BY EMAIL AND FEDERAL EXPRESS

Howard Schneider
Chair, PJM Board
PJM Interconnection, L.L.C.
955 Jefferson Avenue
Norristown, PA 19403

Terry Boston
President and Chief Executive Officer
PJM Interconnection, L.L.C.
955 Jefferson Avenue
Norristown, PA 19403

Re:  DC Circuit Court of Appeals Decision in the Matter of
EPSA v. FERC – Regarding Demand Response Compensation in the Day Ahead
and Real Time Energy Markets

Dear Mr. Schneider and Mr. Boston:

As you know, both the Maryland PSC and PJM supported the Federal Energy Regulatory Commission (FERC) in response to the Electric Power Supply Association’s (EPSA) appeal of FERC Order No. 745, which established full locational marginal pricing (LMP) as the appropriate compensation for demand response (DR) resources in wholesale RTO/ISO day ahead and real time energy markets.¹ We continue to support FERC’s findings in Order No. 745 and we urge PJM to join us in seeking rehearing of the DC Circuit Court of Appeal’s May 23, 2014 ruling vacating FERC Order 745.

Contrary to the Court’s decision, we do not view Order No. 745 as impairing state jurisdiction over retail rates, but view the wholesale energy market for DR as complementary to the state’s retail authority. Without access to the wholesale market, aggregated DR (such as that which supports the State’s EmPOWER Maryland programs), would be of limited effect. This would significantly impair Maryland’s statewide goal of reducing electric consumption.² Similarly, without the availability of cost-effective DR in the energy market, PJM would be

¹ We agreed, as was adopted in Order No. 745, that full LMP compensation for DR should only apply when the use of DR resources is cost effective. Order 745 limited full LMP compensation in the energy market to circumstances in which (1) the DR resource is capable of balancing supply and demand in the wholesale market, and (2) when compensating DR response is cost-effective under a “net benefits test.”
² Md. Code. Ann., Public Utilities Article § 7-211. By employing DR and energy efficiency, the EmPOWER Maryland goal is to reduce statewide electricity consumption 15 percent (i.e., 2989 MW) by the year 2015.
forced to procure additional intra-RTO generation and generation imports to assure reliable electric service, at significantly higher costs to electricity consumers. Reliability could be affected on peak demand event days when the supply of electricity is stressed without the salutary ability of PJM to call upon committed DR load-reduction resources.

If the Court’s decision goes into effect, without rehearing, we anticipate significant adverse consequences. Moreover, the majority’s reasoning regarding the limits of FERC jurisdiction over DR, if applied to the capacity market, would create additional major problems for the economic viability of demand response. Therefore, we strongly urge PJM to seek rehearing of the DC Circuit Court of Appeal’s decision.

Sincerely yours,

W. Kevin Hughes  
Chairman

cc: Andy Ott, Senior Vice President – PJM Markets  
Denise Foster, Vice President – State and Member Services  
Dave Anders, Manager – PJM Stakeholder Affairs  
Matt LaRoque – Manager, Regulatory and Legislative Affairs (MD, VA and NC)