremendous benefits to consumers, including allowing them to receive the highest level of service for the lowest price. Subsidies are destructive to fair competition, harming consumers.

Efforts to interfere with the power markets are nothing new for New Jersey. Seven years ago, New Jersey was embroiled in a fierce debate about whether New Jersey ratepayers should provide a subsidy to build new gas-fired power plants in the state. Predictably, the beneficiaries from the subsidy spoke loudly about all the wonderful benefits to New Jersey. Jobs would be created, tax bases would increase, the lights would stay on, air quality would improve and prices would go down.

In January of 2011, New Jersey adopted a law to create the long-term capacity agreement pilot program ('LCAPP'). New Jersey legislators and residents were told that wholesale electricity markets were broken and without LCAPP subsidies, new power plants would never be built in the Garden State and New Jersey's homes and businesses would be forced to pay higher electricity bills to import power. LCAPP allowed the Board of Public Utilities to approve 15-year contracts for new generation facilities in New Jersey that would be paid for by New Jersey ratepayers.

With the benefit of hindsight, the problem of LCAPP becomes glaringly apparent:

- **LCAPP was unconstitutional**. Three different courts, including the United States Supreme Court, found that the law unconstitutionally interfered with the regional wholesale power markets that are regulated by FERC. New Jersey spent significant public money defending the law and ultimately lost. Fortunately for New Jersey's ratepayers, as a result of this litigation, electricity bills never were forced to fund the misguided LCAPP program.

- **LCAPP was unnecessary.** The New Jersey Board of Public Utilities approved three plants to receive LCAPP subsidies: Woodbridge Energy Center, Newark Energy Center and the Old Bridge Clean Energy Center. Both Woodbridge and Newark have been built and are currently operating – *without a subsidy*. In addition, the West Deptford Power Station was constructed and came on line in 2014 without the benefit of any subsidies (and a second plant has been permitted on the site). PSEG is also building a new natural gas-fired plant in Sewaren. Indeed, New Jersey is awash in new power generation

capacity that 8 years ago many advocates said would never be built absent state interference in the marketplace.

- **LCAPP was a bad deal.** It is possible to calculate how much more New Jersey consumers would be paying for electricity had LCAPP been legal and implemented. At the time, many in New Jersey thought power prices would go up and New Jersey ratepayers would actually be receiving payments from the developers of the projects. Well, those who thought that the price of power would go up made a bad bet as prices actually dropped. Looking just at the Woodbridge plant, New Jersey ratepayers would have paid an extra $200 million between 2016 and 2020 to support a plant that is operating economically without a subsidy. The Newark and Old Bridge projects also would have received subsidies, so the total additional cost to ratepayers would have been at least half a billion dollars by now, with many additional years still to come of excessive LCAPP costs.

P3 urges these Committees to not be fooled again. Do not buy into arguments that there is a crisis. There is not. There is a single owner of nuclear generation facilities in New Jersey saying that it owns plants that might go cash flow negative in two years. The list of owners of generation facilities in PJM that could make similar claims is enormous and not unique to nuclear assets. All generators are feeling the challenge of competitive markets in which prices are at the lowest levels in decades.

Currently, only two out of over two dozen nuclear units in PJM are proposed for retirement, Oyster Creek and Three Mile Island.[2] Oyster Creek, after reaching an agreement with the State of New Jersey, decided in 2010 to begin the process of shutting down. Oyster Creek is still operating today and will continue to operate until 2019. Exelon announced that Three Mile Island did not clear the PJM capacity market three years in a row – in sharp contrast to the New Jersey-based nuclear units that did clear the capacity markets and have commitments to PJM to run until 2021. The hyperbolic rhetoric that nuclear plants are shutting down in PJM simply does not square with the current facts.[3]

Moreover, there is a troubling assumption that all nuclear plants in New Jersey are in distress. The PJM Independent Market Monitor ("IMM"), with access to all available market data, reaches exactly the opposite conclusion:

[2] http://www.pjm.com/-/media/planning/gen-retire/pending-deactivation-requests.ashx?la=en

[3] It is important to note that all of the nuclear power plant closure occurring nationally are outside the PJM footprint. Since 2013, nuclear plants have closed in Nebraska, California, Vermont, Wisconsin and Florida. No plants have close in PJM in that timeframe.

> "In 2016, PJM prices were at the lowest level since the introduction of competitive markets in 1999. In 2016, PSEG's Hope Creek plant fell short of covering its annual avoidable costs. But Hope Creek covered its annual avoidable costs on average over the last six years by a substantial margin even when 100 percent of NEI's capital expenditures are included. Hope Creek has higher annual avoidable costs than many other nuclear plants, including Salem, because it has a less efficient one unit configuration. In 2016, the Salem plant also fell short of covering its annual avoidable costs. But the Salem plant covered its annual avoidable costs on average over the last six years by a more substantial margin than Hope Creek even when 100 percent of NEI's capital expenditures are included. Neither plant is defined as at risk according to the criteria that the IMM applies to all units in the IMM's annual PJM State of the Market Report. The reported results are based on public data including LMP, capacity market prices and cost data from the Nuclear Energy Institute (NEI)."[4]

The Market Monitor's analysis points to an important fact about markets – they fluctuate. In 2011, in the context of the LCAPP debate, New Jersey was mistakenly told that new power plants would never be built in the State without a subsidy. In 2017, we know that was incorrect and it is unfortunate that New Jersey had to expend so many public resources defending an unconstitutional, unnecessary and flawed law.

Today, New Jersey has an opportunity to either learn from the past or repeat a mistake. P3 urges the Committees to not rush into another energy policy mistake. Since there is no immediate crisis, the Committees should take time to learn more about this very complicated topic, to fully understand the market dynamics that are occurring in today's markets, to appreciate the efforts that are currently underway at PJM and FERC that could improve the resiliency and reliability of electricity markets, and to develop thoughtful, informed and sound energy policy for the Garden State. P3 welcomes the opportunity to partner with the Committees in that discussion.

[4] http://www.monitoringanalytics.com/reports/Reports/2017/IMM_Testimony_NJSEEC_20171204.pdf at 2.