

obligations.”² PJM and Viridity recognize, however, that PJM “may need more time to develop rules that allow PRD and ELRP opportunities and obligations to work hand-in-hand.”³ They also recognize that the first practical application of such rules will not come until June 1, 2015, which is the first time that PRD commitments would be implemented.⁴ They advise that they “would not oppose” a Commission requirement that PJM submit a compliance filing with tariff changes on this question “6-9 months after the Commission issues its order in this proceeding,” presumably meaning sometime in the second or third quarter of 2012, which they state would give the Commission “ample time” to issue an order “well in advance” of June 1, 2015.⁵

PJM generally agrees with the objective of the Joint Answer. Price Responsive Demand is an important development in the PJM region, and recognizing and supporting PRD is an important addition to PJM’s Tariff. PJM therefore supports efforts to ensure that the rules for PJM’s other demand response products work together with the rules for PRD. PJM also finds the focus of the Joint Answer on the relationship between Economic Load Response and PRD to be appropriate. It may be somewhat less challenging to develop rules that prevent duplicative, overlapping, or inconsistent commitments between Economic Load Response and PRD given the different focus of economic energy commitments and capacity commitments.⁶ Economic Load Response

² *Id.* at 1.

³ *Id.* at 6.

⁴ *Id.* at 7.

⁵ *Id.*

⁶ By comparison, PRD and RPM Demand Resource commitments both are capacity-type commitments, and Emergency Load Response generally is a means of implementing RPM Demand Resource commitments in the energy market.

participation also can provide significant value to curtailment service providers, so focusing stakeholders' attention first on facilitating coordination between PRD and Economic Load Response seems to be the correct priority.

PJM differs with the Joint Answer, however, to the extent it seeks to portray this issue as a defect in the PRD Filing. PJM's market rules enable multiple opportunities for demand response to participate in energy, capacity, and ancillary service markets, and the PRD Filing makes an historic addition—PRD—to that menu of opportunities. The issue that is the focus of the Joint Answer, i.e., creating rules that allow a single end-use customer to be the basis of simultaneous commitments of PRD and other demand response products, is a valid second-step implementation issue, but the lack of such rules does not render the PRD Filing unjust and unreasonable. As the Joint Answer recognizes, such rules do not yet exist and need to be developed, they will require months to develop, and their first practical application will not be until 2015.

Without such rules in place, the PRD Filing correctly confirms that “[e]nd-use customer loads” that are identified in one PRD Plan cannot also be identified, for the same Delivery Year, as PRD in another PRD Plan or registration, as a Demand Resource in an RPM auction, or as an Emergency Load Response resource or Economic Load Response resource.⁷ As explained in the PJM Answer (at 7-8), a customer cannot commit the same load as both a pre-market reduction in the loads PJM must serve and a participant in the market to serve the remaining loads (in either the energy or capacity markets).

⁷ RAA, Schedule 6.1, section B.

PJM also differs with the Joint Answer's request⁸ that the Commission make overly prescriptive findings that prejudge how PJM and the stakeholders address the best way to coordinate and facilitate end-use customer commitments as PRD and Economic Load Response. The details in this area are likely to be complicated, and the Commission does not have an adequate record in this proceeding to make findings about how this coordination must be achieved. Any issues are better addressed when PJM files tariff changes on this topic.

In sum, PJM would accept a Commission directive that PJM work with its stakeholders to develop rules that clarify, establish, and as necessary limit, how an end-use customer can be the basis for Economic Load Response offers during the same Delivery Year that it is the basis for a PRD commitment, and to file such rules within nine months after the Commission's order on the PRD Filing.

B. Response to Viridity Answer

In the answer it filed individually, Viridity focuses on its concerns with demand response products *other than PRD*. Viridity (at 2) explains that it “did not contest the PRD filing,” but only wanted to “highlight []” what Viridity perceives to be an unjustified difference between the rules in the PRD filing and the rules for PJM's other demand response products. Specifically, Viridity is concerned with what is colloquially referred to as the “One CSP Rule,” i.e., the development of Tariff changes and business rules to allow the load of a single end-use customer to be the subject of distinct demand

⁸ See Joint Answer at 6 (asking Commission to find that PJM must “enable customers with PRD load to participate in ELRP for any portion of load that is designated as PRD, to the extent that such participation does not conflict with PRD obligations, and participate fully in ELRP for any portion of load that is not designated as PRD”).

response products (e.g., energy and regulation) offered into the PJM markets by different curtailment service providers (“CSPs”).

As explained in the PJM Answer (at 9), Viridity’s objection to other unchanged tariff rules on coordination of one non-PRD product with another non-PRD product is outside the scope of this Federal Power Act (“FPA”) section 205 proceeding. While Viridity (at 2) seeks to dismiss the PJM Answer as merely “a procedural reply,” the procedure at issue is an important statutory constraint on the Commission’s actions. Under the FPA and relevant court precedent, the Commission cannot “direct PJM to revisit the rule which limits a customer to being represented by one CSP,” as requested by Viridity (at 3), without finding that the relevant existing tariff provisions, which PJM does not seek to change here, are unjust, unreasonable, or unduly discriminatory.⁹ For this reason, the Commission routinely finds that parties seeking such relief must file a formal complaint under section 206 of the FPA.¹⁰

Moreover, PJM already has recognized concerns with the “One CSP Rule” and is facilitating active consideration of that issue in the PJM stakeholder process. PJM’s Market Implementation Committee (“MIC”) and Demand Response Subcommittee have been considering whether and how to change PJM’s rules to allow, for example, one CSP to provide Economic Load Response with a given customer’s load and another CSP to provide Emergency Load Response (or regulation service) based on the same customer’s

⁹ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,292, at P 161 (2008).

¹⁰ See, e.g., *Ameren Services Co. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 124 FERC ¶ 61,173, at P 9 (2008); *Golden Spread Elec. Coop., Inc. v. Sw. Pub. Serv. Co.* 115 FERC ¶ 61,136, at PP 4-5 (2006).

loads.¹¹ Accordingly, Viridity's concern is already being addressed elsewhere. To the extent the current stakeholder process results in any tariff changes, PJM will bring those before the Commission in a future proceeding.

PJM would have no objection to submitting a report on the status of those stakeholder discussions at a future date (perhaps on the same nine-month timeframe suggested above) solely for informational purposes and without requiring further Commission action. As the issue Viridity raises is not even properly in this proceeding, no more can or should be required.

¹¹ See, e.g., the proposal to “expand opportunities for multiple CSPs to facilitate DR regulation market participation” presented at the MIC’s November 1, 2011 meeting (at slide 3) *available at*: <http://www.pjm.com/~media/committees-groups/committees/mic/20111101/20111101-item-05a-proposed-changes-to-dr-in-regulation-market.ashx>

CONCLUSION

PJM requests that the Commission accept this answer, and accept the tariff revisions submitted in the PRD Filing, to be effective as proposed in the PRD Filing.

Respectfully submitted,

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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 7th day of December, 2011.

/s/ Paul M. Flynn