

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Joint Consumer Representatives,)	
Complainants)	Docket No. EL15-83-000
)	
v.)	
)	
PJM Interconnection, L.L.C.,)	
Respondent)	

PROTEST
OF THE PJM POWER PROVIDERS GROUP

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or the "Commission"), 18 C.F.R. § 385.211 (2015), the PJM Power Providers Group ("P3")¹ respectfully submits this protest regarding the June 30, 2015, filing of the formal complaint by the Joint Consumer Representatives² against PJM Interconnection, L.L.C. ("PJM"). The Joint Consumer Representatives request that the Commission issue an order requiring PJM to update its 2015 PJM Peak Load Forecast values, for purposes of the upcoming Capacity Performance Transition Incremental Auctions ("Transitional Auctions" or "TAs") and the 2015 Base Residual Auction ("BRA"), to reflect the impact of

¹ P3 is a nonprofit corporation dedicated to promoting policies that will allow the PJM region to fulfill the promise of its competitive wholesale electricity markets. For more information on P3 visit www.p3powergroup.com.

² For purposes of this proceeding, the "Joint Consumer Representatives" include: the PJM Industrial Customer Coalition, the Sustainable FERC Project/Natural Resources Defense Council, Sierra Club, the New Jersey Board of Public Utilities ("NJBPU"), the New Jersey Division of Rate Counsel ("NJ Rate Counsel"), Maryland Office of People's Counsel ("MD OPC"), the Office of the People's Counsel for the District of Columbia ("DC OPC"), the Pennsylvania Office of Consumer Advocate ("PA Consumer Advocate"), the Delaware Public Service Commission ("DE PSC"), the Delaware Division of the Public Advocate ("DE Public Advocate"), the West Virginia Consumer Advocate Division ("WV Consumer Advocate") and the Maryland Public Service Commission.

recent enhancements to PJM's load forecasting model that result in an updated load forecast ("New Specification"). In the alternative, Joint Consumer Representatives seek an order requiring PJM to reinstate the Short-Term Resource Procurement Target ("2.5% Holdback") that was removed from PJM's Open Access Transmission Tariff ("Tariff") by Commission Order on June 9, 2015.³ If neither the New Specification nor the 2.5% Holdback is accepted, Joint Consumer Representatives seek an order requiring PJM to delay the TAs and the 2015 BRA until such time as the updated load forecasting model will be ready for implementation (i.e., fall of 2015).

On July 1, 2015, the Commission issued a Notice of Complaint setting the deadline for interventions and protests to the Complaint as July 20, 2015. On July 2, 2015, pursuant to Rule 214 of the Rules of Practice and Procedure of the Commission, 18 C.F.R. § 385.214 (2015), P3 submitted a doc-less motion to intervene.

P3 respectfully submits this protest, as more fully described herein, opposing the Joint Consumer Representatives' Complaint and requests that the Commission dismiss Joint Representatives' Complaint.⁴

I. PROTEST

The Joint Consumer Representatives' Complaint should be dismissed. The Joint Consumer Representatives' Complaint fails to acknowledge that the New Specification at issue is actively pending in the PJM stakeholder process and that PJM has consistently stated that the new load forecast model will not be ready for implementation until on or after November 2015.

³ *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208 (2015) (the "CP Order").

⁴ 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.

Furthermore, the request to order PJM to reinstate the 2.5% Holdback must be rejected as it amounts to a collateral attack on the Commission's recently approved Capacity Performance order.⁵ Finally, both the request to order PJM to utilize the (yet to be completed) New Specification, or bring back the 2.5% Holdback, is not needed to ensure that PJM does not over-procure capacity, as PJM has informed this Commission that as a result of extensive analyses and discussions in the stakeholder process, PJM has adopted a number of load forecast adjustments that, overall, will reduce the peak load forecast for the 2018/2019 Delivery Year by 2.5-3%. For all of these reasons, Joint Consumer Representatives' Complaint should be dismissed.

A. The New Specification methodology is currently being reviewed, discussed and modified in the PJM stakeholder process and, as such, it is premature to demand its use in either the upcoming TAs and/or the 2015 BRA.

The Joint Consumer Representatives argue that PJM's "refusal" to implement the New Specification in the upcoming TAs and the 2015 BRA will result in imprudent over-procurement of capacity and rates that are allegedly unjust and unreasonable. This argument must be rejected on several accounts, the most important of which is the fact that the new load forecasting methodology has not completed its review in PJM's stakeholder process.

The Joint Consumer Representatives acknowledge that PJM has stated that the model "was not ready for application and would not be used for either the upcoming TAs or the 2015 BRA."⁶ In fact, PJM has consistently stated that the new load forecasting methodology would not be ready until November 2015, in time for the 2016 BRA.

⁵ *CP Order, supra.*

⁶ Complaint of the Joint Consumer Representatives Requesting Fast Track Processing, Docket No. EL15-83-000 (filed June 30, 2015) (errata filed July 2, 2015), at p. 11.

As far back as March 2015, PJM has stated that it will work with PJM stakeholders, initially through the Load Analysis Subcommittee ("LAS"), to finalize its investigation of potential model improvements and settle on a recommended model for final review by, and recommended Manual 19 language changes with, the LAS, before subsequent review by the Planning Committee and Markets and Reliability Committee. PJM stated that it would adopt the revised changes and implement them beginning with the official 2016 Load Forecast.⁷

In April, PJM delineated a more granular timeline that included the following:

- "Late May: Additional LAS meeting to further discuss stakeholder questions/concerns and any additional analysis;
- June: PJM Staff will bring new M-19 language to LAS;
- July: PJM Staff will bring new M-19 language to PC;
- August: Second read/approval at PC; First read at MRC;
- September: Second read/approval at MRC; and
- December: Load Forecast Report with New Model Specification."⁸

A Load Forecast update was most recently given by PJM and discussed at the July 9, 2015, Planning Committee meeting, wherein PJM outlined several remaining tasks to be undertaken before completion of the new forecast specification, including "develop M-19 language and review through (the) stakeholder process."⁹

There can be no doubt that the revised load forecast model is still very much a work in process and is firmly entrenched within the PJM stakeholder process. This Commission has consistently recognized that provisions adopted through a Regional Transmission Organization's ("RTO") stakeholder processes will be given due deference, provided they are otherwise just and

⁷ *PJM Peak Load Model Enhancements*, Load Analysis Subcommittee, March 25, 2015, p.37.

⁸ *Proposed Changes to the PJM Load Forecast Model*, Load Analysis Subcommittee, April 30, 2015, p. 44.

⁹ *Load Forecast Update*, Planning Committee, July 9, 2015, p. 9.

reasonable.¹⁰ PJM is diligently working with its stakeholders to formulate a new load forecast methodology that is just, reasonable and fair to all stakeholders. The new methodology represents an example of a crucial issue, comprised of many different inputs and assumptions, that take time and careful consideration in its crafting. P3 is among the many stakeholders who have a vested interest in PJM formulating the most reasonable and accurate load forecast. P3 is committed to taking the time necessary to ensure that PJM "gets it right." The Joint Consumer Representatives' request to rush the application of a model that has failed to conclude its review in the stakeholder process must be rejected.

B. The request to reinstate the 2.5% Holdback, after the Commission recently accepted PJM's proposal to cease its use for several well-documented reasons, amounts to a collateral attack that must be rejected.

The Joint Consumer Representatives acknowledge that the Commission's June 9, 2015, Order accepting PJM's Capacity Performance Proposal included a repeal of the 2.5% Holdback, to be effective for the 2018-2019 delivery year. The Commission found, in part, that PJM was not obligated to retain the provision for reliability purposes and that the provision was not needed to ensure participation of resources (including demand response, energy efficiency, generation uprates, or external resources) in PJM's three-year forward capacity market. Moreover, the Commission was aware that PJM was working with its stakeholders on a new load forecast methodology when it accepted the elimination of the 2.5% Holdback. Acknowledging

¹⁰ See *Sw. Power Pool, Inc.*, 127 FERC ¶ 61,283, at P 33 (2009) (noting that the Commission "accord[s] an appropriate degree of deference to RTO stakeholder processes"); *New Eng. Power Pool*, 105 FERC ¶ 61,300, at P 34 (2003) (Commission approval of transmission cost allocation proposal based upon an extensive and thorough stakeholder process); *Policy Statement Regarding Regional Transmission Groups*, 1991-1996 FERC Stats. & Regs., Preambles ¶ 30,976, at 30,872 (1993) (the Commission will afford the appropriate degree of deference to the stakeholder approval process). The Commission's deference to RTO stakeholder processes has been upheld by the courts. See *Pub. Serv. Comm'n of Wis. v. FERC*, 545 F.3d 1058, 1062-63 (D.C. Cir. 2008) (noting the Commission often gives weight to RTO proposals that reflect the position of the majority of the RTO's stakeholders) (quoting *Am.Elec. Power Serv. Corp. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,083, at P 172 (2008)).

that the final load forecast methodology was not yet complete, the Commission noted that PJM had "adopted a number of load forecast adjustments that, overall, will reduce the peak load forecast for the 2018/2019 Delivery Year by 2.5-3%."¹¹ Addressing the Joint Consumer Representatives' request to maintain the 2.5% to mitigate the potential effects of over-procurement, the Commission stated:

"Joint Consumer assert that PJM's holdback should be retained because it mitigates the effects of overstated load forecasts. However, we are not persuaded that a holdback requirement is necessary to address load forecast errors, or that the historical overstatements experienced to date are unavoidable or likely to recur at a level that requires mitigation. In fact, PJM's stakeholders have discussed these issues, including proposed modeling changes, with load forecast adjustments recently adopted by PJM."¹²

Given the fact that the Joint Consumer Representatives' argument regarding retaining the 2.5% Holdback has previously been rejected in the CP Order, and is pending in their recently filed Request for Rehearing of the CP Order,¹³ the arguments herein clearly amount to a collateral attack that must be rejected by the Commission.

Both the Commission and courts have long-standing precedent disallowing collateral attacks on Commission orders.¹⁴ The courts have routinely held that petitioners seeking review of Commission orders "must first" petition for rehearing of those orders.¹⁵ For all of these

¹¹ Reforms to the Reliability Pricing Market ("RPM") and Related Rules in the PJM Open Access Transmission Tariff ("Tariff") and Reliability Assurance Agreement Among Load Serving Entities ("RAA"), Docket No. ER15-623-000 (filed Dec. 12, 2014), Transmittal Letter, pp. 76-77.

¹² CP Order, *supra*, at P 396.

¹³ *Request for Rehearing of the Joint Consumer Representatives*, Docket Nos. ER15-623-002, *et al.* (filed July 9, 2015).

¹⁴ See *Midland Cogeneration Venture Limited Partnership v Federal Energy Regulatory Commission, and Consumers Energy*, United States Court of Appeals for the District of Columbia (12-1224), February 3, 2015 ("Midland Cogen").

¹⁵ *Midland Cogen, supra*, citing, in part, *Wabash Power Ass'n, Inc. v. FERC*, 268 F.3d 1105, 1114 (D.C. Cir. 2001), at p.2.

reasons, the Joint Consumer Representatives' request to reinstate the 2.5% Holdback must be rejected.

II. CONCLUSION

As of the date of this filing, the first Transitional Auction begins in only one week. The second Transitional Auction begins in two weeks and the 2015 BRA begins in three weeks. To stop these crucial auctions on a moment's notice for spurious claims that have been previously rejected by the Commission would severely penalize market participants who have been actively planning and preparing for the auctions in good faith.

P3 respectfully requests that the Commission consider these comments and dismiss the Joint Consumer Representatives' Complaint.

Respectfully submitted,

On behalf of the PJM Power Providers Group

By: /s/ Glen Thomas
Glen Thomas
Laura Chappelle
GT Power Group
1060 First Avenue, Suite 400
King of Prussia, PA 19406
gthomas@gtpowergroup.com
610-768-8080

July 20, 2015

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 20th day of July, 2015.

On behalf of the PJM Power Providers Group

By: /s/ Glen Thomas
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