

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

PJM Interconnection, L.L.C.

)

Docket No. ER18-17-000

**COMMENTS
OF THE PJM POWER PROVIDERS GROUP**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), 18 C.F.R. §385.212 (2017), the PJM Power Providers Group (“P3”)¹ respectfully submits these comments regarding the October 2, 2017 Request for Limited Tariff Waiver of PJM Interconnection, L. L. C. (“PJM”) (“PJM Waiver Request”).² PJM requests a temporary, limited tariff waiver of certain provisions of its PJM Open Access Transmission Tariff (“Tariff”), and the parallel provisions in the Reliability Assurance Agreement among Load Serving Entities in the PJM Region, regarding the participation of certain Energy Efficiency Resources (“EER”) in the Third Incremental Auction for the 2018/2019 Delivery Year, the Base Residual Auction (“BRA”) for the 2021/2022 Delivery Year, and subsequent auctions. PJM requests that the Commission grant PJM’s requested waiver to allow PJM to exclude prospectively from its capacity market auctions EERs located in and supplied from

¹ P3 is a non-profit organization dedicated to advancing federal, state and regional policies that promote properly signed and well-functioning electricity markets in the PJM Interconnection, L.L.C. (“PJM”) region. Combined, P3 members own over 84,000 MWs of generation assets, produce enough power to supply over 20 million homes and employ over 40,000 people in the PJM region covering 13 states and the District of Columbia. For more information on P3, visit www.p3powergroup.com.

² *PJM Interconnection, L.L.C.*, Request of PJM Interconnection, L.L.C., for Limited Tariff Waiver, Docket No. ER18-17-000, October 2, 2017 (“PJM Waiver Request”).

Kentucky that have not been authorized by the Kentucky Public Service Commission (“KY PSC”) and in order to comply with the June 6, 2017 Order of the KY PSC.³

On October 3, 2017, the Commission issued a Combined Notice of Filings #2 setting October 23, 2017, as the intervention and comment date. On October 19, 2017, P3 filed a doc-less Motion to Intervene. P3 respectfully submits these comments⁴ in response to the PJM Waiver Request.

I. ANSWER

PJM’s request for a limited waiver is appropriate under the circumstances and should be approved. Given the current state of PJM’s tariffs governing demand response and the firmly stated view of the Kentucky Public Service Commission that it has exclusive jurisdiction over retail energy efficiency in Kentucky⁵, PJM’s limited waiver is an appropriate short-term band-aid. However, like all band-aids, the limited waiver masks a more troublesome regulatory structure that demands the Commission’s long-term attention.

The proposed PJM waiver is rooted on the regulatory fiction that energy efficiency is a wholesale, supply-side resource. As P3 has stated in the past, both demand response and energy efficiency resources are by their nature consumer-driven, demand-side products. Demand response is fundamentally a decision not to consume that has demonstrable value to the end use

³ See Commonwealth of Kentucky Before the Public Service Commission, In the Matter of Application of East Kentucky Power Cooperative, Inc. For Declaratory Order Confirming The Effect of Kentucky Law and Commission Precedent on Retail Electric Customers’ Participation in Wholesale Electric Markets Case No 2017-00129, (“KY PSC 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.

⁵ The KY PSC in its June 6, 2017 Order, which caused PJM to request a waiver, stated that “PJM’s decision to allow one or more retail energy-efficiency resource providers located within [East Kentucky Power Cooperative, Inc.’s] service territory to participate in its Capacity Market in a manner inconsistent with Commission precedent is unlawful, unreasonable and violation of Kentucky law.” See KY PSC Order at pg. 2 at P 4.

customer. As with any other commodity, the benefit to the consumer of not using electricity is the avoided cost of consumption and the corresponding economic benefit. Similarly, investments in energy efficiency are based upon future retail energy savings. A school replacing the light bulbs in the gym is making a decision about its future energy usage, not participating in the interstate wholesale market. Treating such a decision as a supply-side resource is at odds with accepted economic theory and sound market design. For this reason, the PJM Independent Market Monitor's ("PJM IMM") annual State of the Market Report has consistently identified as a high priority that, "that demand response be on the demand side of the markets and that customers be able to avoid capacity and energy charges by not using capacity and energy at their discretion and that customer payments be determined only by metered load."⁶

Furthermore, as the Brattle Group economist Ahmad Faruqui, PhD noted, "It was thought that Demand Response would help integrate retail and wholesale markets and prevent future crises. However, it has been very difficult to integrate the markets and Demand Response itself has been bifurcated into retail and wholesale demand response. Wholesale demand response acts as negative supply."⁷ Therefore, Dr. Faruqui concluded over three years ago, "It is time to put demand response back on the demand side of the market."⁸

Beyond the theoretical dissonance caused by demand response and energy efficiency participation in wholesale capacity markets, the economic impacts on other market participants should not be overlooked. The PJM IMM found in 2016 that with all other things being the

⁶ Monitoring Analytics L.L.C., Independent Market Monitor for PJM, *2016 State of the Market Report for PJM*, Volume 2 Detailed Analysis, March 9, 2016, at Page 79, *See at* http://monitoringanalytics.com/reports/PJM_State_of_the_Market/2016/2016-som-pjm-sec2.pdf

⁷ See "Moving Demand Response Back to the Demand Side", Ahmad Faruqui, PhD, The Brattle Group, July 28, 2014, p. 1, at

[https://sites.hks.harvard.edu/hepg/Papers/2014/Moving%20demand%20response%20back%20to%20the%20demand%20side%20of%20the%20market%20\(07-27-14\).pdf](https://sites.hks.harvard.edu/hepg/Papers/2014/Moving%20demand%20response%20back%20to%20the%20demand%20side%20of%20the%20market%20(07-27-14).pdf)

⁸ *Id.*, at p. 24.

same “the inclusion of Demand Resources and Energy Efficiency resources resulted in a 23.1 percent reduction in RPM revenues for the 2019/2020 RPM Base Residual Auction compared to what RPM revenues would have been without any Demand Response or Energy Efficiency Resources.”⁹ This 23.1 percent represented \$2 billion in RPM revenues that would have otherwise gone to other market participants.¹⁰

The Kentucky Commission, as the regulator of retail electricity rates in Kentucky, understands and appreciates the retail nature of demand response and energy efficiency. As the KY PSC points out “Kentucky retail electric customers have no right to participate directly or indirectly in any wholesale electric market absent authorization under a tariff or contract on file with the Commission; and Kentucky retail electric customers have no right to sell to PJM or to third parties load reductions resulting from DSM programs, irrespective of whether those programs are classified by PJM as DR or EER.”¹¹ Therefore, the KY PSC ordered that “No retail electric customer is authorized to participate directly or indirectly in any PJM wholesale market, including but not limited to DR programs and EER programs, except under a tariff or special contract on file with the Commission.”¹²

While P3 firmly believes that demand response and energy efficiency are fundamentally not wholesale market products, if demand response and energy efficiency resources are to participate in the wholesale market, they should participate on terms that are comparable to generation capacity resources. The vast majority of demand response in PJM participates in the

⁹ See *Analysis of the 2019/2010 RPM Base Residual Auction*, The Independent Market Monitor for PJM, August 31, 2016, at pg. 60, http://www.monitoringanalytics.com/reports/Reports/2016/IMM_Analysis_of_the_20192020_RPM_BRA_20160831.pdf

¹⁰ *Id.*

¹¹ KY PSC Order, pg. 20.

¹² KY PSC Order, pg. 21.

market as “capacity only” resources. While all physical generation capacity resources have an obligation to make daily energy offers and comply with fuel procurement policies, capacity-only demand response and energy efficiency resources have the luxury of collecting capacity dollars with very dissimilar obligations. The competitive playing field has become distorted by these preferential accommodations for resources that are fundamentally not supply-side resources.

P3 understands that these bigger picture issues are not before the Commission as part of PJM’s waiver request and appreciates the Commission’s indulgence. While the PJM waiver request should be approved, the Commission should be mindful of the flawed regulatory foundation that gives rise to the tension between Kentucky and PJM. Over the long term, the Commission should strive to address these market design flaws by providing a durable regulatory construct that allows energy efficiency and demand response to participate effectively in the market as the valuable demand side resource that they are.

II. CONCLUSION

P3 respectfully requests that the Commission consider these comments and issue an order granting PJM’s request for waiver.

Respectfully submitted,

On behalf of the PJM Power Providers Group

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October 23, 2017

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 October 2017.

On behalf of the PJM Power Providers Group

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