

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Modernizing Electricity Market Design)

Docket No. AD 21-10-000

Reply Comments of the PJM Power Providers Group¹

P3 is pleased to offer these limited reply comments. P3 will not repeat its comments from its prior filing, nor will these comments respond to multiple wide-ranging comments that were presented at the technical conference on March 23, 2021 or in post technical conference comments offered to the Commission on April 26, 2021. Instead, these narrow comments will underscore the need echoed in prior statements from PJM, the Commission, and other parties in this docket to have an effective mechanism in place to ensure the integrity of the capacity market price signals for those resources that are not receiving materials state subsidies.

As the Commission moves forward, it is important that it be mindful of the admonition that PJM offered to the Commission in 2018 that, “if a material fraction of resources price their capacity offers relying on their selective receipt of subsidies, then:

¹ 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 as an organization, but not necessarily the views of any particular member with respect to any issue.

- other sellers in PJM’s interstate market that do not receive subsidies will receive an artificially suppressed, unjust and unreasonable rate;
- competitive entry will face a significant added barrier;
- new subsidies will be encouraged; and
- one state’s policy choices could contribute to a ‘crowding out’ of other competitive resources and resulting policy choices on which other states rely.”²

Since PJM offered this view to FERC a mere three years ago nothing has changed at PJM or in the marketplace that would obviate the need to provide just and reasonable wholesale market rates to those resources that do not receive a material subsidy. If anything, the pace of subsidization efforts has slowed down in PJM since 2018 and, in the notable case of Ohio, the General Assembly repealed a significant subsidy that had been previously awarded to its two nuclear facilities.³

Not only did PJM recognize the concerns associated with unmitigated subsidies interfering with just and reasonable rates, but the Commission also agreed with PJM’s logic in its June 29, 2018 Order when it offered, “As the auction price is suppressed in this market, more generation resources lose needed revenues, increasing pressure on states to provide out-of-market support to yet more generation resources that states prefer, for policy reasons, to enter the market or remain in operation. With each such subsidy, the market becomes less grounded in fundamental principles of supply and demand.”⁴ This finding from the Commission was affirmed in its

² *PJM Interconnection, L.L.C.*, Capacity Repricing or in the Alternative MOPR-Ex Proposal: Tariff Revisions to Address Impacts of State Public Policies on the PJM Capacity Market, Docket No. ER18-1314-000, April 9, 2018, at p. 4.

³ See, <https://www.cleveland.com/open/2021/03/gov-mike-dewine-signs-repeal-of-nuclear-bailout-other-parts-of-scandal-tainted-house-bill-6.html>.

⁴ *Calpine Corporation, et al., v. PJM Interconnection L.L.C.*, 163 FERC ¶ 61,236 (2018) at P 2.

December 19, 2019 Order as well as the multiple rehearing orders related to the December 19, 2019, and June 29, 2018, orders.⁵ This conclusion in 2019 was also entirely consistent with prior Commission precedent related to the MOPR.⁶

Again, P3 is not suggesting that the MOPR should not be revised. It should. However, P3 remains concerned by proposals offered by other stakeholders in this proceeding and even PJM itself that the market will somehow produce just and reasonable rates that can effectively manage market entry and exit in PJM if the PJM market essentially has no mechanism to deal with the price suppressive effects of a subset of uneconomic resources receiving subsidies that allow them to participate in the PJM market with complete disregard to the actual clearing prices.⁷

The wholesale capacity market rate needs to be just and reasonable for both subsidized and unsubsidized resources. PJM and FERC have an obligation to all resources in the market – not just those that are subsidized or considered “policy” resources. The vast majority of resources in PJM are not receiving material subsidies and PJM and FERC have clearly articulated views that wholesale capacity rates for unsubsidized resources are not just and reasonable, if the rates for unsubsidized capacity resources are suppressed by the effects subsidy-skewed clearing prices.

⁵ See, 174 FERC ¶ 61,036 (Jan. 19, 2021), 173 FERC ¶ 61,061 (Oct. 15, 2020) and 171 FERC ¶ 61,035 (Apr. 16, 2020).

⁶ **“A capacity market will not be able to produce the needed investment to serve load and reliability if a subset of suppliers is allowed to bid noncompetitively to suppress market clearing prices....** The lower prices that would result under ...[the] proposal [to eliminate the MOPR] would undermine the market’s ability to attract needed investment over time. Although capacity prices might be lower in the short run, in the long run, such a strategy will not attract sufficient private investment to maintain reliability.... **The MOPR does not punish load, but maintains a role for private investment so that investment risk will not be shifted to captive customers over time.”** (*emphasis added*). PJM Interconnection, L.L.C., 128 FERC ¶ 61,157, (2009), at PP 90-91.

⁷ On April 28, PJM presented its initial MOPR proposal which would completely remove PJM from MOPR determinations and require any concerned market participants to file a complaint at FERC. The proposal is still subject to stakeholder review and modification. See, <https://pjm.com/-/media/committees-groups/cifp-mopr/2021/20210428/20210428-item-04-pjms-initial-proposal-minimum-offer-price-rule.ashx>

In this docket, this view is shared by the PJM Industrial Customer Coalition who offered to the Commission that any efforts to accommodate state policy decisions, “unduly penalize and discriminate against resources that do not enjoy out-of-market state support.”⁸ The Pennsylvania Office of Consumer Advocate also points to the need to preserve just and reasonable pricing for unsubsidized units and appropriately reminds the Commission, “A decision not to subsidize particular resources should be equally respected as a policy that provides subsidies.”⁹

Consistent with the consumer voices in this proceeding, Pennsylvania Senator Gene Yaw, Chairman of the Pennsylvania Senate Energy and Environment Committee, appropriately outlined the concern that the Commission and PJM cannot simply abandon market protections and expect to produce just and reasonable rates when he offered, “It is fundamentally unfair to those who have chosen to invest in our state without a subsidy based on a promise of a competitive market to have to compete without protection from PJM from the market-distorting actions of states outside Pennsylvania’s borders.”¹⁰

The bottom line is that the Commission cannot wish away this precedent or the appropriate determination by both PJM and FERC that wholesale market rates are not just and reasonable if a subset of uneconomic resources are able to participate in the market via a subsidy that artificially suppresses the prices for resources not receiving subsidies. As Commissioner Christie insightfully inquired of the PJM Independent Market Monitor, “So if one state is going to

⁸ Initial Comments of the PJM Industrial Customer Coalition, Docket No. AD21-10-000, April 26, 2021, at p. 2.

⁹ Initial Comments of the Pennsylvania Office of Consumer Advocate, Docket No. AD21-10-000, April 26, 2021, at p. 5.

¹⁰ Letter from Pennsylvania Senator Gene Yaw, Chair Environmental Resources and Energy Committee to Manu Asthana, President and CEO, PJM Interconnection L.L.C., April 12, 2021, entered into Docket No. AD21-10-000 on April 23, 2021.

subsidize a certain resource, and by subsidizing what it's doing is it's trying to guarantee your results in the capacity market right? It's trying to guarantee that it clears. So if that resource which is subsidized is competing against a resource that is not, how do you have a market -- anything that you can even call a market and sort of an add on to that is why would the unsubsidized resource ever put capital forward to invest in that resource if its going to be basically guaranteed to lose because the other resource is subsidized?"¹¹

Looking ahead, P3 implores the Commission to be mindful of the impact of its decisions on unsubsidized resources lest regulatory decisions prompt a race to state houses to secure additional subsidies and further erode the benefits of PJM's capacity markets. This issue must be addressed in any final determination from the Commission if the capacity market is to have any reasonable chance of fulfilling its mission of providing reliability at just and reasonable rates.

Respectfully submitted,

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¹¹ Transcript of the Federal Energy Regulatory Commission Technical Conference regarding Resource Adequacy in the Evolving Electricity Sector, Docket No. AD21-10-000, March 23, 2021, at p. 139, lines 1- 10.

CERTIFICATE OF SERVICE

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

Dated at Washington, D.C. this 10th day of May, 2021.

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