UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.	)	Docket Nos. ER13-535-000, -001

THE PJM POWER PROVIDERS GROUP'S REQUEST FOR REHEARING

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THE PJM POWER PROVIDERS GROUP'S REQUEST FOR REHEARING

The PJM Power Providers Group ("P3")[1] hereby requests rehearing of the Commission's Order on PJM's proposed revisions to the minimum offer price rule ("MOPR").[2] In response to evidence that the MOPR failed to effectively mitigate subsidized entry in the 2012 auction, PJM and 89% of stakeholders supported a balanced package of reforms to improve the MOPR. The essence of the brokered deal was that buyer market power mitigation would be more narrowly applied (because of new categorical exemptions), but that it would be more effective when it did apply (by eliminating the unit-specific review process). The Commission toppled the carefully balanced package of reforms by only approving one half of the deal (the exemptions), while retaining the unworkable unit-specific review process.

As a result, the modified package approved by the Commission will be ineffective and fails to ensure just and reasonable results. Indeed, in some key respects, the revised MOPR approved by the Commission actually is worse than the prior rule. It now includes broad new classes of exemptions that were not there before but still retains the critical loophole that plagued the old rule—the unworkable unit-specific review process. There admittedly are some elements of the approved MOPR reforms that are beneficial to effective buyer market power mitigation,

[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. 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 thirteen states and the District of Columbia. The content of this pleading represents the position of P3 as an organization, but not necessarily the views of any particular member with respect to any issue. For more information on P3, please visit www.p3powergroup.com. In the above-captioned dockets, P3 has filed a Motion to Intervene and Comments (Dec. 28, 2012) ("P3 Comments"); a Motion for Leave to Answer and Answer (Jan. 14, 2013) ("P3 Answer"); Comments (Mar. 25, 2013); and Reply Comments (Apr. 8, 2013) ("P3 Reply Comments").

[2] *PJM Interconnection, L.L.C.*, 143 FERC ¶ 61,090 (2013) ("Order").

including mitigation to 100% of the benchmark cost of new entry and extension of the application of mitigation to all of PJM, but these improvements largely are overshadowed by the gaping wound left untreated in the heart of the rule.

A second problem with the Order is the decision to mitigate those exercising buyer market power only until a resource clears in a single auction. The record showed that it is relatively easy for subsidized entry to endure a single year of mitigation only to suppress prices for years to come.

With respect to both issues, the Commission erred by paying too little deference to the broad stakeholder compromise that produced the section 205 rate filing. In this case, the stakeholders worked together and reached a hard-fought consensus proposal that the record showed was just and reasonable in PJM. The major modifications made by the Commission destroyed that deal, replacing it with a lopsided MOPR that will fail to effectively mitigate buyer market power.

Unless reversed, the dismantling of the stakeholder consensus in this high-profile proceeding also will chill future efforts to offer concessions and reach compromises on contentious issues. The risk is too great that you will get nothing in return for your concessions, and, in such circumstances, it is safer to litigate.

BACKGROUND

P3 has been an active participant in recent proceedings to reform the MOPR. On February 1, 2011, P3 filed a complaint urging the Commission to order revisions to the MOPR to address concerns about efforts in the PJM footprint to subsidize new market entry with out-of-market revenues, which would result in depressed market prices.[3] On February 11, 2011, PJM

[3] *PJM Power Providers Group*, Docket No. EL11-20-000, Complaint and Request for Clarification Requesting Fast Track Processing (Feb. 1, 2011) ("P3 Feb. 1, 2011 Complaint").

filed proposed changes to the MOPR that differed from those suggested by P3 but were similarly designed to address price suppression in the capacity market.[4] On April 12, 2011, the Commission issued an order accepting PJM's proposed tariff changes subject to certain conditions and the submission of a compliance filing.[5]

In the 2011 proceeding, several parties raised concerns over exercises of buyer market power—in particular, certain actions taken by New Jersey and Maryland to subsidize new generation facilities with revenue streams that were not otherwise available to other market participants. The Commission determined that it has appropriate jurisdiction to ensure that the MOPR is effective and the capacity market is competitive.[6] "The MOPR ensures … that the wholesale capacity market prices remain at just and reasonable levels. The Commission has previously found, and we reiterate here, that uneconomic entry can produce unjust and unreasonable wholesale rates by artificially depressing capacity prices, and therefore the deterrence of uneconomic entry falls within our jurisdiction."[7]

Unfortunately, some elements of the MOPR that were approved by the Commission in 2011 did not operate as contemplated. As it previously explained, P3 believes the results of the 2015-2016 Base Residual Auction did not accurately reflect the true price of capacity in PJM because of the presence of new units receiving substantial, guaranteed out-of-market revenues.[8] P3 intervened and supported PJM's proposed changes as filed on December 7, 2012, because P3

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4 *PJM Interconnection, L.L.C.*, Docket No. ER11-2875-000, PJM Filing of Tariff Revisions Regarding MOPR Reform (Feb. 11, 2011).

5 *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,022 ("April 2011 MOPR Order"), *reh'g denied*, 137 FERC ¶ 61,145 (2011) ("November 2011 MOPR Order").

6 April 2011 MOPR Order at P 141.

7 *Id.*

8 P3 Comments at 4-5.

believes those changes would have addressed existing market shortcomings and prevented further detrimental impacts to the market.[9]

STATEMENT OF ISSUES AND SPECIFICATION OF ERRORS

Pursuant to Rule 713(c), 18 C.F.R. § 385.713(c), P3 includes the following statement of issues and specification of errors:

1. The Commission erred in failing to accept the package of reforms proposed by PJM. The Commission gave no weight to the stakeholder review and compromise that took place before PJM filed its proposed MOPR and unreasonably dismissed arguments and evidence in support of the package proposal, including that the unit-specific review process failed to adequately mitigate uneconomic offers. The Commission's rejection of the package proposal will chill future negotiations over contentious market rule disputes like the MOPR. *See Motor Vehicle Mfrs. Assn. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *PPL Wallingford Energy LLC v. FERC*, 419 F.3d 1194, 1198 (D.C. Cir. 2005); *Cal. Indep. Sys. Operator Corp.*, 109 FERC ¶ 61,301 at P 73 (2004); *Canadian Ass'n of Petroleum Producers v. FERC*, 254 F.3d 289, 299 (D.C. Cir. 2001).

2. The Commission erred by failing to extend mitigation until a resource clears in three auctions. Order at PP 210-12. In so doing, the Commission continued to fail its statutory mandate, which prohibits the authorization of discriminatory subsidies, and departed from its own precedent. Federal Power Act ("FPA") section 205, 16 U.S.C. § 824d(b); FPA section 206, 16 U.S.C. § 824e(a); *Motor Vehicle Mfrs. Assn.*, 463 U.S. at 43; *N.Y. Indep. Sys. Operator, Inc.*, 133 FERC ¶ 61,178 at P 49 (2010) ("*NYISO*"), *reh'g denied*, 136 FERC ¶ 61,077 (2011), *aff'd sub nom. TC Ravenswood, LLC v. FERC*, 705 F.3d 474 (D.C. Cir. 2013); *Astoria Generating Co. v. N.Y. Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,189 (2012) ("*Astoria*"); *Tesoro Alaska Petroleum Co. v. FERC*, 234 F.3d 1286, 1294-95 (D.C. Cir. 2000); *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970).

3. The Commission erred by ignoring record evidence that the unit-specific review process has proven unworkable in PJM. Order at PP 141-44. In so doing, the Commission violated the Federal Power Act and ignored its own precedent and record evidence. FPA section 205, 16 U.S.C. § 824d; Order at P 68; November 2011 MOPR Order at P 175; *Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 43.

4. The Commission erred in applying the wrong standard when it reviewed PJM's proposal. Order at PP 141-42. Rather than review the revised MOPR pursuant to FPA section 205 for justness and reasonableness alone, the Commission imposed a substantially different MOPR, which would require it to satisfy the burden set forth in FPA section 206. The Commission failed to establish that existing rates are unjust and unreasonable, and failed to demonstrate that the MOPR it imposed in its Order was just and reasonable. FPA section 205, 16 U.S.C.

[9] *Id.* at 5.

§ 824d; FPA section 206, 16 U.S.C. § 824e(a); *Atl. City Elec. Co. v. FERC*, 295 F.3d 1, 10 (D.C. Cir. 2002); *W. Res., Inc. v. FERC*, 9 F.3d 1568, 1577-79 (D.C. Cir. 1993).

ARGUMENT

I. THE COMMISSION ERRED IN REJECTING PJM'S PACKAGE PROPOSAL

The Commission concluded that "the settlement negotiations, that preceded PJM's institution of a broader stakeholder proceeding do not render PJM's filing procedurally defective." Order at P 227. In so doing, the Commission acknowledged that, "[a]s PJM stated, the filing received broad stakeholder support with an 89 percent sector-weighted vote and was fully vetted through a stakeholder process detailed in PJM[']s OATT and Operating Agreement." *Id.*

But the Commission overlooked the significance of the broad stakeholder consensus in this proceeding. As P3 previously explained,

> Rare is the occasion when the Commission has the opportunity to act upon a critical and contentious market issue such as MOPR with as much stakeholder support as this proposal. The litigation surrounding the current MOPR has been intense, confused and damaging to market certainty. The PJM stakeholder debates surrounding MOPR have been passionate, and intense, yet thoughtful and detailed. That in this atmosphere 89% of the PJM stakeholder body could agree on a single proposal to address this issue is remarkable and unprecedented.

P3 Comments at 10. PJM's proposal reflected a balanced approach, the result of a compromise among "often divergent views of the market." *Id.* at 9.

Rather than reflect the positions or interests of only certain stakeholders, PJM's proposal "addresses a broad set of concerns in a manner that balances other interests in the market." *Id.* at 10. Proponents of the proposal—including P3—opted to forgo issues and positions that they otherwise would have fought for in order to achieve a consensus package that could work for everyone. "[C]ertain aspects of the proposal diverge from positions that P3 has advocated in the past and would be unlikely to receive P3's endorsement outside of the context of a settlement.

However, when viewed as a complete package and considering the broad support for the proposal, P3 is pleased to lend its support to the proposal in total." *Id.* In the past, the Commission has "give[n] deference to . . . arrangements" like these, that were "arrived at during the course of the stakeholder process. Generally, the stakeholder process assures that proposals are subject to scrutiny and based on in-depth analysis." *Cal. Indep. Sys. Operator Corp.*, 109 FERC ¶ 61,301 at P 73.

Here, however, the Commission failed to acknowledge the negotiations and compromise that took place during PJM's stakeholder process, and gave no weight to the fact that PJM's proposal was already balanced when proposed. Instead, the Commission broke up the package and designed its own MOPR, without providing any explanation as to why the package should be rejected. This was not reasoned decisionmaking.

First, the Commission erred because it unreasonably dismissed arguments and evidence in support of the fact that the proposal was designed to operate as a complete package, and was approved by stakeholders as a package deal. In its prior comments, P3 emphasized "its support [for] the proposal *in total*" and objected to attempts by other commenters to "disrupt" the compromise. *See* P3 Comments at 10 (emphasis added); P3 Answer at 2-5. But at no point did the Commission address these arguments. "An agency's 'failure to respond meaningfully' to objections raised by a party renders its decision arbitrary and capricious." *PPL Wallingford Energy LLC*, 419 F.3d at 1198 (quoting *Canadian Ass'n of Petroleum Producers*, 254 F.3d at 299).

Second, the Commission erred because it improperly altered the package proposal so as to retain the unworkable unit-specific review, despite evidence that the unit-specific review

process has failed. As P3 previously explained with respect to the proposed offer prices and costs of the Competitive Power Ventures ("CPV") unit in Maryland,

> both PJM and the Independent Market Monitor for PJM ("IMM") arrived at wildly different conclusions about the actual costs of the CPV unit with PJM setting the bid price at $96.13 MW/day and the IMM at $136 MW/day. The fact that PJM and the IMM came to numbers that were about 40 percent apart on the unit's actual costs is a compelling indictment of the unit specific review process itself which is based on vague standards, void of transparency and burdened by subjectivity that led to such a wide gap between PJM and the IMM.

P3 Reply Comments at 4. The Commission does not dispute these facts. *Compare* Order at P 135 *with id*. at PP 141-44 (not discussing facts). But it also fails to explain why, despite these facts, it has opted to retain the unit-specific review process. *See id*. at PP 141-44; *id.* at P 144 (encouraging PJM and stakeholders to reform the unit-specific review process). Its decision is arbitrary and capricious because it has "entirely failed to consider an important aspect of the problem"—that retention of the unit-specific review process fundamentally alters PJM's package proposal—and because it has "offered an explanation for its decision that runs counter to the evidence before the agency" by choosing to retain unit-specific review despite evidence showing that process results in unjust and unreasonable prices. *See Motor Vehicle Mfrs. Assn.*, 463 U.S. at 43.

Finally, by rejecting the package proposal, the Commission has discouraged future negotiations among divergent sets of stakeholders in similar kinds of market rule disputes. If overwhelmingly supported consensus proposals can be broken up by a few holdouts or by thinly-supported hypothetical concerns, parties will have little incentive to offer concessions to reach proposed solutions in advance.

II. THE COMMISSION ERRED IN WEAKENING THE MOPR

Although the Commission approved certain aspects of PJM's proposal, its selective approvals of some but not all elements results in a weaker MOPR and therefore fails to effectively ensure just and reasonable capacity auction results.

A. The Commission Should Have Extended Mitigation Through Three Auctions

The Commission "reject[ed] PJM's proposal to change the duration of mitigation from one to three years." Order at P 210. It based this conclusion in part on its reasoning in 2011 that

> applying the MOPR offer floor to a resource already determined to be economic would be unreasonable and could inefficiently discourage the entry of new capacity that is economic. The Commission further found that, after clearing in the market at the offer floor price, "there is no reasonable basis for continuing to apply the MOPR," given the market's demonstration of its need for the resource.

Id. at P 211 (citing April 2011 MOPR Order at P 175 and November 2011 MOPR Order at P 131). But, just as the Commission's analysis in 2011 was inadequate on this issue, it remains so.

In 2011, the Commission purported to base its determination on the recommendation of the Market Monitor, stating that it "agree[s] with the IMM that the appropriate duration is that the MOPR offer floor should apply to each new resource in the base residual and each incremental auction until the resource demonstrates that its capacity is needed by the market at a price near its full entry cost." April 11 MOPR Order at P 176. But that was not the Market Monitor's complete recommendation. Rather, the Market Monitor's full recommendation included a second and indispensable condition that a project's "*sponsor demonstrate that the unit is not receiving any subsidies*, defined to be any revenues from outside the organized PJM markets, and has not contracted to receive any subsidies." *PJM Power Providers Grp. v. PJM Interconnection, L.L.C.*, Docket Nos. EL11-20-001 & ER11-2875-001, P3 2011 MOPR Request for Rehearing at 22 (May 12, 2011) (quoting IMM 2011 MOPR Comments at 20 (Mar. 4, 2011)).

The Commission dismissed that condition, holding for the first time in this proceeding that it does not matter whether "discriminatory subsidies are being received." April 2011 MOPR Order at P 177.

The first problem with this determination is that it is simply wrong that the Commission adopted the Market Monitor's proposal, having stripped it of a key condition. That cherry-picking left the Commission standing alone, adopting a proposal supported by no party, testimony, or evidence.

The second, and greater, problem is that the Commission defied its statutory mandate. Under FPA section 205, the Commission may not "(1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service." 16 U.S.C. § 824d(b); *accord* FPA section 206, 16 U.S.C. § 824e(a). That mandate is not advanced by orders that, on their face, repeatedly authorized "discriminatory subsidies." April 2011 MOPR Order at P 177; November 2011 MOPR Order at P 133; *id.* at P 132; *see also* Order at P 143 (asserting that units that fail both exemptions—including the competitive entry exemption, which expressly prohibits discriminatory subsidies—may still have "competitive costs that fall below the benchmark price"). It was not enough for FERC to rely on its determination that clearing the market is sufficient to show that a resource is "needed." Order at P 211; April 2011 MOPR Order at P 177; November 2011 MOPR Order at P 133; *id.* at P 132. The real question is whether the "discriminatory subsidies" are "needed." The record shows that they are not.

At a minimum, there is a significant tension between the Commission's determination that "discriminatory subsidies" are permissible after a resource clears only one auction and the

animating purpose of the MOPR reform "to protect against both buyer market power and seller market power to ensure competitive, properly functioning markets." November 2011 MOPR Order at P 98 & n.47. Clearing an auction should no more result in a free pass to exercise buyer-side market power than clearing a sale in the real-time market should result in a free pass to exercise seller-side market power (which is strictly controlled at all times by the Avoidable Cost Rate cap).

The Commission's decision also departs, without reasoned explanation, from its ruling on the same issue when it recently adopted the equivalent of the Minimum Offer Price Rule for NYISO, the In-City Installed Capacity Offer Floor. *See NYISO*, 133 FERC ¶ 61,178 at P 49. Under that rule, resources become exempt only after they clear in at least twelve not-necessarily-consecutive monthly auctions. *Id.* We have previously explained that the *NYISO* rule thus effectively mitigates resources for at least two years. P3 Feb. 1, 2011 Complaint, Ex. 1 (Shanker Test.) at 57:16-21.

Moreover, in 2011, the Commission was aware that P3's proposal was grounded in the *NYISO* rule. FERC acknowledged that fact in the April 2011 MOPR Order at P 160. Nevertheless, the Commission failed to distinguish the *NYISO* decision or even to engage P3's argument concerning that decision. Both errors require reversal upon rehearing. *See, e.g., Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 57 ("'An agency's view of what is in the public interest may change, either with or without a change in circumstances. But an agency changing its course must supply a reasoned analysis. . . . '") (quoting *Greater Boston Television Corp.*, 444 F.2d at 852); *Tesoro Alaska*, 234 F.3d at 1294-95.

Finally, the Commission failed to explain why the result here departs so sharply from its decision in *Astoria*, 140 FERC ¶ 61,189 (2012), where it "direct[ed] NYISO to redo its

exemption determinations" for two plants that NYISO erroneously found had passed the buyer-side market power test that exempts resources from NYISO's market power floor (which is the functional equivalent of PJM's MOPR). *Id.* at P 1.

Although the Commission here contends that "its earlier decision on this matter is not altered by PJM's filing," Order at P 211, the Commission's precedent has changed, and the Order departs from the Commission's findings in *Astoria* in two critical ways. First, the Commission required NYISO to re-apply its market power screen to Astoria despite the fact that Astoria had already "participated, and cleared, in several auctions held in past months," and that Astoria "will be subject to the applicable offer floor for the duration specified in NYISO's tariff" if it fails. *Astoria* at P 141. Second, the reason that Astoria had to endure re-evaluation was that "the contracting process that awarded the power purchase agreement to Astoria II was discriminatory." *Id.* at P 135. That is hardly consistent with the Commission's determination here that a resource that clears a single auction while mitigated—even though it is almost certainly the recipient of discriminatory subsidies having not qualified for the competitive entry exemption—has demonstrated itself to be "competitive"—and that further mitigation of such an uneconomic resource would be unwarranted. *See* Order at P 211.

This again brings to light a key flaw in the Order's reasoning: the Commission wrongly continues to assume that uneconomic entry becomes economic once it clears a single auction. But as P3 previously has explained, three of the units in PJM that cleared the 2012 Base Residual Auction did so with state-supported subsidies; a single-auction rule allows them to offer their capacity at a price of zero in all future auctions, illustrating how "uneconomic entry can have market-damaging impact beyond its initial entry into the market." P3 Comments at 11.

In this proceeding, P3 also urged that three-year mitigation is warranted in the context of the package proposal because "the focus of the MOPR, after the exemptions[,] is on those entities most likely to pose price suppression concerns." Order at P 212. The Commission responded by contending that "[o]nce a new resource has cleared an auction, it is obligated to begin building in order to provide capacity in the corresponding delivery year for which it has cleared." *Id.* But this ignores evidence that even subsidized resources are delaying construction. *See, e.g.*, Motion for Leave to Answer and Answer of Calpine Corp., Edison Mission Marketing & Trading, Exelon Corp., and NextEra Energy Resources, LLC at 2-3 (Apr. 23, 2013). This is not reasoned decisionmaking. *Motor Vehicles Ass'n*, 463 U.S. at 43 (explaining that an agency rule is arbitrary and capricious if it "offer[s] an explanation for its decision that runs counter to the evidence before the agency").

B. The Commission's Order Failed the Mandates of the Federal Power Act

P3 also agrees with the arguments raised in the rehearing request of the Competitive Markets Coalition.[10] The Commission failed to approve an effective minimum offer price rule and instead imposed requirements that will not ensure just and reasonable results. These errors warrant reversal on rehearing.

1. The Commission Should Not Have Required Retention of Unit-Specific Review

For the reasons identified above and in P3's and other intervenors' comments, the Commission erred in retaining the unworkable unit-specific review process. *See, e.g.*, P3 Comments at 5-9. The unit-specific review process is opaque, ambiguous, and inherently subjective. It has already failed to adequately mitigate uneconomic entrants in at least one auction. It will hinder the capacity markets' ability to produce just and reasonable rates.

[10] The Competitive Markets Coalition is also filing a request for rehearing of the Order today.

2. The Commission Applied the Wrong Standard

A key feature of PJM's proposal was the elimination of the unit-specific review process. PJM's package proposal was filed pursuant to FPA section 205, which requires Commission approval of a rate so long as it is just and reasonable. In order for the Commission to adopt a rate other than the one proposed under section 205, FPA section 206 requires that it find that the existing and proposed rates are unjust and unreasonable and that the Commission's replacement rate is just and reasonable. *Atl. City Elec. Co.*, 295 F.3d at 10; *see also W. Res., Inc.*, 9 F.3d at 1577-79 (discussing parallel sections of the Natural Gas Act and rejecting Commission attempt to impose materially different rate than the one proposed for failure to demonstrate its new rate was just and reasonable).

But the Commission applied the wrong standard. Rather than review whether PJM's package of reforms was just and reasonable, the Commission determined that "PJM does not argue that a unit-specific review process is unjust and unreasonable." Order at P 142. This error requires rehearing.

Had the Commission applied the correct standard, it would have had to confront evidence offered by PJM and other proponents of the MOPR reform package to show that elimination of the unit-specific review process and its replacement with two new categorical exemptions is just and reasonable. *See, e.g.*, P3 Comments at 6-9, 11. Accordingly, the Commission should have approved PJM's proposal. As P3 explained,

> the simple conclusion is [the unit specific review process] did not work and is not likely to work given its failure to limit the specter of buyer market power coupled with the broad subjectivity and the non-existent transparency associated with it. The PJM proposal replaces the unit specific exemption with two other objectively determined exemptions . . . that effectively eliminate the prospect of buyer side price suppression while protecting legitimate market entry.

Id. at 11; *see also* PJM Transmittal Letter to MOPR Tariff Amendment at 17-26 (Dec. 7, 2012) (describing exemptions and rationale for eliminating the unit-specific review process).

3. The Commission Failed To Make Findings Justifying a New Rate Design

Not only did the Commission apply the wrong standard in its review of PJM's proposal; it failed to make the necessary findings to justify the replacement rate that it imposed in the Order. The Commission failed to make findings of fact—as required by FPA section 206—that (1) PJM's existing MOPR was unjust and reasonable and required the two new categorical exemptions that the Commission approved, and (2) the replacement MOPR, which includes both the retention of the unit-specific review process and the two new exemptions, is just and reasonable.

The Commission's conclusion that it "cannot find that PJM's proposal is just and reasonable without the retention of a unit-specific review process" is based on the concern that "there *may* be resources that have lower competitive costs than the default offer floor, and these resources should have the opportunity to demonstrate their competitive entry costs." Order at PP 141-42 (emphasis added). But the Commission never explains why the unit-specific review process is a just and reasonable mechanism for such demonstration, and the Commission ignores evidence that the unit-specific review process is opaque, easily manipulated, and unworkable.

CONCLUSION

For the foregoing reasons, P3 requests rehearing. The Commission should reverse its decision and uphold the original stakeholder package of reforms, as filed by PJM.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served copies of the foregoing document upon each person designated on the official service lists as compiled by the Office of the Secretary in the captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Washington, D.C., this 3rd day of June, 2013.

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