DREAM COALITION

October 25, 2024

By Electronic Delivery

Mr. Thomas Zadlo, Chair
Ms. Julia Spatafore, Secretary
PJM Interconnection, LLC
Risk Management Committee

Re: October 29th Risk Management Committee Meeting
Comments Regarding Market Participant Minimum Capital Requirements

Dear Mr. Zadlo and Ms. Spatafore:

As the Risk Management Committee ("RMC") revisits PJM Interconnection, LLC's ("PJM") Minimum Capitalization standards under its Credit Policy (Attachment Q of the PJM Open Access Transmission Tariff), the **Diversified Retail Energy for Americans by Minorities Coalition** (the "**DREAM Coalition**"), representing minority and women-owned/operated small businesses that provide retail electric services to residences and businesses in PJM's footprint, shares deep concerns regarding increases to PJM's capitalization requirements. More specifically, the DREAM Coalition believes that increases to PJM's capitalization requirements will have an adverse impact in minority and women-owned/operated small business, potentially causing many of them to go out of business. The DREAM Coalition is also supported by a large number of Alliance Members who will be very adversely affected by this unnecessary proposed change.

Background: FERC's Approval of PJM's Existing Minimum Capitalization Requirements

PJM's current Minimum Capitalization standards were implemented following FERC Order No. 741. This order sought to ensure credit policies in wholesale markets were robust enough to manage default risks while maintaining just and reasonable rates. A key directive of FERC Order No. 741 was the establishment of minimum participation criteria, including capitalization requirements, to ensure market participants possess the financial strength to manage risks inherent in their activities. FERC recognized that market stability requires such safeguards, especially in the face of participants without sufficient financial resources or risk management expertise. FERC also emphasized flexibility, allowing ISOs and RTOs like PJM to tailor their criteria through stakeholder processes, provided the requirements were non-discriminatory and met the essential goal of mitigating default risk.

PJM's compliance filing, approved by FERC in 2011, established a tiered system: FTR participants were required to demonstrate net worth exceeding $1 million, while non-FTR participants needed $500,000. The system allowed for flexibility by permitting participants to meet these requirements with additional collateral, which included a 10% buffer for extra financial security. FERC's guardrails (*i.e.*, risk management controls, tiering based on market activity, and flexibility in compliance) balanced financial stability with broad market access, rejecting exemptions for smaller participants while allowing various means of meeting the financial criteria.

Coalition Concerns: A Solution in Search of a Problem

An increase to a $5 million capitalization requirement is, quite simply, a solution in search of a problem. PJM's current system, designed in compliance with FERC's directives under Order 741, has functioned well. There is no evidence that the existing framework has led to unreasonable risks or market instability. The proposed change will unquestionably exclude significant numbers of smaller participants that serve hundreds of thousands of customers, especially women- and minority-owned/operated businesses, without demonstrating any clear, corresponding benefit to PJM and the communities service directly or indirectly via PJM.

Additionally, the new capital requirement amount is arbitrary without considering estimated credit risk exposure of each market participant. There has been no information provided about the rationale for this $5 million amount.

PJM has already incrementally implemented many new measures to manage credit by raising the minimum capitalization to $1 million ($500,00 for non-FTR participants), requiring 10% additional reserve on collateral, requiring audited financials, etc. These measures are already negatively impacting small PJM Market Participants, particularly women- and minority-owned/operated businesses.

The proposed change risks further consolidating the market among larger market participants which will reduce customer choice, hurt end-user customers in the long run and expose PJM stakeholders to highly concentrated credit risk with very damaging consequences.

Impact on Women- and Minority-Owned/Operated Businesses

Raising the minimum capitalization requirement for PJM Market Participants poses serious risks, and the RMC must carefully investigate these before moving forward. Barriers to entry are already significant for small PJM Market Participants, particularly women- and minority-owned/operated businesses, who routinely face systemic challenges in securing financing. These participants generally have less access to capital markets and fewer opportunities to build financial reserves than their larger counterparts. Increasing the minimum capitalization by 1,000% would amplify these barriers, potentially excluding many women- and minority-owned/operated businesses, from entering or remaining in PJM markets. This change would not merely make participation more difficult—it would, for many, make it impossible.

The issue of financial inequality exacerbates this problem. Women- and minority-owned/operated businesses, and other small PJM Market Participants often have less favorable access to credit than larger firms. Higher capitalization requirements would disproportionately impact these participants, pushing them out of the market or preventing their growth. The costs of meeting the new thresholds, coupled with existing challenges such as higher borrowing rates or restricted access to capital, would make it exceedingly difficult for smaller players to compete on equal footing. Without a clear justification that this increase addresses an existing or demonstrated risk, such a requirement risks creating a barrier that is both unnecessary and unfair.

Moreover, an increase in the capitalization requirement risks consolidating market power among larger PJM Market Participants. The proposed change could limit participation to a small number of companies with substantial financial resources, reducing competition and innovation in PJM's markets. A healthy market depends on the contributions of diverse participants, where competition drives efficiency, innovation, and cost reduction. By making it harder for smaller participants to enter or stay in the market, PJM would risk stifling this essential competitive dynamic. The reduced participation would undermine FERC's goal of broad and inclusive market participation, effectively allowing only the largest companies to dominate PJM markets, weakening the diversity that benefits all stakeholders.

Further, this proposed change unduly benefits larger market participants because it does not consider the expected exposure of any market participant. The arbitrary proposed new capital requirements of $5 million, while it may be excessive for small participants, may be too small for larger participants with much bigger exposure to PJM. As a result, PJM risks consolidating exposure with larger market participants and exposing all stakeholders to a concentrated risk of these larger companies failing.

The potential harm—whether through increased barriers to entry, financial inequality, or consolidation of market power—is clear and well-documented in many industries facing similar regulatory shifts. The RMC must approach this evaluation with these realities in mind, ensuring that any changes to PJM's capitalization requirements are carefully justified and do not inadvertently exclude essential and valuable market participants.

Policy Implications

FERC has long emphasized the importance of diversity and inclusion in energy markets. In establishing the Office of Public Participation, FERC demonstrated its commitment to ensuring that smaller stakeholders, including women- and minority-owned/operated businesses, have access to markets. FERC Chairman Willie Phillips has repeatedly highlighted the importance of broad participation to foster innovation and strengthen market resilience.

Call for Evidence-Based Policy

The Coalition urges the RMC to base any proposed changes on hard evidence. PJM's current system, approved under FERC Order 741, has worked effectively. Dramatic changes should not be made without clear data showing that existing standards are insufficient. Further, any new capital requirement should be based on estimated exposure not on an arbitrary amount which may still be very low for larger market participants.

<u>Mitigation Strategies</u>

In considering changes to PJM's Minimum Capitalization requirements, it is essential that such decisions be *grounded in evidence* rather than speculation or theory. A 1,000% increase, while intended to mitigate risk, could disproportionately affect smaller market participants—particularly women- and minority-owned/operated businesses—without any clear justification.

We are not aware of any current data to suggest that PJM's existing capitalization thresholds have led to market instability or unreasonable risks. As FERC outlined in Order No. 741, any minimum capitalization criteria must strike a balance between *competition and risk management*, ensuring that markets remain accessible to a diverse range of participants. Instead of a one-size-fits-all requirement, PJM should consider retention and expansion of its tiered approach that aligns capitalization requirements with the size and risk exposure of each participant. This would enable smaller entities, like women- and minority-owned/operated businesses, to operate within PJM while maintaining appropriate financial safeguards. Historical data on defaults and credit risk within PJM's markets should be reviewed before making any significant adjustments. In the absence of evidence demonstrating that smaller businesses pose heightened risks, there is no sound basis for increasing the minimum capital requirement so drastically.

Furthermore, PJM should explore financial support mechanisms that can help small businesses meet capitalization requirements without excluding them from the market. This might include collaborating with state and federal programs to provide credit guarantees or pooled collateral options, which can alleviate the financial burden on smaller participants. Better access to industry-backed credit support structures, such as surety bonds or letters of credit, could also provide smaller businesses with the resources needed to comply with financial requirements.

Additionally, PJM should consider adopting a more flexible approach to compliance documentation for small participants, such as exemptions from certain audit requirements or less onerous financial reporting standards. This would reduce the administrative burden on women- and minority-owned/operated businesses, and ensure they are not pushed out of the market due to overly restrictive requirements.

As FERC has emphasized in its diversity initiatives, broad market participation enhances innovation and competitiveness. The push towards clean energy, energy storage, and distributed energy resources ("DERs") presents a unique opportunity for small businesses to lead. However, higher capitalization requirements could prevent women- and minority-owned/operated businesses, from seizing these opportunities. PJM should be careful not to undermine these goals by enacting financial policies that limit market access.

Conclusion

In conclusion, PJM's Minimum Capitalization requirements must be **evidence-based** and proportionate to the actual risks involved. By maintaining flexible, tiered, and inclusive standards, PJM can ensure that the market remains competitive, diverse, and secure.

Thank you for consideration.

Sincerely,

Coalition Members

Kerwyn Clouden City Power & Gas, LLC	*Sumit Takkar* EcoPlus Power, LLC	*Perry Wilson* Northeastern Power, LLC	*Gail DeSanto* Park Power, LLC
Johanna Salmone Pay Less Energy, LLC	*Rahil Jafry* Rushmore Energy, LLC	*Brittany Hirson* South Bay Energy Corporation	*Eric Edwards* Spartacus Energy Services, LLC

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CC:
United States White House
FERC Chairman Willie Phillips
Energy Choice Matters
Fair Trade Commission