UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.	)	Docket No. EL15-31-000

LIMITED PROTEST

OF THE PJM POWER PROVIDERS GROUP

On December 15, 2014, PJM Interconnection, L.L.C. ("PJM"), pursuant to Section 206 of the Federal Power Act proposed revisions to its tariff to temporarily change the current energy market off cap from the current $1,000/MWh offer cap to a new level that reflects the realities of the current PJM marketplace ("PJM Filing").[1] On December 16, 2014, the Federal Energy Regulatory Commission (the "Commission" or "FERC") issued a Notice of Filing setting December 23, 2014, as the deadline to intervene or protest the filing. On December 17, 2014, pursuant to Rule 214 of the Rules of Practice and Procedure of the Commission, 18 C.F.R. § 385.214 (2014), the PJM Power Providers Group ("P3")[2] submitted a doc-less motion to

[1] *PJM Interconnection, L.L.C.*, Docket No. EL15-31-000, December 15, 2014 ("PJM Filing").

[2] 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. P3 strongly believes that properly designed and well-functioning competitive markets are the most effective means of ensuring a reliable supply of power to the PJM region, facilitating investments in alternative energy and demand response technology, and promoting prices that will allow consumers to enjoy the benefits of competitive electricity markets. Combined, P3 members own over 87,000 megawatts of generation assets, own over 51,000 miles of transmission lines, serve nearly 12.2 million customers and employ over 55,000 people in the PJM region – encompassing 13 states and the District of Columbia. For more information on P3, visit www.p3powergroup.com

intervene. Pursuant to 211 of the Rules of Practice and Procedure of the Commission, 18 C.F.R. § 385.211 (2014), P3 respectfully submits this limited protest.[3]

As part of the PJM Filing, PJM offers compelling proof for something the Commission has already concluded – the existing PJM tariff provisions in regards to the energy market offer cap are not appropriate in today's market.[4] In response, PJM proposes a revised offer cap structure in which the offer cap for cost based offers would rise to $1800/MWh and any costs above $1800/MWh could be recovered through a make whole payment.

The PJM Filing is on the heels of Commission action earlier this year that approved a waiver of the current offer cap provisions in the face of conditions that occurred in January of 2014.[5] That waiver, which was in effect in PJM for seven weeks, allowed cost based energy market offers to exceed $1000/MWh and for those cost based offers to set the clearing price if accepted. That Commission approved waiver expired on March 31, 2014.

I. PROTEST

A. P3 Agrees with PJM that Existing Tariff Provisions are Unjust and Unreasonable

As the Commission is aware, the weather conditions last January created a situation in which certain generators were in the untenable position of being forced to offer their electricity below their marginal energy costs. Natural gas prices in the PJM Region hit record-setting prices

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3 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.

4 146 FERC ¶ 61,078 (2014).

5 146 FERC ¶ 61,078 (2014).

- averaging over $120/MMbtu and including high prices up to $140/MMbtu for trades on January 21 and delivered on January 22.[6]

With gas prices at the level they were last winter, the $1000/MWh offer cap proved completely impractical. At the time, PJM appropriately described the situation as "patently unfair." As PJM stated, "Generators cannot lawfully be required to buy fuel at a cost of millions of dollars for the purpose of generating power and selling it at a loss."[7] On January 21, 2014, approximately 5,000 MWs of Day-Ahead energy market offers were priced at $999/MWh indicating that costs for these units were above the offer cap.[8] As a result of the offer cap and other tariff provisions, uplift charges in PJM soared to over $500 million in January 2014.[9]

PJM explained that when the price cap was implemented, the $1,000/MWh value was five to seven times higher than the marginal cost of production, and the cap was intended as a "fail-safe market power mitigation provision" preventing sellers from raising market prices above the marginal cost—not the actual cost—of production.[10]

The Commission agreed with PJM that a waiver of the $1000/MWh offer cap was necessary in order to address a "concrete problem."[11] While the FERC-approved waiver expired

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6 *PJM Interconnection, L.L.C.*, Request of PJM Interconnection, L.L.C., For Waiver, Request For 7 Day Comment Period, and Request For Commission Action By February 10, 2014, ER 14-1145-000, Jan 23, 2014, ("PJM Waiver Request"), at p 4.

7 PJM Waiver Request, at pp. 1-2.

8 Presentation to the PJM Capacity Senior Task Force, "$1,000 Offer Cap," June 2, 2014 at 19.

9 Presentation of Andy Ott and Mike Kormos, "Operational Events and Market Impacts January 2014 Cold Weather," May 9, 2014 at 24

10 PJM Interconnection, L.L.C., Answer of PJM Interconnection, L.L.C.to Comments and Protests, ER 14-1145, Feb. 3, 2014, at p 7.

11 146 FERC ¶ 61,078 (2014) at p. 14, P40.

on March 31, nothing has happened since that time to change the fact that PJM's offer cap provision are not just and reasonable.

PJM filed its proposed tariff revision on December 15, 2014, even though last year's polar vortex struck the PJM region with extreme weather conditions less than 20 days after December 15, 2013. This filing leaves PJM and the Commission exposed to the same "relative frenzy"[12] that both PJM and the Commission experienced last winter. Given the events of last year, it is irresponsible to have the existing, unjust and unreasonable offer cap in place as winter commences. The Commission must take expeditious action to ensure that when reliability is uncertain and the grid is under stress, generators, market participants, and consumers can rely on the market to send appropriate price signals that will maintain and value the reliability of the grid.

B. PJM's Proposed Changes are Not Just and Reasonable

As described by PJM and demonstrated through the experiences of last winter, the current tariff and the offer cap of $1,000/MWh is unjust and unreasonable, and as such, must be changed. At the Commission's Price Formation Technical Conference on October 28, 2014, participants discussed that the offer cap is intended to be a "damage-control device in the event that you have […] uncompetitive circumstances that arise that your mitigation mechanisms weren't prepared to deal with."[13] The offer cap is not intended to artificially suppress prices, as it did last winter. Adam Keech, Director of Market Operations at PJM stated, "[w]e had resources that were limited by the $1,000 offer cap. And as a result, couldn't offer in their true cost into the market. And as a result of those market rules, we couldn't set prices—had we

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[12] PJM Filing at 7.

[13] FERC October 28, 2014 Price Formation Technical Conference Transcript, AD14-14-000, citing Jeff McDonalad from ISO-NE at p. 206-207 ("FERC Price Formation Transcript").

dispatched those resources, we couldn't set prices that were commensurate with the controlling actions we were taking."[14] Joe Bowring, the Independent Market Monitor for PJM similarly acknowledged that, at the inception of the offer cap, "it was a number that people thought could never be reached."[15]

While P3 supports PJM's conclusion that the current Tariff revisions are unjust and unreasonable, P3 does not support PJM's proposed solution to the problem. The Commission must balance the need to act expeditiously, with the need to ensure that PJM implements a just and reasonable solution going forward. Although PJM has appropriately explained the failures of the current tariff provisions, the solution offered by PJM has not been supported as just and reasonable.

P3 urges the Commission to consider:

1. The proposed $1800/MWh is not supported by any evidence. PJM appears to pick a number out of thin air with the only justification being that the number was part of a failed stakeholder compromise that was never voted upon by the PJM stakeholders. There is no evidence that $1800/MWh is sufficiently high to allow generators to reflect their costs.
2. Separate caps for market based bids and cost based bids is a policy departure from longstanding PJM practice and does not exist in any other RTO. The consequences of this departure need to be better understood before the separation is approved even on a temporary basis.

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[14] FERC Price Formation Transcript citing Adam Keech from PJM at p. 208.

[15] FERC Price Formation Transcript citing Joe Bowring, the Independent Market Monitor for PJM at 209.

3. PJM has not justified the capping of the 10% adder over $1000/MWh and the elimination of the adders over $1800/MWh. With little stakeholder discussion, PJM proposed to revise its Tariff so that the adder for fuel uncertainty will be $100/MWh at clearing prices over $1000/MWh. The 10% adder was created well over 40 years ago to primarily account for the uncertainty in utilizing heat rate to calculate the marginal cost of production. The 10% uncertainty factor is applied to account for the heat rate variance due to changing temperatures and/or pressures during unit load changes as well as the fact that optimum heat rates are only achieved at steady state full load. This amount of uncertainty does not change whether costs are capped at $1000/MWh or $1800/MWh or any other value.

Moreover, PJM's proposed solution is contrary to longstanding Commission precedent. In granting the waiver to PJM last winter, the Commission found that proper market design allows the marginal unit to set the clearing price for all units.[16] Yet, despite this clear direction from the Commission, PJM is proposing to implement a soft offer cap that has the potential to prevent the marginal unit from setting the clearing price. As the Commission stated a little over 10 months ago when evaluating PJM's waiver request,

> By limiting legitimate, cost-based bids to no more than $1,000/MWh, the market produces artificially suppressed market prices and inefficient resource selection. By paying an uplift, PJM is in effect paying one price for energy dispatched through the market (e.g. $1,000), and a second higher price (e.g. $1,200) for the resource dispatched out-of-merit (while treating the latter in the dispatch stack as if it had a bid of $1,000). This would not be consistent with longstanding Commission precedent.[17]

PJM is effectively creating the same situation that the Commission specifically rejected earlier this year. If market prices rise to over $1800/MWh, which is certainly possible given the

[16] 146 FERC ¶ 61,078 (2014) at pp. 14-15, P40.

[17] 146 FERC ¶ 61,078 (2014) at p. 14, P40.

events of last winter led to costs that were over $1700, there would in fact be multiple clearing prices: 1) $1800 and 2) the costs of any unit over $1800/MWh. The PJM proposal would produce a market that is void of transparent market signals and in which unhedgeable uplift is endemic.

PJM's curious departure from Commission precedent diverges from PJM's position earlier this year. As PJM admonished the Commission on January 23, "the economic dispatch at the heart of PJM's energy market critically depends on the assumption that generation offers *are* economic *and reflect the seller's marginal costs*."[18] P3 agrees whole-heartedly. Without explanation, however, PJM is now departing from its prior stance.

Moreover, the $1,800/MWh temporary offer cap, where any offers above that cap will not set the clearing price, is akin to a "soft cap" – a concept that has been specifically rejected by the Commission. As the Commission previously stated:

> [a] significant downside to 'soft' caps is the lack of transparency and uplift costs they create. For these reasons, if generation costs were to appear sufficiently likely to exceed the prevailing cap, our preferred approach would be to adjust the level of the energy cap, as has been done in the past. This way, instead of suppressing the market clearing price by regulatory fiat, all competitive bids would be allowed to clear supply and demand and send transparent price signals to encourage demand response, market entry, and forward contracting."[19]

In making this filing, PJM preferred to "balance concerns of stakeholders" instead of putting forth a just and reasonable solution that is consistent with previous PJM positions and follows "longstanding Commission precedent."

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18 PJM Waiver Request, at p 2.

19 *California Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,076, at P 488 (2007).

C. For Winter 2015, the Commission Should Implement the Same Energy Market Offer Cap Waiver it Approved for the Winter of 2014 and Set PJM's Filing for Hearing and Establish Settlement Procedures.

Having proposed a solution to the currently unjust and unreasonable offer cap that is equally unjust and unreasonable, PJM has left the Commission in this 206 proceeding with the burden of identifying the just and reasonable tariff remedy. P3 proposes that PJM implement the same energy market offer cap waiver that was approved for the winter of 2014 and set PJM's going-forward proposal for hearing and settlement proceedings to further develop the record as to the appropriate energy market offer cap for PJM's energy market. P3 urges the Commission to take expeditious action to provide certainty to the market in advance of the anniversary of the polar vortex. Both PJM's proposal here, and the waiver approved last winter, requires that the generator support its costs in accordance with the Cost Development Guidelines. In such a way, generators' cost based offers are disciplined by the guidelines and by the market monitor. Last winter, the Commission accepted an uncapped waiver of the tariff to allow generators to recover their costs, stating that "by limiting legitimate, cost-based bids to no more than $1,000/MWh, the market produces artificially suppressed market prices and inefficient resource selection."[20]

The Commission should again this winter refrain from imposing a cap on offers in such a way that could produce artificial price suppression. Rather, the Commission should ensure that all resources with legitimate costs, as supported by the Cost Development Guidelines, be permitted to have those offers set market clearing prices to ensure efficient market outcomes. Moreover, the Commission should issue this waiver immediately and not wait until gas prices begin to rise, as proposed by PJM.[21]

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[20] *PJM Interconnection, L.L.C.,* 146 FERC ¶ 61,078 at p14, P 40 (2014).

[21] PJM Filing at 15.

Winter is now upon us and the unjust and unreasonable $1000/MWh offer cap remains in place. Prudence demands quick action by the Commission. Accordingly, the Commission should act on PJM's 206 complaint by reinstating the waiver that was approved on February 11, 2014, while setting the proposal for hearing with respect to future periods. PJM recognizes the need for prompt action, acknowledging that failure to grant the proposed temporary tariff change may lead to another waiver request by PJM, with a repeat of the "relative frenzy" experienced last winter. The Commission has within its authority to prevent such chaos and should do so quickly.

However, implementing a temporary waiver for this winter will not ensure that PJM's tariff is just and reasonable going forward. While PJM attempted to forge a stakeholder compromise, those efforts ultimately were unsuccessful. In an effort to put forward to the Commission a "compromise" that does not exist, PJM has put forth a poorly designed temporary tariff provision that is inconsistent with Commission precedent and has not been shown to be just and reasonable. Therefore, in the same order implementing a tariff waiver for this winter, the Commission should set PJM's complaint for a paper hearing and establish settlement procedures to develop an appropriate energy market offer cap by August 1, 2015, that can be in place well before winter of 2016.

II. CONCLUSION

For the foregoing reasons, P3 respectfully requests that the Commission consider P3's comments, find PJM's tariff unjust and unreasonable with respect to the existing energy market offer cap, reinstate the waiver it approved in February 2014, and set PJM's complaint for a paper hearing and establish settlement procedures to develop an appropriate energy market offer cap by August 1, 2015, that can be in place well before winter of 2016.

Respectfully submitted,

On behalf of the PJM Power Providers Group

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Dated: December 23, 2014

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 23rd day of December, 2014.

On behalf of the PJM Power Providers Group

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