UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION  
PJM Interconnection, L.L.C. )  Docket No. ER15-738-000  

REQUEST OF  
PJM INTERCONNECTION, L.L.C.  
FOR WAIVER  

PJM Interconnection, L.L.C. ("PJM"), pursuant to section 205 of the Federal Power Act, 16 U.S.C. section 824d, seeks a one-time waiver of a tariff provision that would, absent waiver, require PJM to offer to release approximately 2,000 megawatts of capacity previously committed to the PJM Region\(^1\) for the 2015/2016 Delivery Year—in the face of significant uncertainty and concerns about resource adequacy for that Delivery Year.

Specifically, PJM asks the Commission to waive, but solely as to the Third Incremental Auction for the 2015/2016 Delivery Year, the provisions of Attachment DD, section 5.4(c)(3) that require PJM in certain circumstances to offer in Incremental Auctions to release prior capacity commitments. PJM asks that the Commission grant this waiver before February 23, 2015 (i.e., 61 days from today), which is the scheduled opening of that Third Incremental Auction.

INTRODUCTION AND SUMMARY

PJM emphasizes at the outset that it has secured capacity commitments for the 2015/2016 Delivery Year in excess of the 15.6% Installed Reserve Margin ("IRM")

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\(^1\) Terms not defined in this waiver request have the definition set forth in the PJM Open Access Transmission Tariff ("Tariff"), the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. ("Operating Agreement") or the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region ("RAA").
approved for that Delivery Year. But recent developments have raised concerns about those resource commitments.

First, a key portion of that capacity consists of Demand Resources, which were committed in accordance with PJM’s approved Tariff and long-standing Commission policy, and which have performed well in prior Delivery Years (within the limits on Demand Resource availability established by PJM’s approved Tariff). This filing is not prompted by concern for the past performance of Demand Resources. Rather, PJM is concerned that the recent federal appellate decision in \textit{EPSA} \footnote{\textit{Elec. Power Supply Ass’n v. FERC}, 753 F.3d 216 (D.C. Cir. 2014) (“EPSA”).} and the pending \textit{FirstEnergy Complaint} \footnote{See Emergency Complaint and Request for Fast Track Processing of FirstEnergy Service Company, Docket No. EL14-55-000, at 1-2 (May 23, 2014) (“\textit{Initial FirstEnergy Complaint}”); Amended Complaint of FirstEnergy Service Company, Docket No. EL14-55-000, at 1-5 (Sept. 22, 2014) (“\textit{Amended FirstEnergy Complaint}”)(collectively, the “\textit{FirstEnergy Complaint}”).} raise a risk that is difficult to quantify, but nonetheless foreseeable, that PJM might be unable to compensate those committed Demand Resources, or treat them as Capacity Resources, during the 2015 summer peak season. The possibility for the \textit{EPSA} court’s mandate to issue this spring, with ensuing developments at the Commission both on the \textit{FirstEnergy Complaint} and on remand from \textit{EPSA}, could at a minimum create considerable uncertainty in the market on the status of Demand Resources, and on their ultimate ability to obtain compensation, and in the worst case could effectively nullify that compensation and the associated commitments during all or part of the summer when those resources are most needed. As shown in the attached affidavit of Mr. Michael J. Kormos (“Kormos Aff.”), PJM’s Executive Vice-President—Operations, if those Demand Resource commitments—presently estimated at over 11,000 megawatts—were effectively nullified before the start of the next Delivery
Year, PJM would enter the summer of 2015 with capacity significantly below the level dictated by its approved IRM. What is worse, that shortfall would come in a year when the PJM Region faces the greatest megawatt quantity of generation retirements, by far, of any single year in PJM’s history. Consequently, there simply is not much uncommitted capacity remaining available to fill such a shortfall, were it to occur.

PJM stresses that it is not, through this filing, calling upon the Commission to rule upon the application of EPSA to capacity or to predict if, or when, the EPSA mandate might issue. PJM has argued (in the context of the FirstEnergy Complaint proceeding) that the Demand Resource commitments for the 2015 summer peak can and should remain in place, and nothing in this filing should be read as changing in any way PJM’s firm view on the validity of those pre-existing resource commitments. But PJM cannot control the outcome of further developments regarding EPSA, any possible EPSA mandate, or any possible remand, or regarding the Commission’s actions on the FirstEnergy Complaint. Therefore, as Mr. Kormos explains, this issue falls in the category of a risk that prudent resource planning must address. As he explains:

Given where we are today, the potential adverse impacts of EPSA on Demand Resources simply falls in the category of foreseeable risk. We can reasonably foresee a scenario in which the Supreme Court decides this spring not to review EPSA, and FERC concludes, in light of EPSA, that it also lacks authority to order compensation for end-users that commit through the wholesale market to reduce peak electricity consumption. We do not need to agree that that is the correct legal conclusion, or that that is the most likely scenario (just as planners must be concerned with possible occurrences of extreme weather, or with higher than normal resource outages), to conclude that it is foreseeable. And if that scenario does unfold, then the important point from a resource adequacy perspective is that it could effectively negate or nullify the Demand Resource commitments on which the PJM Region is now depending to ensure reliable service to loads beginning in just over five months.4

4 Kormos Aff. ¶ 10.
Second, the 2015/2016 Delivery Year is notable for a record level of generation retirements, mostly related to environmental requirements that take effect in spring 2015. This context, coupled with experience this past winter that brought to the fore a concern with performance of some committed capacity resources, raises a resource adequacy concern for the 2015/2016 winter. Specifically, as shown by Mr. Kormos, if PJM were to experience conditions next winter comparable to those seen last winter, then, given the overall reduction in available generation, the PJM Region would have a negative reserve margin, i.e., a loss of load. Again, this is not the most likely scenario, but it is a foreseeable risk, given the reduction in available generation and the forced outage rate actually experienced last winter.

Like any other foreseeable risks, prudent planning requires PJM to confront these contingencies in advance. One aspect of prudent planning, given a foreseeable risk, is to avoid actions which could make the situation worse. The release of 2,000 megawatts of previously committed capacity would indeed make the region’s resource adequacy markedly worse, under a scenario where PJM also loses the ability to compensate and retain the over 11,000 megawatts of Demand Resources that are committed for summer 2015. Similarly, release of that capacity also would make a scenario like that seen last winter even worse if it recurred next winter, given the high level of generation retirements already expected for the 2015/2016 Delivery Year. Releasing that capacity in the face of these risks would be imprudent; PJM therefore urges the Commission to waive the tariff rule that compels PJM to offer that release.
BACKGROUND

A. The Incremental Auction Rules on Release of Capacity.

Under the Reliability Pricing Model (“RPM”), PJM conducts a three-year-forward Base Residual Auction (“BRA”), followed by three Incremental Auctions, to secure capacity for a given Delivery Year. The last of these, i.e., the Third Incremental Auction, is held three months before the applicable Delivery Year. Accordingly, for the 2015/2016 Delivery Year that begins on June 1, 2015, PJM conducted a Base Residual Auction in May 2012, and will conduct a Third Incremental Auction in late February, 2015.

Incremental Auctions allow sellers with prior capacity commitments for the Delivery Year to seek and obtain replacement capacity, and they allow PJM to adjust the committed capacity level as the need for capacity changes between the BRA and the Delivery Year. As relevant here, the Tariff rules on RPM’s Incremental Auctions require PJM to “seek agreements to release prior capacity commitments to the PJM Region . . . if the PJM Region Reliability Requirement . . . utilized in the most recent prior auction conducted for the Delivery Year . . . exceeds . . . the updated PJM Region Reliability Requirement.”

As explained by Mr. Kormos, the final peak load forecast for the 2015/2016 Delivery Year has decreased from the prior forecast, and thus has reduced the Reliability Requirement for the PJM Region. Applying the Tariff’s rules on capacity release, PJM

5 Tariff, Attachment DD, sections 5.4(a), 2.34.
6 Tariff, Attachment DD, section 2.66.
7 Tariff, Attachment DD, section 5.4(c)(3).
8 Kormos Aff. ¶¶ 6-7.
has calculated that it would be required to offer in the Third Incremental Auction to release approximately 2,000 megawatts of previously committed capacity.  


As explained by Mr. Kormos, the capacity commitments for the 2015/2016 Delivery Year are notable in at least two respects. First, primarily as a result of new environmental regulations with compliance deadlines that fall less than two months before the start of the Delivery Year, the PJM Region faces an historic level of retirements of existing generation resources. Over 14,000 megawatts of retirements were announced for 2015/2016 before PJM held the May 2012 BRA to secure capacity for that Delivery Year. That level of expected retirements has moderated somewhat as we approach the start of the Delivery Year, but still stands at 11,769 megawatts—a level that far outstrips the level of retirements ever announced for any other single year.

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9 This calculation includes a reduction in the Reliability Requirement, which is partially offset by the recoupment of part of the 2.5% “hold-back” from the Base Residual Auction, as prescribed by the Tariff. As Mr. Kormos explains, although PJM’s megawatt offer quantity can be calculated now, the financial consequences to load will depend upon the clearing prices in the Third Incremental Auction. Kormos Aff. ¶ 22 n.8.


11 Kormos Aff. ¶¶ 4-5.

12 Kormos Aff. ¶ 7.
Second, PJM has secured a high level of Demand Resources to meet the region’s reliability needs for the 2015/2016 Delivery Year. The 2012 BRA cleared over 14,800 megawatts of Demand Resources. Based on resource replacement activity by Demand Resource providers in the two Incremental Auctions held so far for that Delivery Year, PJM estimates that 11,257 megawatts of Demand Resources will remain committed as of the start of the Delivery Year. That number could drop further as a result of replacements of Demand Resources in the Third Incremental Auction, but the amount of that further decrease is not known, and the reduction in available generation resources (due to the record level of retirements) raises questions about the size of the pool of uncommitted resources that could serve as replacement capacity.

The May 2012 BRA was also notable in another respect: it cleared 5,350 megawatts in new generation and generation uprates—also a record. But that number, too, has gone down since the BRA. PJM presently estimates that 3,800 megawatts of new generation and uprates will enter service for the 2015/2016 Delivery Year. The drop is primarily due to new plants that cleared the auction for the 2015/2016 Delivery Year but have been delayed into the 2016/2017 Delivery Year.

With the presently expected generation retirements and generation additions, PJM is seeing a net loss of just under 8,000 megawatts of generation resources for the

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13 Kormos Aff. ¶ 8.
14 Kormos Aff. ¶ 8.
15 Kormos Aff. ¶ 8.
16 Kormos Aff. ¶ 7.
17 Kormos Aff. ¶ 7. As Mr. Kormos explains, any new generation that cleared the BRA but cannot make the June 1, 2015 in-service date has to obtain replacement capacity, but to the extent that replacement comes from existing generation, it does not change the net loss in overall generation resources. Id. ¶ 7 n.2.
2015/2016 Delivery Year. But PJM also saw more generator retirements than additions for the 2014/2015 Delivery Year. Looking at the two years together, the cumulative net loss in generation in the PJM Region is 8,359 megawatts. As Mr. Kormos explains, this means that “the PJM Region will have 8,359 fewer megawatts of actual generation for the 2015/2016 Delivery Year than it had for the 2013/2014 Delivery Year.”

C. *EPSA*, and Further Developments That Have Resulted or Could Result from that Decision, Pose a Threat to the Demand Resources Committed for the 2015/2016 Delivery Year.

*EPSA* held that the Commission did not have the authority to adopt a rule in Order No. 745 prescribing compensation levels for retail customers that seek to provide demand response in wholesale energy markets. As Order No. 745 addressed only energy markets, *EPSA* addressed only the status of compensation for demand response in energy markets. The *EPSA* decision did not purport to decide the Commission’s authority to order or permit compensation for demand response in wholesale capacity markets.

Nonetheless, on the day *EPSA* was issued, the *FirstEnergy Complaint* was filed, asking the Commission to direct PJM to remove all Tariff provisions that allow or require PJM to compensate Demand Resources as a form of supply in the PJM capacity market effective May 23, 2014. The *FirstEnergy Complaint* does not ask the Commission to change the outcome of the RPM Auctions for any Delivery Year before the 2017/2018

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18 Kormos Aff. ¶ 7.
19 Kormos Aff. ¶ 7.
21 *Initial FirstEnergy Complaint* at 1-2; see also *Amended FirstEnergy Complaint* at 1, 4, 19-23.
Delivery Year, but it does seek a ban on *paying* any Demand Resources for providing capacity for those years, including the 2015/2016 Delivery Year.

PJM answered in opposition to the *FirstEnergy Complaint*, arguing, among other things, that the Commission should not upset the rules for Demand Resources (including those on compensation) already committed through RPM before the complaint was filed. On reply, FirstEnergy has asked the Commission to reject PJM’s arguments, contending, *inter alia*, that *EPSA*, and the complaint, require “eliminat[ing] FERC-regulated payments for demand response resources in the PJM capacity market;” and that “it is beyond FERC’s jurisdiction to require payments to demand response resources in FERC-approved tariffs.”

The D.C. Circuit has stayed issuance of its mandate in *EPSA* pending the federal government’s submission to the U.S Supreme Court of a petition for a writ of certiorari—an action the U.S. Solicitor General has advised the Court it will take by January 15, 2015. The stay will continue in effect until the Supreme Court disposes of any cert.

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23 Motion for Leave to Answer and Answer of FirstEnergy Service Company, Docket No. EL14-55-000, at 6 (Nov. 14, 2014); *see also* id. at 16 ("*EPSA* squarely holds that FERC lacks jurisdiction to set payments for demand response under FPA sections 201, 205, or 206.") and at 31 ("[T]he principal relief FirstEnergy has requested is the elimination of unlawful rates paid to demand response providers who are not entitled to any payment in the wholesale capacity market.").


petition. As the Supreme Court’s current term ends around late June, it is likely that the Supreme Court will act on any cert. petition (assuming one is filed) before (or soon after) the start of the 2015/2016 Delivery Year on June 1, 2015.

Thus, as matters presently stand, five months from the start of the next Delivery Year on June 1, 2015, there are a number of scenarios that could significantly adversely affect the PJM Region’s reliance on the over 11,000 megawatts of Demand Resources currently committed as capacity. Even if the Solicitor General files a petition for certiorari, the Supreme Court could deny that petition before the start of the Delivery Year, resulting in the issuance of the *EPSA* mandate. Issuance of the *EPSA* mandate could spawn new filings and litigation before the Commission, even beyond the *FirstEnergy Complaint* and a Commission remand proceeding. Energy market payments to demand resources could be nullified. All of this activity could coincide with the 2015 summer peak season. A worst-case, but conceivable, scenario could include a Commission finding, in reaction to an *EPSA* mandate, the *FirstEnergy Complaint*, or other new filings, that the Commission has no authority to approve wholesale market compensation to retail customers that participate in PJM’s capacity market.

These possible scenarios therefore pose a significant risk that PJM’s ability to compensate and retain those resources effectively could be nullified before, or in the midst of, summer 2015. As Mr. Kormos explains, given where we are today, the possible scenarios stemming from the *EPSA* decision fall in the category of “foreseeable risk.”

He notes that “[w]e do not need to agree that that is the correct legal conclusion, or that

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(continued)


26 Kormos Aff. ¶ 10.
that is the most likely scenario (just as planners must be concerned with possible occurrences of extreme weather, or with higher than normal resource outages) to conclude that it is foreseeable.\textsuperscript{27} Prudent planning simply must acknowledge and address contingencies such as these, whether they are poor weather or adverse regulatory or judicial outcomes.

As Mr. Kormos shows, if PJM were to lose the ability to rely on these committed Demand Resources next summer, the level of committed Capacity Resources would drop significantly below the IRM of 15.6\% that was approved for the PJM Region for the 2015/2016 Delivery Year. Specifically, without those Demand Resources, the reserve margin for next summer would drop to 13.2\%.\textsuperscript{28}

As Mr. Kormos explains, “[e]ntering next summer with an IRM significantly below 15.6\% would raise legitimate resource adequacy concerns.”\textsuperscript{29} That approved IRM was carefully chosen to provide a cushion against loads that are higher than a “normal” peak, or forced outages that are higher than the most likely outage rate. As Mr. Kormos states, “[a] simultaneous occurrence of worse than normal weather and worse than normal outages, therefore (as might occur, for example, if substantial parts of the region suffered extreme heat with highs above 95 degrees on multiple successive workdays), would erode the cushion provided by the approved IRM.”\textsuperscript{30} While PJM’s approved IRM “is designed to accommodate just such contingencies,” a 13.2\% reserve margin “would

\begin{itemize}
\item \textsuperscript{27} Kormos Aff. ¶ 10.
\item \textsuperscript{28} Kormos Aff. ¶¶ 13-14.
\item \textsuperscript{29} Kormos Aff. ¶ 15.
\item \textsuperscript{30} Kormos Aff. ¶ 15.
\end{itemize}
not accommodate those contingencies.” Mr. Kormos warns that a reserve margin over two percentage points below the approved IRM “would present serious risks that PJM could not serve all loads if the region experienced the more severe conditions that, while not routine, can still be reasonably expected from time to time.”

When confronted with such a foreseeable risk, PJM must take steps to avoid, minimize, or mitigate that risk. As Mr. Kormos explains, if PJM knows that a reserve margin of only 13.2% “is reasonably foreseeable, then PJM is obliged to pursue prudent measures to prevent that reserve margin from being reduced even further, and to supplement capacity commitments as a protection against that possible drop in the IRM.”

**D. Recent Poor Capacity Performance Raises Distinct Concerns About the Resources Committed for the Winter of 2015/2016.**

As Mr. Kormos also notes, “the PJM Region experienced especially poor generator performance in January 2014, with a forced outage rate of 22% during extreme weather in early January, and forced outage rates that were significantly worse than normal (although not as bad as 22%) later in the month.” Through its December 12, 2014 filing in Docket No. ER15-623-000, PJM is proposing to remedy market design shortcomings that appear to have contributed to this poor performance because they have failed to provide Capacity Resource owners sufficient incentive to ensure their resources perform.

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31 Kormos Aff. ¶¶ 15-16.
32 Kormos Aff. ¶ 16.
33 Kormos Aff. ¶ 17.
34 Kormos Aff. ¶ 18.
However, that filing did not address the 2015/2016 Delivery Year, because, as Mr. Kormos explains, “there simply is not enough time before that Delivery Year starts (on June 1, 2015) to implement the plant and infrastructure changes that are needed in the long term to improve generator performance.” As Mr. Kormos also explains, PJM has been active in identifying, developing, and implementing various measures that can be implemented in the near term to help improve winter operations in light of last winter’s experience. But, as he notes, “without changes in generation plant and fuel delivery infrastructure, the near-term measures are necessarily limited, and they have not yet been put to the test by peak winter operations or stressed conditions.” One important question is what impacts on reliability might result if PJM were to experience, in the winter of 2015/2016, conditions similar to those experienced in January 2014.

PJM has considered this question, and has found, as Mr. Kormos relates, that “with the reduced quantity of generation available for the 2015/2016 Delivery Year, if PJM experienced conditions next winter comparable to those seen last winter, the PJM Region would have a negative reserve margin, i.e., a loss of load.” Specifically, Mr. Kormos explains, if PJM experienced the type of winter peak that is statistically expected 10% of the time (i.e., comparable to last winter’s peak) while also experiencing forced

35 Kormos Aff. ¶ 18.
36 Kormos Aff. ¶ 19. A summary and update on these near-term measures was recently considered by the PJM Operating Committee and is available at the following web address: http://www.pjm.com/~/media/committees-groups/committees/oc/20141203/20141203-item-12-and-13-hot-and-cold-weather-recommendation-updates.ashx
37 Kormos Aff. ¶ 19.
38 Kormos Aff. ¶ 20.
outages similar to those seen last winter, “then the load would exceed the resources by over 2,600 megawatts;”39 in other words, PJM would be unable to serve all load.

Given these concerns and uncertainties for both the summer and winter of the 2015/2016 Delivery Year, Mr. Kormos counsels that “PJM should pursue prudent measures that (i) avoid worsening the risk and (ii) help minimize or mitigate the consequences of the risk.”40

THE COMMISSION SHOULD GRANT THE REQUESTED WAIVER

The proposed waiver request meets all the Commission’s waiver standards, as the waiver request: (1) is of limited scope; (2) addresses a concrete problem that must be remedied; and (3) does not have undesirable consequences, such as harming third parties.41

First, the waiver request is of very limited scope. It applies only to one Incremental Auction for one Delivery Year, i.e., the Third Incremental Auction for the 2015/2016 Delivery Year. And the only change it makes to that auction is to suspend the requirement that PJM offer in that auction to release some previously committed capacity.

39  Kormos Aff. ¶ 20. Mr. Kormos also notes that, depending on further developments concerning EPSA, PJM might be unable to “count on purely voluntary assistance from demand response to help manage peak or emergency conditions next winter.” Id.
40  Kormos Aff. ¶ 21.
Second, the requested waiver addresses a concrete problem, i.e., the compelling need to confront the risk posed by EPSA, and its fall-out, to the over 11,000 megawatts of Demand Resources committed to the PJM Region’s reliability needs for the 2015 summer peak season—which begins in little over five months. As Mr. Kormos explains, if PJM released the approximately 2,000 MWs required by the tariff, and then lost the use of the committed Demand Resources, “then the reserve margin entering the 2015 summer would be approximately 11.2%—far below the 15.6% found necessary by PJM’s planners and approved by the PJM Board of Managers . . . [and] equivalent to a loss of load expectation of one event in every two to three years.”42 As he concludes, “[t]his would be imprudent.”43

The requested waiver also is needed to avoid exacerbating wintertime resource concerns. As Mr. Kormos explains, release of that “capacity would heighten the winter 2015/2016 uncertainty that is already present from the historic level of generation retirements and the recent experience of poor winter performance.”44 Clearly, PJM should not intentionally increase both these summertime and wintertime risks by offering to release capacity. Therefore, PJM should not be required to offer that release.

Third, the proposed waiver will not have undesirable consequences, such as harming third parties. In applying this standard, the Commission does not require that the waiver have zero impact on third parties.45 Here, avoiding the sell-back of some capacity

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42 Kormos Aff. ¶ 24.
43 Kormos Aff. ¶ 24.
44 Kormos Aff. ¶ 24.
45 See PJM Interconnection, L.L.C., 146 FERC ¶ 61,078, at P 41 (2014) (granting waiver of PJM Tariff and Operating Agreement to allow permit submissions of cost-based offers at prices that exceed the $1,000/MWh offer-price cap, even if (continued . . .)
when PJM could, for other reasons, enter next summer with capacity levels below the approved IRM, would avoid harming loads—which could suffer adverse reliability consequences if PJM tried to manage next year’s peak with resources well below the level previously determined necessary. Payment for the capacity that would have been released is not, in those circumstances, a burden or imposition on loads—to the contrary, it would be just and reasonable payment for the capacity that is needed to ensure reliable service to those loads—in accordance with the duly approved IRM that all loads expect PJM to maintain. Indeed, if PJM released this capacity and then was forced, following issuance of an EPSA mandate, to pursue extraordinary means to, in effect, buy back (from whatever source) that same increment of capacity, loads could end up paying substantially more than whatever revenue was received from release of the capacity in the Third Incremental Auction.

Accordingly, the requested waiver satisfies the Commission’s waiver standards and is just and reasonable.

**ADDITIONAL INFORMATION**

PJM requests that all correspondence and communications with respect to this filing be sent to, and the Secretary include on the official service list, the following:46

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46 To the extent necessary, PJM requests waiver of Rule 203(b)(3) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.203(b), to permit all of the persons listed to be placed on the official service list for this proceeding.
PJM has served a copy of this filing on all PJM members and on all state utility regulatory commissions in the PJM Region by posting this filing electronically. In accordance with the Commission’s regulations, PJM will post a copy of this filing to the FERC filings section of its internet site, located at the following link: http://www.pjm.com/documents/ferc-manuals/ferc-filings.aspx, with a specific link to the newly-filed document, and will send an e-mail on the same date as this filing to all PJM members and all state utility regulatory commissions in the PJM Region alerting them that this filing has been made by PJM and is available by following such link. PJM also serves the parties listed on the Commission’s official service list for this docket. If the document is not immediately available by using the referenced link, the document will be available through the referenced link within 24 hours of the filing. Also, a copy of this

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47 See 18 C.F.R. §§ 35.2(e) and 385.2010(f)(3).
48 PJM already maintains, updates, and regularly uses e-mail lists for all PJM members and affected state commissions.
filing will be available on FERC’s eLibrary website located at the following link: http://www.ferc.gov/docs-filing/elibrary.asp, in accordance with the Commission’s regulations and Order No. 714.

CONCLUSION

For the reasons stated above, PJM requests that the Commission grant the requested waiver of Attachment DD, section 5.4(c)(3) of its Tariff solely as to the Third Incremental Auction for the 2015/2016 Delivery Year. PJM also requests that the Commission issue an order granting this waiver before February 23, 2015, to be effective no later than that date.

Respectfully submitted,

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December 24, 2014
Attachment A

Affidavit of Michael J. Kormos on Behalf of PJM Interconnection, L.L.C.
UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.  )  Docket No. ER15-____-000

AFFIDAVIT OF MICHAEL J. KORMOS
ON BEHALF OF PJM INTERCONNECTION, L.L.C.

1. My name is Michael J. Kormos. My business address is 2750 Monroe Blvd., Audubon, Pennsylvania, 19403. I currently am employed by PJM Interconnection, L.L.C. (“PJM”), serving as its Executive Vice President – Operations. I am submitting this affidavit on behalf of PJM in support of its filings for a tariff waiver, and a tariff change, needed to help PJM better manage significant uncertainty affecting resource adequacy in the PJM Region during the 2015/2016 Delivery Year, i.e., the twelve-month period that begins June 1, 2015.

2. I have had overall responsibility for PJM system operations for over eleven years, in both my current role as Executive Vice President–Operations and my prior position as Vice President of System Operations. In my present capacity I am responsible for all services that touch reliability, including system operations, system planning, information and technology services, and security and regional coordination. Before my promotion to Vice President of System Operations, I served for fifteen years in engineering and management positions of increasing responsibility in PJM’s Operations Division. I have been a member of the North American Electric Reliability Corporation (“NERC”) operating committee and the Board of Directors for the ReliabilityFirst Corporation. I currently sit on the Executive Committee of the Eastern Interconnection Planning Collaborative and the Board of Directors for the Eastern Interconnection Data Sharing Network, Inc. I hold a Bachelor of Science degree in electrical engineering from Drexel University and a Master of Business Administration degree from Villanova University.

Capacity Resources Committed for the 2015/2016 Delivery Year.

3. PJM secures capacity commitments through its forward auctions for a Delivery Year that runs from June 1 of a calendar year to May 31 of the next calendar year. The 2015/2016 Delivery Year will begin in a little over five months from now, i.e., on June 1, 2015. I should emphasize at the outset that PJM’s Reliability Pricing Model (“RPM”) auctions have been successful in securing enough Capacity Resources for the 2015/2016 Delivery Year to satisfy the Installed Reserve Margin (“IRM”) established for that year. Nonetheless, resource adequacy concerns for summer 2015 have arisen because a federal court decision has called into question PJM’s ability to compensate and rely upon the large quantity of Demand Resources that are part of those committed Capacity Resources. PJM also has concerns about winter 2015/2016 resource adequacy in light of a very high level of generation retirements for that Delivery Year, shortcomings in generator performance revealed by last winter’s extreme weather, and the limited amount of time between now and the 2015/2016 winter for the plant and
infrastructure changes needed in the long term for improvements in generator performance.

4. PJM conducted the Base Residual Auction to secure capacity for the 2015/2016 Delivery Year in May 2012. As PJM explained in its report on that auction, the auction results were impacted by a series of significant developments. Most notably, PJM explained, “an unprecedented amount, over 14,000 MW, of generation retirements have been announced driven largely by environmental regulations, primarily EPA Mercury and Air Toxics Standards (MATS) and the High Electricity Demand Day Rule (HEDD) in New Jersey which have compliance deadlines of April 16, 2015 and May 1, 2015 respectively.”¹ Driven by these retirements, the 2012 Base Residual Auction results showed a significant decline in the amount of coal-fired generation committed as capacity in PJM.

5. This substantial decline in capacity commitments in the Base Residual Auction from existing generation resources was offset by commitments from new generation resources and, especially, by commitments from a record megawatt quantity of Demand Resources and Energy Efficiency Resources. The 2012 BRA cleared approximately 4,900 megawatts of new generation and approximately 450 megawatts of generation uprates. The BRA also cleared over 14,800 megawatts of Demand Resources, and over 900 megawatts of Energy Efficiency Resources. The combined Demand and Energy Efficiency Resources were the most PJM has ever cleared in any BRA, then or since. And the existing generation resource retirements announced for 2015/2016 prior to that BRA were by far the greatest quantity of retirements for any single Delivery Year.

6. In the two-and-a-half years since the May 2012 BRA, the retirements, new generation, and expected Demand Resources for the 2015/2016 Delivery Year all have decreased somewhat from the levels expected at the time of the BRA. But the 2015/2016 Delivery Year still has an extraordinary level of retirements of existing generation resources, and still depends on a very high level of expected commitments by Demand Resources.

7. The bar chart below shows the net change in generation for 2015/2016 and places it in context by showing the immediately prior and succeeding Delivery Years, as well as the cumulative net change in generation over those three Delivery Years. The 2015/2016 Delivery Year clearly stands out for its very large net drop in actual generation. PJM presently expects 11,769 megawatts of existing generation resources to retire for the 2015/2016 Delivery Year, and 3,800 megawatts of generation to be added in time for the 2015/2016 Delivery Year.² The net loss of generation of a little under 8,000

² The drop from the 5,350 MWs of new generation and uprates cleared in the BRA, to the 3,800 MWs expected today, reflects delays in some of those expected additions, primarily two new combined cycle gas units, into the 2016/2017 (continued . . .)
megawatts, when considering only the retirements and additions for 2015/2016, increases to a cumulative net loss of 8,359 megawatts of generation when the net generation loss from 2014/2015 (which also saw more generator retirements than additions) is considered. That cumulative net loss means the PJM Region will have 8,359 fewer megawatts of actual generation for the 2015/2016 Delivery Year than it had for the 2013/2014 Delivery Year. By contrast, PJM expects a substantial net addition of generation for the 2016/2017 Delivery Year. Only 76 megawatts of generator retirements have been announced for that year, versus 4,950 megawatts of generator additions that have been committed so far for that year. This will reduce, by more than half, the cumulative net loss in generation carried over from 2015/2016.

8. Demand Resource commitments for the 2015/2016 Delivery Year, while expected to be down from the level committed in the BRA, remain at a very high level. Based on replacement capacity purchased by demand response providers in the two Incremental Auctions already held for 2015/2016, PJM now estimates that 11,257

(. . . continued)

Delivery Year. Any new generation that cleared the BRA but cannot make the June 1, 2015 in-service date has to obtain replacement capacity, but to the extent that replacement comes from existing generation, it does not change the net loss in overall generation resources shown here.
megawatts of Demand Resources likely will be committed for the 2015/2016 Delivery Year. Based on historic experience, some of the presently estimated 11,257 megawatts of Demand Resources will be replaced in next February’s Third Incremental Auction for the 2015/2016 Delivery Year. But with the very large net drop in generation resources for 2015/2016 (described above), there is not likely to be much generation that is uncommitted and available to serve as replacement capacity in the Third Incremental Auction. Therefore, it seems likely that PJM will begin the 2015/2016 Delivery Year relying on Demand Resources at something like the currently expected level of 11,257 megawatts.

**Risk to Demand Resource Commitments From the EPSA Decision.**

9. The substantial net reduction in generation resource commitments for the forthcoming Delivery Year, and corresponding heavy reliance on Demand Resources, raises resource adequacy concerns in light of the May, 2014 federal court decision in *Electric Power Supply Ass’n v. FERC.*[^3] That decision, as I understand it, held that FERC does not have the authority to approve rules on compensation in the wholesale energy market for retail customers that agree to consume less electricity. After that decision was issued, the First Energy Companies filed a complaint, still pending before FERC,[^4] challenging all of PJM’s current tariff rules that provide for Demand Resources to serve as supply in PJM’s capacity market. While PJM has argued to FERC that neither the EPSA decision nor the FE Complaint should result in any changes to the commitment or compensation of Demand Resources for the 2015/2016 Delivery Year, PJM has been advised by counsel that there is a significant risk that the EPSA precedent, if not reversed by the U.S. Supreme Court, could be extended to negate PJM’s ability to compensate end-users that commit through the capacity market to reduce their peak electricity consumption, and that PJM has little control over when such a decision would become effective. In that regard, I understand that the United States Solicitor General has stated that his office will ask the Supreme Court to review the EPSA decision, and I am advised by counsel that the Supreme Court is very likely to decide before the start of the 2015-2016 Delivery Year whether to review that case.

10. While the course of events on demand response (with FERC, PJM, and countless stakeholders and market participants assuming for years that it was a valid wholesale energy market product, before a federal appeals court concluded, in a sweeping decision, that it is not) has been highly unusual, the appropriate perspective today on this question for purposes of resource adequacy planning is neither unusual nor controversial. Given where we are today, the potential adverse impacts of EPSA on Demand Resources simply fall in the category of foreseeable risk. We can reasonably foresee a scenario in which the Supreme Court decides this spring not to review EPSA, and FERC concludes, in light of EPSA, that it also lacks authority to order compensation for end-users that

[^3]: 753 F.3d 216 (D.C. Cir. 2014) ("EPSA").
[^4]: Complaint of FirstEnergy Service Company, Docket No. EL14-55-000 (May 23, 2014) ("FE Complaint").
commit through the wholesale market to reduce peak electricity consumption. We do not need to agree that that is the correct legal conclusion, or that that is the most likely scenario (just as planners must be concerned with possible occurrences of extreme weather, or with higher than normal resource outages) to conclude that it is foreseeable. And if that scenario does unfold, then the important point from a resource adequacy perspective is that it could effectively negate or nullify the Demand Resource commitments on which the PJM Region is now depending to ensure reliable service to loads beginning in just over five months.

11. Therefore, the prudent response to this presently foreseeable risk is to assess the impacts on resource adequacy, should the risk be realized, and to consider measures that would mitigate the consequences of the occurrence of that risk, as discussed below.

**Resource Adequacy Consequences of Negation of Demand Resource Commitments.**

12. In light of this foreseeable risk, PJM has assessed the impact on resource adequacy if the presently committed Demand Resources became unavailable for use in the 2015/2016 Delivery Year. As seen in the graph below, loss of these resources would place the PJM Region’s resource level below the IRM that was established to assure reliable service to loads during next summer’s peak season.

13. Specifically, PJM’s latest peak load forecast for the PJM Region for summer 2015 is 155,544 MWs. The IRM that was duly established for the 2015/2016 Delivery Year is 15.6%, meaning that the peak load plus reserves level that PJM uses to determine the region’s capacity needs is 179,809 MWs.

14. The current resource commitment, including Demand Resources and Energy Efficiency Resources, for the 2015/2016 Delivery Year is 187,375 MWs, which provides a reserve margin of 20.5%. However, Demand Resources account for 11,257 MWs of that resource commitment. If those Demand Resource commitments became invalid, the level of resources committed for the 2015/2016 Delivery Year would drop to 176,118 MWs. That would correspond to a reserve margin of only 13.2%, well below the established IRM of 15.6%. In fact, any loss of approximately 7,500 or more MWs of the current Demand Resource commitment would place the PJM Region below the established IRM.
15. Entering next summer with an IRM significantly below 15.6% would raise legitimate resource adequacy concerns. For 2015 (like any other year) PJM uses a “50/50” summer peak load forecast, i.e., a forecast that has a 50% chance of being exceeded if weather or other conditions are more severe than normal. The 15.6% IRM is selected, in part, to accommodate the risk that peak conditions could be more extreme than normal. Similarly, the PJM Region’s historical experience shows that a generator forced outage rate of about 7% is statistically “normal.” The approved IRM of 15.6% therefore is effectively a reserve of 8% to 9% after accounting for a “normal” level of forced outages. But PJM’s historical experience also shows that worse, even significantly worse, forced outages can be expected periodically. A simultaneous occurrence of worse than normal weather and worse than normal outages, therefore (as might occur, for example, if substantial parts of the region suffered extreme heat with highs above 95 degrees on multiple successive workdays), would erode the cushion provided by the approved IRM.\(^5\) PJM’s IRM is designed to accommodate just such

\(^5\) It is worth noting that PJM also might have fewer options to rely on neighboring systems during the 2015/2016 Delivery Year. For example, while PJM does not (continued . . .)
contingencies, while avoiding overly conservative assumptions that would increase costs to loads without materially improving reliability.

16. But a reserve margin of only 13.2% (i.e., the margin if Demand Resources became unavailable) would not accommodate those contingencies. The 15.6% reserve margin is supported by PJM analyses showing it would be expected to result in no more than one loss of load event in ten years. By contrast, a reserve margin of only 13.2% would be expected to result in a loss of load event every 4.5 years. Thus, a reserve margin of 13.2% would present serious risks that PJM could not serve all loads if the region experienced the more severe conditions that, while not routine, can still be reasonably expected from time to time.

17. Put more simply, the region’s carefully considered Installed Reserve Margin is 15.6%, not 13.2%, because the approved IRM is considered necessary to ensure reliable service to loads. If PJM knows, going into the Delivery Year, that a reserve margin of only 13.2% is reasonably foreseeable, then PJM is obliged to pursue prudent measures to prevent that reserve margin from being reduced even further, and to supplement capacity commitments as a protection against that possible drop in the IRM. PJM proposes just such measures in these two filings, as I discuss later in my affidavit.


18. As has been well documented elsewhere, the PJM Region experienced especially poor generator performance in January 2014, with a forced outage rate of 22% during extreme weather in early January, and forced outage rates that were significantly worse than normal (although not as bad as 22%) later in the month. That experience has highlighted deficiencies in the RPM market design that are failing to provide Capacity Resource owners sufficient incentive to ensure their resources perform. PJM has proposed a package of reforms through its December 12, 2014 filing in Docket No. ER15-623-000 to remedy those deficiencies. But that filing did not address the 2015/2016 Delivery Year, because there simply is not enough time before that Delivery Year starts (on June 1, 2015) to implement the plant and infrastructure changes that are needed in the long term to improve generator performance.

(. . . continued)

have specific information on summer 2015 resources and reserves for the Midcontinent Independent System Operator, Inc. (“MISO”), NERC’s Summer 2014 Reliability Assessment reported that, due to retirements and other issues, MISO’s summer reserve margin dropped substantially from 2013 to 2014.

19. PJM has been active in identifying, developing, and implementing various measures that can be implemented in the near term to help improve winter operations in light of last winter’s experience. But without changes in generation plant and fuel delivery infrastructure, the near-term measures are necessarily limited, and they have not yet been put to the test by peak winter operations or stressed conditions. In the meantime, we know, from the extraordinary level of generation retirements, that the PJM Region will have over 8,000 fewer megawatts of generation for the 2015-2016 Delivery Year than PJM had during the 2013/2014 Delivery Year, i.e., the year that included last winter. These circumstances add to the level of uncertainty about resource adequacy for the 2015/2016 Delivery Year.

20. In particular, with the reduced quantity of generation available for the 2015/2016 Delivery Year, if PJM experienced conditions next winter comparable to those seen last winter, the PJM Region would have a negative reserve margin, i.e., a loss of load. Specifically, as illustrated in the bar chart below, if the system had a “90/10” winter peak, i.e., a peak statistically expected 10% of the time (the January 2014 winter peak was actually a little worse than that) and a level of forced outages like that seen last winter (i.e., 22%), then the load would exceed the resources by over 2,600 megawatts. While a 22% forced outage rate is extreme, forced outages at or above that level happened on more than one occasion last winter. PJM’s analysis assumes that Annual Demand Resources are unavailable, as a consequence of further developments concerning the EPSA decision, but PJM assumes that the benefit of committed Energy Efficiency Resource measures remains available, as those typically are permanent equipment or process changes. Some may point out that demand response helped PJM manage the emergency conditions last January, even though most of it was not committed as winter capacity for that Delivery Year. But if as a result of the EPSA decision, demand response obtains no compensation from the energy market, it seems unlikely that PJM could count on purely voluntary assistance from demand response to help manage peak or emergency conditions next winter.

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7 The PJM Operating Committee recently reviewed these efforts and their current status, as shown by the spreadsheet considered by the committee and posted at the following address: [http://www.pjm.com/~/media/committees-groups/committees/oc/20141203/20141203-item-12-and-13-hot-and-cold-weather-recommendation-updates.ashx](http://www.pjm.com/~/media/committees-groups/committees/oc/20141203/20141203-item-12-and-13-hot-and-cold-weather-recommendation-updates.ashx)

8 For comparison purposes, the chart shows other forced outage scenarios, i.e., a “normal” scenario (with 7% forced outages) and a “high” scenario (with 15% forced outages). Under these two scenarios, PJM retains enough resources to serve the “90/10” winter peak load.
21. Given these concerns and uncertainties, for both the summer and winter of the 2015/2016 Delivery Year, PJM should pursue prudent measures that (i) avoid worsening the risk and (ii) help minimize or mitigate the consequences of the risk. The tariff measures PJM proposes in the two filings described below are two such measures.

**PJM’s Narrowly Tailored Tariff Relief Will Help It Manage the 2015/2016 Resource Adequacy Concerns.**

22. PJM seeks narrow tariff relief on two fronts to help it manage the resource adequacy concerns that are specific to the 2015/2016 Delivery Year.

23. First, PJM is asking for a waiver of a current RPM market rule that requires PJM to offer to release some previously committed capacity in an Incremental Auction if the Reliability Requirement decreases by a certain amount due to a reduction in the latest updated peak load forecast (compared to the load forecast used for the prior auctions for that Delivery Year). PJM has completed its final peak load forecast for the 2015/2016 Delivery Year, and it posted that forecast last month for review by the stakeholders’ Load Analysis Subcommittee. Based on that forecast, and applying the factors required by the RPM tariff rules, PJM has calculated that it is required to offer to
release approximately 2,000 MWs of capacity previously committed for the 2015/2016 Delivery Year.\(^9\)

24. This would be imprudent, given the resource adequacy concerns I have described above. If PJM released the approximately 2,000 MWs required by the tariff, and then lost the use of the committed Demand Resources, then the reserve margin entering the 2015 summer would be approximately 11.2%—far below the 15.6% found necessary by PJM’s planners and approved by the PJM Board of Managers. In fact, an 11.2% reserve margin is equivalent to a loss of load expectation of one event in every two to three years. Moreover, release of the approximately 2,000 MWs of capacity would heighten the winter 2015/2016 uncertainty that is already present from the historic level of generation retirements and the recent experience of poor winter performance.

25. The RPM Tariff’s automatic requirement for a capacity release offer is concerned solely with changes in load; it does not consider changes in supply at all. That automatic tariff rule therefore certainly does not contemplate the extraordinary changes on the supply side seen in the 2015/2016 Delivery Year, such as the record level of generation retirements, and the significant uncertainty over the status of the large quantity of Demand Resources committed for that year. The Commission should recognize those extraordinary conditions, and the inherent limits in the capacity release rule’s design, and grant PJM relief from that rule.

26. Second, as a result of the generation retirements announced for the 2015/2016 Delivery Year, coupled with the commitment to date of Generation Capacity Resources through the Base Residual Auction, First Incremental Auction, and Second Incremental Auction, there is not much generation in the PJM Region left to commit. PJM therefore has begun to reach out to generators that have announced their intent to retire, and to planned generators that have committed for subsequent Delivery Years, to determine if any of them are capable of committing, and are willing to commit under reasonable terms, for all or part of the 2015/2016 Delivery Year.

27. Resources in such circumstances may not be in a good position to commit capacity for a full Delivery Year, given uncertainties over whether, and when, retiring generators could obtain any necessary approvals or waivers to continue operating, and because planned resources may be able to accelerate their in-service date by only a few months, rather than a full year. Consequently, these resources may be unable to offer to commit in PJM’s Third Incremental Auction for the 2015/2016 Delivery Year. These resources also may not be eligible under PJM’s current generation deactivation rules, which provide for a compensated delay in deactivation for resources that are needed to

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\(^9\) While PJM’s megawatt offer quantity can be calculated now, the financial consequences to load will depend upon the clearing prices in the Third Incremental Auction. In the past, capacity releases in the incremental auctions typically have reduced, but have not eliminated, the dollar amounts that loads were committed to pay due to the clearing of that capacity in a prior auction.
continue in service to address transmission system reliability issues. These resources are needed for resource adequacy concerns, and not transmission system reliability concerns. In addition, the generator deactivation (i.e., retirement) rules are not an option for planned resources that may be able to accelerate their in-service dates.

28. PJM therefore is proposing to add a temporary mechanism to its RPM rules to recover from Load Serving Entities the cost of capacity agreements entered into outside the RPM Auctions for the specific purpose of addressing resource adequacy concerns for the 2015/2016 Delivery Year. Under PJM’s proposal, each such agreement will be subject to approval by FERC on a case-by-case basis, if it meets a specified standard of helping PJM satisfy relevant reliability standards for resource adequacy, taking into account concerns and contingencies such as those I have described in this affidavit.

29. This option is not a panacea. Rather, it would simply support PJM’s efforts to find supplemental capacity options under the unique conditions of the 2015/2016 Delivery Year where not much capacity in the region remains available, and where there is a foreseeable risk of loss of the Demand Resources that comprise a significant portion of the capacity committed for this Delivery Year.

30. This concludes my affidavit.
Michael J. Kormos, being first duly sworn, deposes and states that he is the Michael J. Kormos referred to in the document entitled “Affidavit of Michael J. Kormos,” that he has read the same and is familiar with the contents thereof, and that the facts set forth therein are true and correct to the best of his knowledge, information, and belief in this proceeding.

Michael J. Kormos

Subscribed and sworn to before me, the undersigned notary public, this 23rd day of December, 2014.

Christina J. Stotesbury
Notary Public

My Commission expires: March 2, 2016