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The Honorable Willie L. Phillips
Chairman
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Dear Chairman Phillips:

On behalf of PJM certain market participants, we respectfully urge you to reject PJM's proposed Reliability Resource Initiative ("RRI"). In a misguided effort to shave time off an interconnection request for certain types of favored projects, PJM is exposing itself to untenable legal risk. As an initial matter, the process used to develop RRI was hurried and flawed. RRI also suffers from serious flaws that render it vulnerable to legal challenges at the Commission or in the U.S. Court of Appeals. RRI violates the filed rate doctrine and the prohibition against retroactive ratemaking. Moreover, PJM cannot carry its burden of showing that RRI is just, reasonable, and not unduly prejudicial or preferential and that it accomplishes the purposes of Order No. 2003. There is insufficient record support for a measure as extraordinary and as unfettered as RRI. RRI is contrary to open access. As presently proposed, it would allow 50 projects to engage in queue jumping and queue crashing. Importantly, RRI has none of the guardrails that CAISO put in place when it proposed a narrowly tailored emergency interconnection service. For all of the above reasons, we urge the Commission to reject PJM's misguided proposal.

I. Background

On October 8, 2024, PJM staff issued the "Reliability Resource Initiative: Interim Accelerated Interconnection Process." Ten days later, on October 18, 2024, PJM staff issued the "Reliability Resource Initiative Straw Proposal." This proposal would have allowed 100 projects (or approximately 20 GW to 30 GW of capacity) to enter Transition Cycle #2. Eligibility criteria included an Effective Load Carrying Capability ("ELCC") over 45% and an in-service date of June 1, 2029. At the meeting, staff said that PJM's management and board supported the RRI concept in principle.

On November 7, 2024, PJM staff presented an MRC Update that attempted to justify RRI on resource adequacy and reliability grounds. RRI was also changed to allow all resources to apply with no cap on applications. A weighted formula of UCAP (40 points), ELCC (20 points), project viability (20 points), in-service date (10 points), and location (10 points) would then be used to score and select 75 projects. PJM would open an application window for eligible projects in Transition Cycle #2 in early 2025.

On November 21, 2024, PJM again changed RRI. The number of projects was reduced to 50.[1] The scoring criteria were also changed: UCAP (35 points); in-service date viability (35 points); ELCC (20 points); and location (10 points).[2] PJM removed milestone extensions from the generator interconnection agreement, placed a greater emphasis on the in-service date, screened for system impact as part of in-service date validation, and provided more guidance on project viability and a project's critical path construction schedule.[3] In the absence of RRI, new projects would not be able to enter Transition Cycle #2. RRI provides a head start to certain favored projects, allowing them to join Transition Cycle #2 and to bypass Cycle #1.

II. RRI Violates the Filed Rate Doctrine and the Prohibition Against Retroactive Ratemaking

The Commission should reject RRI as violating the filed rate doctrine and the prohibition against retroactive ratemaking. A transmission provider does not have carte blanche to change its interconnection rules. "[T]he statutory provisions on which . . . [the filed rate doctrine and prohibition against retroactive ratemaking] were based apply equally to non-rate terms and conditions."[4] Moreover, "[t]he filed rate doctrine 'bind[s] regulated entities to charge only the rates filed with FERC and to change their rates only prospectively.'"[5] When the filed rate doctrine applies, it "'does not yield, no matter how compelling the equities.'"[6] This is because it advances the "central purpose" of ensuring predictability.[7] No violation of the filed rate doctrine occurs, however, when "'buyers are on adequate [advance] notice that resolution of some specific issue may cause a later adjustment to the rate being collected at the time of service.'"[8]

Here, PJM failed to provide adequate advance notice. AG2 was open from October 1, 2020 through March 1, 2021, and AH1 from April 1, 2021 through September 30, 2021. Interconnection customers in AG2 and AH1 did not receive notice of RRI at the time, nor could they have, since RRI was developed long after PJM's interconnection reform in Docket No.

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1 PJM Interconnection, L.L.C., *Reliability Resource Initiative: MC Notification* 5 (Nov. 21, 2024), https://www.pjm.com/-/media/committees-groups/committees/mc/2024/20241121/20241121-item-04a---1-member-consultation-regarding-reliability-resource-initiative---presentation.ashx.

2 *Id.* at 7.

3 *Id*. at 5.

4 *Waiver of Tariff Requirements*, Proposed Policy Statement on Waiver of Tariff Requirements and Petitions or Complaints for Remedial Relief, 171 FERC ¶ 61,156, at P 6 (2020) (citing FPA section 205(d) and 18 C.F.R. § 35.1(e)) ("Proposed Policy Statement"). *See also PJM Power Providers Group v. FERC*, 96 F4th 390, 394 (3rd Cir. 2024) ("the filed rate doctrine 'is not limited to rates per se, but also extends to matters directly affect[ing] . . . rates'").

5 *PJM Power Providers Group*, 96 F4th at 394 (quoting *Okla. Gas & Elec. Co. v. FERC*, 11 F.4th 821, 829 (D.C. Cir. 2021)).

6 *Id.* at 401.

7 *Id.* at 402.

8 Proposed Policy Statement, 171 FERC ¶ 61,156, at P 7 (quoting *Old Dominion Elec. Coop., Inc. v. FERC*, 892 F.3d 1223, 1231 (D.C. Cir. 2018)).

ER22-2110 ("Queue Reform"). PJM's Queue Reform was filed on June 14, 2022.[9] PJM explained that "the Interconnection Process Reform Task Force has been considering potential Tariff reforms since March 2021. Thus, parties have been noticed on notice [sic] since at least March 2021 that significant reforms to PJM's Tariff were being considered and likely to be implemented."[10] Here, the first PJM meeting to consider RRI occurred on October 8, 2024. At that time, existing interconnection customers learned of PJM's proposal. Indeed, PJM's Order No. 2023 compliance filing in May 2024 asserted that its tariff did not need to be changed because of its Queue Reform and the independent entity variation standard.[11]

PJM's effort to change the interconnection rules so as to allow 50 projects to join Transition Cycle #2 violates the filed rate doctrine. "The doctrine forbids 'post hoc tinkering,' even . . . [to] correct 'errors of judgment' or avoid 'distortion in market signals.'"[12] It would undermine predictability to allow PJM to engage in such post hoc tinkering with its interconnection rules and harm existing interconnection customers. Doing so would be inconsistent with "'familiar considerations of fair notice, reasonable reliance, and settled expectations.'"[13] In short, the Commission should reject RRI, because "[s]table markets depend on stable rules."[14]

III. PJM Cannot Meet Its Burden of Showing that RRI Is Just, Reasonable, and Not Unduly Discriminatory or Preferential and Accomplishes the Purposes of Order No. 2003

Under section 205 of the FPA, it is well established that PJM bears the burden of establishing that RRI is just, reasonable, and not unduly discriminatory or preferential.[15] In addition, "[u]nder the independent entity variation standard, an RTO/ISO must demonstrate that proposed revisions from the Commission's pro forma LGIP and LGIA are just and reasonable and not unduly discriminatory or preferential *and accomplish the purposes of Order No. 2003*."[16] Here, PJM cannot carry its burden because the proposal (1) is based on a hurried, flawed process

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[9] The Commission accepted PJM's filing on November 29, 2022. *See PJM Interconnection, L.L.C.*, 181 FERC ¶ 61,162 (2022), *notice of denial of reh'g by operation of law and providing for further consideration*, 182 FERC ¶ 62,055 (2023), *order addressing arguments raised on reh'g*, 184 FERC ¶ 61,006 (2023). PJM transitioned from a "first-come, first-served" queue approach to a "first-ready, first-served" cycle approach.

[10] PJM Interconnection, L.L.C., Tariff Revisions for Interconnection Process Reform, at 8 n.25, Docket No. ER22-2110 (June 14, 2022).

[11] PJM Interconnection, L.L.C., Order Nos. 2023 and 2023-A Compliance Filing, at 3-5, Docket No. ER24-2045 (May 16, 2024).

[12] *PJM Power Providers Group*, 96 F4th at 402 (quoting *Columbia Gas Transmission Corp. v. FERC*, 896 F.2d 791, 797 (D.C. Cir. 1990)).

[13] *Id.* at 398 (quoting *Landgraf v. USI Films*, 511 U.S. 244, 270 (1994)).

[14] *Id.* at 402.

[15] *See Midcontinent Indep. Sys. Operator, Inc.*, 186 FERC ¶ 61,054, at P 172 (2023) (rejecting proposed changes to interconnection rules because "MISO has not shown that its proposal is just and reasonable, or that it is not unduly discriminatory or preferential").

[16] *Id.* P 3 (emphasis added).

that is entitled to no deference at the Commission; (2) lacks adequate record support, and (3) is unduly discriminatory or preferential. The desire to accommodate certain types of speculative future load growth in PJM by prioritizing certain resources over others is insufficient to justify changes to interconnection rules that harm existing customers.[17]

A. The Process for Developing RRI Was Inadequate

One of RRI's most obvious weaknesses is the rushed process that PJM used in an effort to jam RRI projects into Transition Cycle #2. PJM first presented the RRI concept to stakeholders at an October 8, 2024 meeting. Ten days later on October 18, 2024, PJM shared the RRI straw proposal with stakeholders. On November 7, 2024, PJM held a meeting of the Markets and Reliability Committee in which it proposed a somewhat revised RRI. Regardless of stakeholder feedback, PJM pre-judged the matter and made clear that it intends to file the proposal at the Commission in December 2024.

A comparison between the truncated process afforded here and PJM's earlier interconnection Queue Reform in Docket No. ER22-2110 is striking. There, PJM established an Interconnection Process Reform Task Force ("IPRTF") in March 2021.[18] The IPRTF met 20 times over approximately 99 hours with participation by hundreds of stakeholders.[19] In the end, there was widespread stakeholder support in PJM's Markets and Reliability Committee and the Members Committee.[20] The Commission has previously noted that "[r]egional solutions that garner the support of stakeholders, including affected state authorities, are preferable."[21] Here, in contrast, PJM's failure to provide a more deliberative process has resulted in a rushed filing that does not have widespread stakeholder support and is entitled to no deference at the Commission.

B. RRI Lacks Adequate Record Support

The record does not support PJM's proposal. It is clear that there is no imminent resource adequacy threat in PJM. For the summer of 2024, *PJM had a 29% installed reserve margin, well above its 17.7% target*. In order to justify RRI, PJM has underestimated the capacity that could come online and the capacity's ELCC value, disregarded the benefit that surplus interconnection service and capacity interconnection rights ("CIR") transfer from retiring units could provide, and overestimated the capacity that would retire. Strong capacity market

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[17] *Cf. PJM Interconnection, L.L.C.*, 189 FERC ¶ 61,078, at PP 85-89 (rejecting filing where "PJM has not demonstrated that the proposed non-conforming provisions in the Amended ISA are necessary deviations from the *pro forma* ISA").

[18] PJM Interconnection, L.L.C., Tariff Revisions for Interconnection Process Reform, at 25.

[19] *Id.* at 26.

[20] *Id.*

[21] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g & clarification*, Order No. 890-B, 123 FERC ¶ 61,229 (2008).

signals, plus a new President who has vowed to roll back various environmental regulations, also undermine PJM's arguments and assumptions.

First, there is no emergency or imminent shortage of resources. In fact, PJM is flush with reserve margins, as noted in FERC Staff's 2024 State of the Markets Report. PJM has a 29% installed reserve margin, which far exceeds its 17.7% target:

> For 2024 summer, PJM is again expecting a low risk of resources falling below required operating reserves. PJM forecasts a 29% installed reserve margin, (including expected, committed DR), well above the target of 17.7%. Due to the low penetration of variable energy resources in PJM relative to PJM's peak load, the hour with most loss-of-load risk remains the hour with highest forecasted demand.[22]

Second, PJM cannot predict retirements with any amount of certainty (other than for resources that have provided notice of their intent to retire). The Market Monitor has noted that it is difficult to forecast retirements and that the probability of retirement is "significantly lower for units identified as uneconomic. . . . Higher market prices would reduce the MW identified as uneconomic."[23] According to the Market Monitor, the capacity market is working, and the results of the market are competitive.[24] Clearing prices in the last auction were high, and those prices will incentivize resources to continue operating. In addition, the next Administration has already signaled its intent to undo various environmental rules that may have shaped PJM's estimate of resource retirements over the near term. In between capacity market signals and reduced environmental regulation, thermal power plants will have every incentive to run.

Third, PJM's own analysis undermines its rationale for RRI. PJM's November 7, 2024 presentation states that "Existing Queue *May* Not Be Sufficient."[25] In other words, depending on the resources that come online, actual retirements, and load growth, the existing queue may be sufficient. In fact, it likely is. There are 34 GW of projects through the queue that are progressing to constructions. The Expedited Process has another 269 projects with 24.5 GW of capacity. Transition Cycle #1 has 203 projects with 26.2 GW of capacity.[26] Transition Cycle #2

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[22] FERC Staff, *Summer Energy Market and Electric Reliability Assessment* 28-29 (2024), https://www.ferc.gov/news-events/news/report-2024-summer-energy-market-and-electric-reliability-assessment.

[23] Monitoring Analytics LLC, *State of the Market Report for PJM* 1-2 (March 14, 2024), https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2023/2023-som-pjm-vol1.pdf.

[24] Monitoring Analytics LLC, *State of the Market Report for PJM* 12 (Aug. 8, 2024), https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2024/2024q2-som-pjm.pdf.

[25] PJM Interconnection, L.L.C., *Reliability Resource Initiative: MRC Update* 6 (Nov. 7, 2024) (emphasis added), https://www.pjm.com/-/media/committees-groups/committees/mrc/2024/20241107-special/item-04---reliability-resource-initiative---presentation.ashx.

[26] PJM Interconnection, L.L.C., *Reliability Resource Initiative: Interim Accelerated Interconnection Process* 4 (Oct. 8, 2024), https://pjm.com/-/media/committees-groups/committees/pc/2024/20241008/20241008-item-06---reliability-resource-initiative.ashx.

has 1,087 projects with 96 GW of capacity.[27] Transition Cycle #2 is 46% solar, 23.5% storage, 13.85% hybrid, 3% natural gas, and 10.6% offshore wind.[28] For existing projects in the queue, PJM calculates an ELCC of 44.5 GW, even though it assigned an ELCC average of 35% to hybrid resources.[29] Inexplicably, PJM also provides an example of a 50 MW solar facility with a 40 MW battery that charges from the grid and assigns an ELCC of 49.2%.[30] PJM then appears to have assumed an unrealistic uniform entry rate across resource types for purposes of calculating the Reliability Scenario Balance Sheet. But this ignores the fact that there are significant tailwinds supporting projects with higher ELCC values, including, *inter alia*, capacity market price signals, lower battery prices, and likely shifts in federal public policy.

Other RTOs have a much higher penetration of renewables (and load growth), while maintaining reliability. In 2022, PJM's generation mix by installed capacity was 18% nuclear, 26% coal, 44% natural gas, 4% oil, 5% hydropower, and 3% other.[31] PJM has the lowest penetration of renewables of any RTO.[32] It is telling that no other RTO has filed an RRI construct, and it is ironic that the RTO with the least amount of renewables has proposed the most extraordinary change in interconnection rules. In short, PJM has not adequately explained why the current projects in the queue cannot meet its future needs.

Fourth, RRI will make problems worse. It will complicate the processing of interconnection requests in Transition Cycle #2, which will inevitably lead to delay. Under RRI, 50 additional projects would be added to the cluster. Assuming an average size of 200 MW to 300 MW per project, this will add another 10 GW to 15 GW of capacity to be studied. As the Commission recognizes, "interconnection study results lose accuracy, meaning, and utility when the level of cluster interconnection request capacity is multiple times the existing or planned transmission capacity for an area."[33] In its Order No. 2023 Compliance Filing, PJM also warned the Commission of the danger of disrupting its Queue Reform process:

> PJM is currently 'mid-flight' with its new interconnection process . . . . Changing one element to increase flexibility for a single type of generating unit. . . has the effect disrupting the process as a whole and the balance that was achieved through stakeholder consensus.[34]

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27 *Id.* at 5.

28 *Id.*

29 PJM Interconnection, L.L.C., *Reliability Resource Initiative: MRC Update* 6

30 *Id*. at 21.

31 PJM Interconnection, L.L.C., *Capacity by Fuel Type*, https://www.pjm.com/-/media/markets-ops/ops-analysis/capacity-by-fuel-type-2022.ashx.

32 FERC Staff Report, *2023 State of the Markets* 37 (March 21, 2024), https://www.ferc.gov/media/2023-state-markets-report.

33 *Cal. Indep. Sys. Operator Corp*., 188 FERC ¶ 61,225, at P 9 (2024).

34 PJM Interconnection, L.L.C., May 16, 2024 Order Nos. 2023 and 2023-A Compliance Filing, at 11.

Despite PJM's warning to the Commission in May 2024, it now proposes a dramatic change to Transition Cycle #2 that will disrupt the process and the balance that was previously struck with stakeholders.

Fifth, PJM has failed to address the fact that RRI projects will face the same challenges as existing projects in Transition Cycle #2. In an overview of its system, PJM states that load is increasing because of "the rise in electrification (e.g., the steady growth of electric vehicles and electric heaters in buildings) and the rapid proliferation of energy-intensive data centers."[35] In describing the challenge, PJM said, "PJM has cleared about 40,000 MW of projects through its study process that are, nevertheless, *not getting built due to supply chain, financing and siting issues.* If this sluggish pace of development continues, PJM projects a shortfall in supply by the end of this decade—or sooner."[36]

Not only will RRI projects slow the study process for Transition Cycle #2, but they will face the same supply chain, financing, and siting issues as existing projects. Adding another 10 GW to 15 GW of projects may even exacerbate supply chain and EPC issues for existing projects. But at least the existing projects have obtained site control, made commercial readiness deposits, and are much further along in the development process. Prior to RRI, PJM expected to complete Transition Cycle #2 by the fourth quarter of 2026 and to begin Cycle #1 in early 2026.[37] If Transition Cycle #2 is completed by the fourth quarter of 2026, that would give Transmission Owners little time to build the network upgrades necessary to accommodate an additional 10 GW to 15 GW of projects. RRI projects will be hard pressed to meet an in-service date of June 1, 2029 and could impede existing projects. Although PJM has listed a number of factors with respect to critical path construction schedule, it has not explained how it will consider or score the factors. Nor has PJM explained how it will consider or score projected system impact.

Sixth, PJM has failed to explain why other tools that it could use to meet resource adequacy concerns—including CIR transfer and surplus interconnection service—are inadequate. A recent study found that PJM could add dozens of GW of energy storage if it removed barriers to the ability of storage to use surplus interconnection service.[38] Storage can be

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[35] PJM Interconnection, L.L.C., *PJM Overview* 3 (2024) ("PJM has identified trends that have the potential to reduce supply to concerning levels"), https://www.pjm.com/-/media/about-pjm/ensuring-a-reliable-energy-transition/fact-sheet-for-policymakers.ashx.

[36] *Id.* (emphasis added).

[37] *PJM Interconnection, L.L.C.*, 181 FERC ¶ 61,162, at P 64.

[38] Gabel Associates, Inc., *ReSISting a Resource Shortfall: Fixing PJM's Surplus Interconnection Service (SIS) to Enable Battery Storage* 1 (Sept. 17, 2024), https://acore.org/wp-content/uploads/2024/09/Report-ReSISting-a-Resource-Shortfall-Fixing-PJMs-Surplus-Interconnection-Service-SIS-to-Enable-Battery-Storage.pdf. *See also* Rob Gramlich *et al.*, *Unlocking America's Energy* 12 (Aug. 2024), https://gridstrategiesllc.com/wp-content/uploads/Exec-Sum-and-Report-Unlocking-Americas-Energy-How-to-Efficiently-Connect-New-Generation-to-the-Grid.pdf.

built quickly and has a high ELCC value of 51% to 72%. Similarly, PJM could allow a retiring thermal plant to replace its capacity with new thermal capacity through CIR transfer.

Seventh, load growth in PJM is also difficult to predict. The concern over resource adequacy is speculative because in large part it is based on anticipated data center growth.[39] There is no guarantee that these data centers will be built in PJM. These data centers may ultimately gravitate towards regions with cheaper, cleaner electricity. In sum, PJM should not upend its interconnection queue based on speculative load growth, when it is flush with a 29% installed reserve margin, there is no imminent emergency, and it has underestimated the capacity that could come online, overestimated retirements that may not happen, and has tools in its toolkit that could address future need.

C. RRI Is Legally Deficient

PJM cannot carry its burden of showing that RRI is just, reasonable, and not unduly discriminatory or preferential. RRI allows both queue jumping and queue crashing. It allows queue crashing because projects that have not yet filed an interconnection request are allowed to join projects that have been in the queue for several years, including projects in AG2 (October 1, 2020 through March 31, 2021) and AH1 (April 1, 2021 through September 30 2021), in Transition Cycle #2. RRI allows queue jumping because 50 projects will be allowed to bypass Cycle #1. Interconnection requests from AH2 (303 projects), which ran from October 1, 2021 through March 31, 2022, are currently relegated to Cycle #1, as are AI1 (146 projects) and AI2 (463 projects).[40] Either way, RRI harms projects that have been in the queue with increased delay and higher network upgrade costs, as available headroom on the system is used by the 10 GW to 15 GW of RRI projects. Moreover, RRI violates open access and is unduly discriminatory and preferential in providing priority access to certain resources over others. The energy and capacity markets already take into account a resource's availability.

The Commission has rejected proposals that would have allowed queue jumping or prioritized certain resources over others.[41] In *SPP*, the proposal was to allow a lower-queued customer to jump ahead in the queue if the customer notified SPP of its intent to use the existing interconnection capacity of the transmission system to achieve commercial operation date and paid the greater of the full costs of network upgrades or $4,000/MW of the facility's size. In

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[39] PJM Interconnection, L.L.C., *PJM Overview* 3 ("PJM has identified trends that have the potential to reduce supply to concerning levels").

[40] These figures for AH2 AI1, and AI2 represent active projects as of November 19, 2024 and are derived from PJM's Serial Service Request Status webpage. *See* PJM Interconnection, L.L.C., *Serial Service Request Status*, https://www.pjm.com/planning/service-requests/serial-service-request-status (last visited Nov. 19, 2024).

[41] *Sw. Power Pool, Inc.*, 147 FERC ¶ 61,201, at P 124 (2014). *See also Xcel Energy Operating Cos*., 106 FERC ¶ 61,260, at PP 22-23 (2004) (rejecting as discriminatory a proposal that would have allowed the studying of projects submitted as part of the state process to jump ahead in the queue); *Prairie Creek Wind, LLC*, 188 FERC ¶ 61,099, at P 23 (2024) (denying request to develop an E&P Agreement prematurely, where doing so could "potentially divert[ ] resources from other interconnection projects that are ahead of the . . . [p]roject . . . in the interconnection queue," which creates "a risk of harm to third parties").

rejecting the proposal, the Commission noted that "the process could increase the level of uncertainty an interconnection customer may face because an interconnection customer would not be confident that meeting its milestones and other requirements under the GIA would be sufficient to maintain its Interconnection Queue Position."[42] In addition, queue jumping "would change the nature of the available capacity at a given time."[43]

Similarly, the Commission rejected a proposal in MISO that would have capped the MW value of interconnection requests in a cluster study, subject to various exemptions, including an exemption based on a request from an electric retail regulatory authority.[44] In rejecting the proposal, the Commission explained that open access requirements applied to the generator interconnection process and that the exemptions provided "priority access" to some resources, at the expense of others:

> MISO's interconnection procedures are part of an open access transmission tariff, and MISO's proposal to include unbounded cap exemptions in its generator interconnection procedures is inconsistent with the requirement that MISO must offer access to the generator interconnection process on the same or comparable basis. This is because the cap proposed by MISO limits access to a queue cycle and exempted interconnection requests may enter this cycle regardless of the cap value. In consequence, *the cap exemptions create priority access to the generator interconnection process for the exempted classes of interconnection requests*.[45]

In support of its ruling, the Commission also cited to *Xcel Energy Operating Cos.*, which rejected a proposal to provide priority queue access to interconnection requests that were part of a state-sponsored bidding process.[46]

RRI's attempt to prioritize certain interconnection requests raises similar concerns. First, as in *SPP*, this prioritization would dramatically "increase the level of uncertainty" of an existing interconnection customer and "change the nature of the available capacity." Second, allowing favored resources to crash or jump the queue would give them access to headroom on the system at the expense of others in the queue. This could impose far higher network upgrade costs on existing customers and slow the study process.[47] Third, as in *MISO*, PJM is providing priority

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42 *Sw. Power Pool, Inc.*, 147 FERC ¶ 61,201, at P 124.

43 *Id.*

44 *Midcontinent Indep. Sys. Operator, Inc.*, 186 FERC ¶ 61,054, at PP 1, 50 (2024).

45 *Id.* P 176.

46 *Id.* P 176 n.411 (citing *Xcel Energy Operating Cos.*, 106 FERC ¶ 61,260, at P 22 (2004).

47 For comparison purposes, PJM's Tariff defines a material modification as "any modification to an Interconnection Request that has a material adverse effect on the cost or timing of Interconnection Studies related to, or any Network Upgrades or Local Upgrades needed to accommodate, any Interconnection Request with a later Queue Position." PJM Tariff § 1. The material modification of an interconnection request can result in loss of queue position.

access to a select group of generators, which is inconsistent with open access or providing access on the same or comparable basis.

In support of RRI, PJM has cited to the Commission's September 30, 2024 order approving CAISO's interconnection queue reform, but this reliance is misplaced. CAISO's proposal sought to address its backlogged interconnection queue by implementing a zonal approach to cluster studies to determine where new generation is able to be deliverable based on available transmission capacity and by establishing four sets of cluster study criteria.[48] At no point did CAISO's proposal allow new interconnection requests to enter an existing cluster or to bypass the cluster that they should have joined. Nor did the CAISO proposal try to sort projects based upon a factor like ELCC. On the contrary, when there was insufficient capacity in a Deliverable Zone, CAISO used a scoring system that took into account project viability, system need, and commercial interest.[49] The Commission concluded that, unlike *MISO*, CAISO's proposal did not provide "priority access" or present open access concerns.[50]

The proper comparison is not to the Commission's September 30, 2024 *CAISO* order, but to an earlier Commission order that allowed CAISO to create an emergency interconnection process to address serious threats to reliability.[51] In doing so, the Commission recognized the extraordinary nature of its action, adopting significant guardrails to protect competition and to prevent harm to other interconnection customers. The exception was based on a true emergency, "narrowly tailored . . . for emergency generation capacity that is necessary to preserve system reliability."[52] To protect other interconnection customers, CAISO imposed nine important conditions:

(a) The State of California Governor declared an emergency that requires capacity on an expedited basis;

(b) The California Public Utilities Commission (CPUC), the California Energy Commission (CEC), or a California agency specifically identified the interconnection as needed to respond to the State of California Governor's emergency declaration;

(c) The interconnection would not have a negative impact on the cost or timing of any existing interconnection request unless the impacted interconnection request belongs to the same developer and the developer consents to the impact;

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48 *Cal. Indep. Sys. Operator Corp*., 188 FERC ¶ 61,225, at P 16 (2024).

49 *Id.* P 100.

50 *Id.* PP 92-95.

51 *Cal. Indep. Sys. Operator Corp.*, 180 FERC ¶ 61,143, at P 1 (2022).

52 *Id.* P 41.

(d) The interconnection does not require network upgrades above $1 million. CAISO will publish an annual inflation factor and adjusted amount for this figure with the per unit cost publication on CAISO's website pursuant to section 6.4 of CAISO's Generator Interconnection and Deliverability Allocation Procedures (GIDAP);

(e) The reliability network upgrades required will be constructed in fewer than six months;

(f) The generator interconnection agreement (GIA) or amendment for the emergency interconnection will expressly terminate the interconnection for the emergency capacity within three years of the commercial operation date of the emergency capacity. The interconnection customer may obtain standard interconnection service for the emergency capacity by submitting a subsequent interconnection request pursuant to sections 3.5 or 5.1 of CAISO's GIDAP and supplanting the emergency GIA or amendment;

(g) The emergency interconnection will be ineligible for delivery network upgrades or transmission plan deliverability except interim deliverability consistent with section 4.6 of the GIDAP, or until it can obtain transmission plan deliverability by submitting a subsequent Interconnection Request pursuant to sections 3.5 or 5.1 of the GIDAP;

(h) The emergency interconnection will not impact affected systems; and

(i) The expedited studies confirm the interconnection may mitigate the emergency.[53]

In aggregate, the Commission concluded that those restrictions—including the duration of interconnection service (three years), nature of interconnection service (interim deliverability service), and the fact that existing customers could not be harmed—"meaningfully limit the appeal of the emergency interconnection process compared to CAISO's standard interconnection process, and will help ensure that emergency resources do not obtain a competitive advantage over other resources."[54]

RRI has *none* of those guardrails. RRI is not even based on an actual or imminent emergency. Unlike the proposal in *CAISO*, RRI does not protect existing interconnection customers from delay or increased costs. RRI also provides a competitive advantage to certain favored resources. In competitive markets, market participants rely upon price signals to make long-term, highly capital intensive investment decisions. PJM should not interfere with those price signals or disturb the settled expectations of market participants by now putting its

[53] *Id.* P 10.

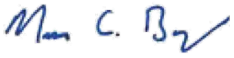
[54] *Id.* P 43.

proverbial thumb on the scales to preference some resources at the expense of others.[55] Indeed, to the extent PJM believes there is a need for emergency interconnection service, *CAISO* provides precedent for a roadmap of a legally sustainable, narrowly tailored way to proceed.

IV. Conclusion

For all of the above reasons, we respectfully urge the Commission to reject RRI. In contrast to PJM's Queue Reform in Docket No. ER22-2110, the process used to develop RRI was woefully inadequate. RRI violates the filed rate doctrine and the prohibition against retroactive ratemaking. Moreover, PJM cannot carry its burden under section 205 of the Federal Power Act of showing that RRI is just, reasonable, and not unduly discriminatory or preferential. The record does not support RRI. RRI also violates open access and unduly preferences certain interconnection customers by allowing them to bypass Cycle #1 and to join projects in Transition Cycle #2 that have been in the interconnection queue since 2020-2021.

Respectfully submitted,



Norman C. Bay

cc: Commissioner Mark C. Christie
Commissioner David Rosner
Commissioner Lindsay S. See
Commissioner Judy W. Chang

Christopher O'Hara, SVP and General Counsel, PJM
Board of Managers, PJM

[55] *See ISO New England Inc.*, 175 FERC ¶ 61,195, at P 129 (2021) (taking into account the parties' "settled expectations" in balancing the equities to determine the appropriate outcome).