The Delaware Public Service Commission ("Delaware PSC") Staff appreciates PJM's attempts to incorporate stakeholder comments in its PJM Staff Updated Proposal of October 7, 2014 ("Updated CP Proposal"). Upon review of the Updated CP Proposal, however, significant concerns remain with the Delaware PSC regarding the PJM plan for implementation of a new Capacity Performance resource. As discussed further below, without an adequate stakeholder process to address the many complicated issues raised the Updated CP Proposal still has the potential to create a great deal of uncertain consequences in the capacity and energy markets that could result in significant cost increases to customers without sufficient increases in benefits to justify those additional costs. The enhanced stakeholder process would allow the identification of potential changes to the RPM as well as which changes are cost-effective and necessary.

The Delaware PSC has joined with the Load Coalition 1 (led by Susan Bruce), the Transition Coalition (led by Michelle Gardner) as well as OPSI to convey concerns with the details of the Updated CP Proposal and will not repeat those comments here other than to reinforce Delaware PSC support for PJM to reconsider its accelerated filing of the Updated CP Proposal and provide for a more robust stakeholder process prior to filing at the FERC.

The Delaware PSC appreciates the IMM and PJM attempt to provide a cost benefit analysis in its report dated October 23, 2014 ("Cost Benefit Analysis"). Other comments will address the insufficiencies in that analysis, however, there is another issue regarding costs and benefits of the Updated CP Proposal that the Delaware PSC will raise in these comments.

The assessment of cost impact and offsetting benefits continues to state the "importan[ce] to balance the value of greater power system reliability against the cost of power interruptions, which can reach tens of billions of dollars and—especially during weather extremes—endanger human life." The Delaware PSC would continue to suggest that it would be inappropriate to include unsupported social costs of outages in the “tens of billions” as well as “endanger[ed] human life” as factors to be included in assessment of the cost effectiveness of the Updated CP Proposal.

In addition to the inappropriate social costs and not-so subtle fear factor of endangering human life that could occur from not supporting the Updated CP Proposal, the Delaware PSC is unaware of any jurisdiction that has implemented rates to customers justified on the basis of the customers’ “value” of the energy consumed. As a general rule, rates paid by customers are based (to a varying degree) on a cost of service study reflecting financial costs. To the extent that there might be value-based rates implemented in the PJM service footprint, the Delaware PSC would suggest that such value-based rates are the exception that proves the rule. The Delaware PSC, therefore, would urge PJM not to include the “value” proposition as support for the CP Proposal as such a suggestion would be neither fair nor equitable to customers. While the Delaware PSC appreciates PJM’s desire to achieve continuous service regardless of circumstances, the cost for such a premium service goal is beyond the means of most customers. Just as there are no tariffs reflecting “value” of service charges to customers, there are no tariffs of which the Delaware PSC is aware that impose a continuity of service requirement on an energy service provider.

Concern with supporting the Updated CP Proposal should not result in a misunderstanding on the part of any PJM stakeholder as somehow translating into support for customer outages, increased social costs, loss of human life, or otherwise minimizing the importance of the reliability of the PJM system.

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1 Updated CP Proposal page 2.
Rather, concern with the uncertainty of the ultimate cost effectiveness of the Updated CP Proposal such that customers have some assurance that the uncertain costs (intended and unintended) to implement the Updated CP Proposal will be offset by sufficient benefits creates a hesitation on the suitability of a recommendation to accept the Updated CP Proposal as currently structured and the accelerated schedule for implementation imposed by PJM.

These comments of the Delaware PSC should also not be taken as suggesting that the current operation of the RPM and energy markets are not without problems that need resolution. There certainly are significant RPM issues that should be addressed by the stakeholders. For example, PJM recognizes one of the limitations of the current structure not supporting multi-year investments. Only in passing does PJM offer a suggestion to increase price-certainty with limitations on year-over-year percentage price changes between RPM auctions. 2 It is unclear to the Delaware PSC how such a mechanism would encourage a sufficient revenue stream for greater value resources such as coal or nuclear generation facilities. In the meantime, as described in the Cost Benefit Analysis, 3 it appears that PJM will continue to rely on some form of trickle-down theory for the allocation of capacity revenues and if total capacity revenues increase sufficiently then greater value base capacity resources such as coal and nuclear generation facilities will then receive enough revenues to address financial deficiencies.

While the expedited filing schedule described by PJM might be viewed as providing assistance in addressing the uncertainty in the capacity and energy markets created by the Updated CP Proposal, the Delaware PSC would suggest that filing the Updated CP Proposal without an adequate stakeholder process could result in a more uncertain (and extended) process for ultimate approval. There have been 15 coalitions representing over a hundred entities identified on the PJM Enhanced Liaison Committee – Capacity Performance website as of October 21, 2014. 4 The Delaware PSC would suggest that there will be some entities that will not support the Updated CP Proposal as filed at the FERC and will have suggestions and recommendations that will differ from those of PJM. While it is not possible to predict how the regulatory and legal process(es) will ultimately conclude, given all of the other initiatives that PJM could be pursuing as well as all the other issues affecting PJM at the same time as the FERC is considering the Updated CP Proposal, 5 there is certainly a possibility that the FERC will not simply accept the Updated CP Proposal as filed by PJM. The unintended result, therefore, of PJM’s expedited filing of the Updated CP Proposal could be to increase uncertainty for a longer period of time as well as the potential for a revised Updated CP Proposal that may be more difficult for PJM to implement.

The Delaware Public Service Commission urges the PJM Board to direct the PJM staff to recognize that there are valid and feasible alternatives for PJM to acquire sufficient reliability in the short term that would allow for a more comprehensive stakeholder process to address the many issues identified by PJM in the Updated CP Proposal before filing. The deferral of filing the Updated CP Proposal until more of a stakeholder consensus can be achieved would better meet the objectives described by PJM for a more reliable system at a reasonable cost to customers.

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3 “over time the price of the Capacity Performance product and the price of the Base Capacity product should trend toward the Net Cost of New Entry” Cost Benefit Analysis, page 4.
4 http://pjm.com/~/media/committees-groups/committees/elc/postings/elc-capacity-performance-identified-coalitions-20141021.ashx
5 For example, increasing the energy offer cap, role of demand response, etc.