

The IMM Comments were filed in response to the November 17, 2016, filing by the PJM Interconnection, L.L.C. ("PJM") that proposed revisions to the market rules relating to the aggregation of resources offered in PJM's Reliability Pricing Model ("RPM") ("PJM's Seasonal Capacity Filing"). Specifically, PJM's Seasonal Capacity Filing includes proposed revisions to the aggregation rules for certain eligible resources contained in PJM's Open Access Transmission Tariff ("OATT"), and Reliability Assurance Agreement ("RAA"), , to allow certain resources to obtain winter Capacity Interconnection Rights ("CIRs"), and to modify the rules for measurement and verification ("M&V") of Demand Resource ("DR").

I. Motion to Leave and Answer

On December 8, 2016, P3 filed comments in the above-captioned proceeding articulating P3's support of PJM's Seasonal Capacity Filing with recommended revisions ("P3 Initial Comments"). P3 supports PJM's well-intended goal of facilitating the further aggregation of seasonal resources, but cautions that certain necessary details regarding its implementation, particularly with regard to how PJM will clear and price these seasonal resources in the RPM Base Residual Auction ("BRA"), are needed. P3's Answer is narrowly tailored, but will ensure that the Commission has a full and complete record of this important new proposal.

II. Answer

While most comments generally support the notion that seasonal resources should be capable of aggregating with other seasonal resources in order to form a synthetic annual capacity resource, most commenters also expressed concerns with various aspects of the Seasonal Capacity Filing. More troubling, several commenters appear to be using this proceeding to

express lingering concerns about the underlying PJM Capacity Performance market design and to relitigate issues that were previously adjudicated by the Commission and are now under judicial review.

P3 agrees with the PJM Industrial Customer Coalition that the Commission should “rebuff any attempts to expand the scope of this particular proceeding beyond the confines of PJM’s proposal.”⁴ The filing before the Commission is focused on PJM’s role as a facilitator of aggregation among seasonal resources. This proceeding should remain targeted on that issue and requests to revisit previous decisions with respect to fundamental aspects of Capacity Performance market design are outside of scope of PJM’s filing and must be discussed.

Consistent with these limited, proposed revisions, the Commission must be mindful of the reasons why Capacity Performance was implemented and the core tenets upon which it rests. Some commentators forget that PJM and the Commission have made it clear that capacity resources have capacity obligations that require performance with few exceptions. While such a market design may not sit well with resources that “cannot control fuel availability to perform,”⁵ Capacity Performance is designed to provide compensation to those resources that can be relied upon to provide capacity under all circumstances.

Likewise, the Commission has made it abundantly clear that capacity is fundamentally an annual resource. As described more fully below, the efforts by some to re-litigate this Commission determination, or seek exception to this crucial premise, must be rejected.

⁴ Comments of the PJM Industrial Customer Coalition, Docket No. ER17-367-000, dated December 8, 2016, at p.1.

⁵ Motion to Intervene and Comments of the American Wind Energy Association and the Mid-Atlantic Renewable Energy Coalition, Docket No. ER17-367-000, at p.7

P3 remains convinced that PJM's proposal can be modified in order to address its short comings and materially improve the ability of seasonal resources to participate in the market as Capacity Performance resources.

A. The Removal of Base Capacity, per the Commission's Approval of PJM's Capacity Performance Market Design, Must Go Forward in the 2020/2021 Delivery Year.

As was the case with comments and protests regarding PJM's initial Capacity Performance filing,⁶ various parties continue to press the Commission to require PJM to continue to use the substandard Base Capacity product in RPM. The continued attempts to do so in this proceeding, however, clearly amount to a collateral attack on this Commission's approval of PJM's Capacity Performance Order regarding the five-year transition period for Base Capacity resources, culminating in their cessation with the 2020/2021 Delivery Year.

In large part, this Commission approved the termination of Base Capacity resources with the 2020/2021 Delivery Year due to the fact that PJM had provided a "reasonable transition period and the ability (for these seasonal resources) to participate in aggregated offers."⁷ PJM's Seasonal Capacity Filing builds on the Commission's prior approval by providing additional aggregation opportunities for seasonal resources, while maintaining the necessary goal of the annual resource requirement for Capacity Performance beginning in the 2020/2021 Delivery Year.

The Commission should reaffirm PJM's adherence to the prior-established, fair and orderly transition to the annual resource requirement as it will maintain the certainty needed and relied upon by PJM's capacity market participants. As PJM stated,

⁶ *PJM Interconnection, L.L.C.*, FERC Docket No. 15-623-000 (December 12, 2014).

⁷ *PJM Interconnection, L.L.C.*, 155 FERC ¶61,157 (May 10, 2016) ("CP Rehearing Order").

FERC approval of the Capacity Performance enhancements included removal of Base Capacity as a capacity product, and we feel that extending Base Capacity to prolong stakeholder discussion on other alternative RPM changes would inject significant uncertainty when many market participants . . . have stated repeatedly that certainty in these rules is sorely needed. We believe the alternative of simply delaying implementation of the relevant capacity performance rules would significantly harm the market signal that is so critical to stimulating efficient investment.⁸

The transition period for Base Capacity resources was fair and equitable, as it has been for all resources transitioning to full Capacity Performance as an annual product. The Commission endorsed a five year transition period, providing all capacity resources notice and the corresponding opportunity to anticipate the higher performance expectations.⁹ Many capacity resources availed themselves of the transition period to make the changes necessary in order to meet these higher standards. Providing limited or temporary waivers of capacity performance obligations to certain classes of resources at this time would undermine the Capacity Performance Order and should not be accepted by the Commission.

The various requests to delay or retain the Base Capacity product, including requests for this Commission to institute a proceeding under FPA Section 206, *sua sponte*, to investigate the reasonableness of PJM's rules for permitting seasonal resources to participate in the RPM auctions,¹⁰ should not only be rejected as unnecessary, but should also be recognized for what they are, namely a collateral attack of the Commission's Capacity Performance Order.¹¹

⁸ Andrew L. Ott, President and CEO, PJM, letter to Mr. John Schultz, President, Direct Energy Business, LLC, dated November 10, 2016, ("PJM Letter to Direct Energy"), <http://www.pjm.com/~media/about-pjm/who-we-are/public-disclosures/20161111-board-response-to-direct-energy-letter-regarding-base-capacity-extension.ashx>

⁹ *PJM Interconnection, L.L.C.*, 151 FERC ¶61,208 at P 101 (June 9, 2015) ("CP Order"), P. 253]

¹⁰ Protest and Request for Institution of Investigation of ODEC and Direct Energy Business, LLC, ER17-367-000, dated December 8, 2016.

¹¹ *Central Hudson Gas & Electric Corp. v. FERC*, U.S. Court of Appeals for the Second Circuit, Docket Nos.14-1786, *et al.*, decided April 2, 2014, citing *Pac. Gas & Elec. Co. v. FERC*, 533 F.3d 820, 824-25 (D.C. Cir. 2008).

B. Concerns Raised by Other Parties Confirm the Need for Further Analysis of PJM’s Proposal for Capacity Interconnection Rights (CIRs).

Like P3, several other parties to this proceeding have expressed concerns about the PJM proposal to give away winter-only CIRs. Some parties even suggested expansion of the CIR giveaway to even more resources than PJM proposed. While most parties recognized the necessity of CIRs in order for seasonal resources to appropriately participate in the market, most parties raised concerns with PJM’s proposal in this regard. It appears that most parties are implicitly agreeing with PJM that more work needs to be done on the CIR issue. P3 reiterates its call to reject the PJM proposal and allow PJM to return with a better vetted proposal in the future.

Fundamentally, P3 supports the view of the IMM that, "[T]he CIRs that PJM proposes to assign to additional winter seasonal capacity are not free . . . PJM proposes to give away winter CIRs that exist because of other resources that paid for necessary network upgrades, without compensation to the resources that paid for the system capacity."¹² The Commission should not be comfortable with such an inequity. The class of resources to which PJM will “give” CIRs have made no financial remuneration to PJM for the cost of an interconnection study and did not invest in network upgrades in order to receive the CIRs. Just by being a resource that is incapable of providing an annual capacity obligation that has found an appropriate summer capacity partner, a resource would receive complimentary CIRs.

Sensing an opportunity to compound the inequities, several other parties argued that even more of these capacity rights should be given away. LS Power argues that CIRs should be given

¹² IMM Comments, at p.15.

to resources that are not “environmentally limited.”¹³ While calling PJM’s current analytical understanding “inadequate,” the Union of Concerned Scientists calls for the allocations of winter CIRs to be expanded and made permanent.¹⁴ Similarly, and with little justification, the Joint Consumer Advocates argue that the PJM’s CIR give away should be expanded to include even more resources.¹⁵

The Commission should view these disagreements not as a hurdle that cannot be cleared, but rather a sign that more work needs to be done. With the chorus of parties on different sides of the issues calling the PJM proposal “inadequate,” “incomplete,”¹⁶ and “unduly discriminatory,”¹⁷ the dearth of support for the PJM proposal, and PJM’s own admission that more analysis is required, should lead the Commission to find that PJM’s CIR proposal should not move forward. P3 again urges the Commission to order PJM to invest the time to get the CIR issue right.

C. There is Nothing in the PJM Seasonal Capacity Filing that Prevents States from Pursuing State Level Demand Response Programs.

The Delaware Public Service Commission expressed concern that approval of the PJM filing could lead to the loss of the state-managed demand response programs in that state and PJM’s other states. Several Delaware utilities have active utility-driven demand response programs that rely on older capacity market compensation rules in order to justify the program.

¹³ Protest of LS Power Associates, L.P., Docket No. ER17-367-000, dated December 8, 2016, at p. 7.

¹⁴ Protest of the Union of Concern Scientists, Docket No. ER17-367-000, dated December 8, 2016, at p.5.

¹⁵ Protest of the Joint Consumer Advocate, Docket No. ER17-367-000, dated December 8, 2016, at p.7.

¹⁶ Initial Comments of P3 at p.12.

¹⁷ Motion to Intervene and Comments of Avangrid Renewables, L.L.C., Docket No. ER17-367-000, dated December 8, 2016, p. at 4

Fairly stated, the Delaware Commission's concern, as expressed, is more appropriately directed at the Capacity Performance itself and not the specific proposed changes offered by PJM in this filing.

The Capacity Performance Order made several fundamental changes to the PJM Capacity Performance market design and sent a resounding message to all capacity resources in PJM that performance expectations are rising to a new and different level. Just like generation, demand response, including state-managed demand response programs, must rise to the level of the new expectations, or discontinue participating in the PJM RPM as a capacity resource.

The demand response programs of Delaware and other states can provide meaningful contributions to the grid in a Capacity Performance world. Nothing in the PJM filing prevents a state from continuing an existing demand response program or starting a new one. Admittedly, as a result of the Capacity Performance Order, the economics associated with legacy demand response programs may have changed, and some slight reduction in demand response resources may initially occur. But PJM believes that such reduction, if it occurs, is temporary in nature.

PJM has recently stated that:

“ . . . while PJM has acknowledged we may see some reduction in Demand Response resources once the 100% Capacity Performance Requirement is implemented in the 2020/2021 Delivery Year, the quantity of resources with potential winter capability appears to be sufficient to match with summer only resources such that overall, any reduction in the participation of summer only resources in 2020/2021 should be relatively small, and in future years as winter resources gain experience with the aggregation mechanism, could potentially recovery fully to prior levels.”¹⁸

The possible reduction in resources and economics in the new Capacity Performance market design can be said for all forms of capacity, including generation and energy efficiency.

This should not come as a surprise to any PJM market participants. In fact, changing the

¹⁸ PJM letter to Direct Energy, at p.2

economics of certain forms of capacity, while rewarding the most reliable forms of capacity, was a principal goal of Capacity Performance. PJM remains committed to ensuring the ongoing participation of demand response in its markets. This proceeding should not be used to retract PJM from proceeding with a full, annual Capacity Performance product for the upcoming 2020/2021 BRA.

III. CONCLUSION

For the foregoing reasons, P3 respectfully requests that the Commission consider its Answer and accept PJM's Seasonal Capacity Filing conditioned upon the revisions detailed in P3's Initial Comments on this matter on December 8, 2016.

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

December 23, 2016

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, 2016.

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