

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

Calpine Corporation, Dynegy Inc.,)	
Eastern Generation, LLC, Homer City)	
Generation, L.P., NRG Power Marketing LLC,)	Docket No. EL16-49
GenOn Energy Management, LLC,)	
Carroll County Energy LLC,)	
C.P. Crane LLC, Essential Power, LLC,)	
Essential Power OPP, LLC, Essential)	
Power Rock Springs, LLC, Lakewood)	
Cogeneration, L.P., GDF SUEZ Energy)	
Marketing NA, Inc., Oregon Clean)	
Energy, LLC and Panda Power)	
Generation Infrastructure Fund, LLC)	
v.)	
PJM Interconnection, L.L.C.)	
PJM Interconnection, L.L.C.)	Docket No. ER18-1314-006
PJM Interconnection, L.L.C.)	Docket No. EL18-178 (Consolidated)

**COMMENTS OF THE PJM POWER PROVIDERS GROUP
IN RESPONSE TO
PJM INTERCONNECTION, LLC’S SECOND COMPLIANCE FILING**

Pursuant to the June 2, 2020, notice issued by the Federal Energy Regulatory Commission (“FERC” or the “Commission”),¹ the PJM Power Providers Group (“P3”)² provides these

¹Combined Notice of Filings #1, Docket Nos. ER10-2042-032, *et al.* (June 2, 2020).

² P3 is a non-profit organization that supports the development of properly designed and well-functioning markets in the PJM region. Combined, P3 members own approximately 67,000 megawatts of generation assets, produce enough power to supply over 50 million homes in the PJM region covering 13 states and the District of Columbia. For more information on P3, visit www.p3powergroup.com. The comments contained in this filing represent the position of P3

comments in response to PJM Interconnection LLC's ("PJM") second compliance filing, filed on June 1, 2020,³ in compliance with the Commission's April 16, 2020 Order on Rehearing and Clarification⁴ of the December 19, 2019 order⁵ in the above-captioned proceedings. PJM's June 1 Compliance Filing proposes modifications to the PJM Open Access Transmission Tariff ("Tariff"), Reliability Assurance Agreement Among Load Serving Entities in the PJM Region ("RAA"), and the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. ("Operating Agreement") to further amend the application of the Minimum Offer Price Rule ("MOPR") in the PJM capacity market, known as the Reliability Pricing Model ("RPM"), in order to implement the Commission's directives in the April 16 Order, incorporating these directives into the Tariff, Operating Agreement, and RAA revisions presented in PJM's March 18, 2020 filing to comply with the December 19 Order.⁶

PJM's June 1 Compliance Filing is consistent with both the December 2019 Order and the April 16 Order on Rehearing and should be approved. PJM appropriately addressed the many issues raised in the April 16 Order on Rehearing and put forth tariff language that responds to the Commission's direction. Specifically, P3 is pleased to support PJM's proposed Tariff language regarding state default service procurements which has been the focus of significant stakeholder

as an organization, but not necessarily the views of any particular member with respect to any issue. P3 has separately moved to intervene in this proceeding.

³ Second Compliance Filing Concerning the Application of the Minimum Offer Price Rule of PJM Interconnection, L.L.C., Docket No. EL16-49; ER18-1314; and EL18-178 (Consolidated), dated June 1, 2020 ("June 1 Compliance Filing").

⁴ *PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,035 (2020) ("April 16 Order").

⁵ *Calpine Corp. v. PJM Interconnection, L.L.C.*, 169 FERC ¶ 61,239 (2019) ("December 2019 Order").

⁶ Compliance Filing Concerning the Minimum Offer Price Rule, Request for Waiver of RPM Auction Deadlines, and Request for an Extended Comment Period of at Least 35 Days of PJM Interconnection, L.L.C., Docket No. ER18-1314-003 (Mar. 18, 2020) ("March 18 Compliance Filing").

focus since April 16th. P3 also supports PJM’s request that the Commission issue a timely final ruling on both its June 1 and March 18 Compliance Filings so as to enable PJM to move forward with its “long-overdue series of RPM Auctions and provide needed certainty to the marketplace.”⁷

I. COMMENTS

A. PJM’s Proposed Tariff Language Appropriately Addresses Concerns Related to State Default Service Auction.

P3 was one of the numerous interested parties that raised concerns with the Commission’s April 16 Rehearing Order, as well as PJM’s March 18 Compliance Filing, regarding the interface of the MOPR and state default service procurement programs.⁸ PJM’s March 18 Compliance Filing, which had been submitted prior to the issuance of the April 16 Rehearing Order, provided that default service auctions are not State Subsidies,⁹ as defined in the December 19 Order.¹⁰ However, the Commission’s April 16 Rehearing Order clearly provided that any generator that receives a “payment or financial benefit” that is “derived from or connected to” a state default procurement program would be subject to the MOPR.¹¹ P3 expressed concerns over this obvious

⁷ June 1 Compliance Filing, p. 2.

⁸ Comments of the PJM Power Providers Group, Docket No. ER18-1304-003; ER18-1304-004, dated May 15, 2020 (“P3 May 15 Comments”), pp. 6-8. *See also*: Motion for Leave to File Answer and Answer of the Public Utilities Commission of Ohio, Docket Nos. EL16-49-003, et al., at Exhibit A (May 28, 2020); Request for Limited Rehearing of the Pennsylvania Public Utility Commission, Docket Nos. EL16-49-003, et al., at 13-17 (May 18, 2020); Request for Rehearing or, in the Alternative, Clarification of Vistra Energy Corp. and Dynegy Marketing and Trade, LLC, Docket Nos. EL16-49-003, et al., at 5-10 (May 18, 2020); Request for Rehearing of Energy Harbor LLC, Docket Nos. EL16-49-003, et al., at 4-7 (May 18, 2020); Comments of Calpine Corporation, Docket Nos. ER18-1314-003, et al., at 6-8 (May 15, 2020); Comments of the Organization of PJM States, Inc., Docket Nos. ER18-1314-004, et al., at 26 (May 15, 2020); Comments and Protest of the New Jersey Board of Public Utilities, Docket Nos. ER18-1314-003, et al., at 8-12 (May 15, 2020); Comments and Limited Protest of the Maryland Public Service Commission, Docket Nos. ER18-1314-003, et al., at 5-8 (May 15, 2020).

⁹ March 18 Compliance Filing, pp. 12-13.

¹⁰ December 19 Order, P 67.

¹¹ April 16 Rehearing Order, P 386.

conflict, which, at a minimum, would create confusion for both states and market participants in the PJM footprint. P3 also expressed serious substantive concerns with such a far-reaching MOPR application, noting that without further direction from the Commission through the compliance process, the Commission's determination on this issue could undermine the robust financial hedging that market participants undertake in these state-run auctions, and could be read to require nearly every generator in PJM to consider itself subsidized when participating in PJM's base residual auctions – regardless of whether the resource is receiving a material subsidy or not.

PJM's June 1 Compliance Filing rectifies both the potential conflicting language, as well as properly defines a State Subsidy, so as to ensure that these valuable state default service programs continue to be conducted in a competitive and non-discriminatory manner. Specifically, PJM clarifies that state default service procurements are, in fact, State Subsidies, but proposes language that will allow for a limited exemption in order to ensure the continuation of normal commercial activity associated with state default service auctions while safeguarding against any revenues that would distort the competitiveness of the RPM auction.

P3 believes that PJM has struck the correct balance between the Commission's concern that, if left unchecked, state default serve auctions could be used improperly to support the uneconomic construction, development or operation of a Capacity Resource in a way that distorts the efficient market outcome for all participants, and the need of primarily retail choice states to operate these default procurements in order to provide wholesale electric supply for retail choice customers who do not choose a competitive supplier.¹²

Therefore, in order to limit the unintended consequence of subjecting nearly all Capacity Resources to the MOPR, while also ensuring that state default service auctions do not support

¹² June 1 Compliance Filing, pp. 15-16.

uneconomic entry of new resources or the retention of resources that would otherwise retire, PJM has proposed the following clarifications and changes that, if applied, would provide a limited exception from the definition of State Subsidy:

- Revise the definition of State Subsidy so as to not encompass transactions or obligations associated with a state default service auction where the underlying state auction is competitive and resource-neutral;¹³
- A new compliance definition that would include strict limits on what would qualify as a competitive and resource-neutral state auction;
- The required oversight of a consultant or manager, independent of the Market Participants, who certifies that the auction was conducted through a non-discriminatory and competitive bidding process;¹⁴
- State default service auctions must not place any conditions based on the ownership, location, affiliation, fuel type, technology or emissions of any resources or supply;¹⁵
- Prohibition of resulting contracts between the Entity Providing Supply Services to Default Retail Service Provider and the electric distribution company that impose any conditions that would require any upstream bilateral transactions to be sources from any specific Capacity Resource or resource type in order to satisfy the retail supply obligations;
- Retail customers must have the option to elect a competitive retail supplier and effectively by-pass any supply charges that are a result of the state default service awards; and
- Clarify that the revised definition of State Subsidy still clearly finds that any Capacity Resources with a State Subsidy that would otherwise be subject to the MOPR, such as renewable resources that generate renewable energy certificates, will still be subject to the MOPR.¹⁶

¹³ *Id.*, p. 19, citing proposed Tariff, Definitions R-S (definition of State Subsidy subpart (3)).

¹⁴ *Id.*, p. 20.

¹⁵ PJM notes that the District of Columbia's Public Service Commission mandated default service auction would fail to meet this requirement, given that it requires 5% of Potomac Electric Power Company's default supply to be provided via renewable resources (outside of meeting Renewable Portfolio Standards). *See* June 1 Compliance Filing, p. 20, fn 59.

¹⁶ June 1 Compliance Filing, pp. 15-21.

P3 supports PJM's proposed clarifications and new Tariff language as an appropriate, reasonable and effective way to comply with the Commission's April 16 Rehearing Order and urges the Commission to accept this compliance filing. PJM's proposal meets the Commission's goal of establishing a replacement rate that addresses state subsidies of selected generation resources while also allowing the well-functioning, non-discriminatory state retail access default service procurement programs to continue to provide the benefits of competition for customers.

II. CONCLUSION

For all of the reasons stated herein, P3 respectfully requests that the Commission accept PJM's June 1 Compliance Filing, particularly as it relates to PJM's proposed clarification and Tariff language for state default service programs. P3 also supports PJM's request for a clear and final ruling on both the March 18 and June 1 Compliance Filings as soon as possible, so that PJM can properly begin scheduling the "long-overdue" series of RPM Auctions. Prompt action by the Commission as it relates to this compliance filing and the March 18 compliance filing will finally allow PJM to schedule the delayed 2019 and 2020 Based Residual Auctions and place PJM on path to return to a normal cycle of capacity auctions in 2021.

Respectfully submitted,

PJM POWER PROVIDERS GROUP

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Dated: June 22, 2020

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 22nd day of June, 2020.

Laura Chappelle
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