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September 27, 2024

Mr. Mark Takahashi, Chair, PJM Board of Managers
Mr. Manu Asthana, PJM President, and CEO
PJM Interconnection, L.L.C.
2750 Monroe Boulevard
Audubon, Pennsylvania 19403

Dear Mr. Takahashi and Mr. Asthana:

On July 30, 2024, PJM Interconnection, L.L.C (“PJM”) released the results of the Base Residual Auction (“BRA”) for the 2025/2026 Delivery Year. The clearing price for the region increased from \$28/MW-day for the 2024/2025 Delivery Year to \$270/MW-day, resulting in \$14.7 billion in costs to consumers¹ and causing widespread concern about the swift and steep increase in prices.² Changes to PJM’s planning parameters for the upcoming auction in December are further cause for concern. States in the PJM region rely on a well-functioning, robust competitive market to ensure electric reliability served at lowest cost in accordance with relevant laws and regulations. However, PJM’s capacity market construct appears to have flaws that require the PJM Board’s immediate attention and timely resolution.

On September 20, 2024, the Independent Market Monitor for PJM (“IMM”) released a report concluding that these results “were significantly affected by flawed market design decisions” as well as “the exercise of market power” and thus “do not solely reflect supply and demand fundamentals.”³ The IMM found that these defects will force consumers to pay billions more for capacity than they would in a well-functioning

¹ PJM, 2025/2026 Base Residual Auction Report at 3 (July 30, 2024) available at: <https://pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2025-2026/2025-2026-base-residual-auction-report.ashx>.

² OPSI’s following members support this letter: the Delaware Public Service Commission, Public Service Commission of the District of Columbia, Illinois Commerce Commission, Kentucky Public Service Commission, Maryland Public Service Commission, Michigan Public Service Commission, New Jersey Board of Public Utilities, Pennsylvania Public Utility Commission, Tennessee Public Utility Commission, Virginia State Corporation Commission, and Public Service Commission of West Virginia. The Indiana Utility Regulatory Commission, North Carolina Utilities Commission, and Public Utilities Commission of Ohio abstained in the vote on this letter.

³ Independent Market Monitor for PJM, Analysis of the 2025/2026 RPM Base Residual Auction Part A 4-5 (Sept. 20, 2024) available at

https://www.monitoringanalytics.com/reports/Reports/2024/IMM_Analysis_of_the_20252026_RPM_Base_Residual_Auction_Part_A_20240920.pdf (“IMM Analysis”).

market.⁴ Moreover, changes to PJM’s planning parameters for the 2026/2027 BRA include a maximum potential capacity price of nearly \$700/MW-day. These flaws could lead to the upcoming auction clearing at the maximum capacity price which would assign a total cost to customers of over \$30 billion for the 2026/2027 Delivery Year—more than double what customers will pay for the 2025/2026 Delivery Year. This is unacceptable. The PJM Board must address these fundamental market flaws prior to the next BRA, so that consumers are assured just and reasonable capacity prices.

PJM has stated that there are four primary reasons for the increased prices: 1) increased demand; 2) decreased generation; 3) new results in its Reserve Requirement Study, and 4) changes made through last year’s Critical Issues Fast Path (“CIFP”) process for resource adequacy.⁵ Generally, OPSI does not disagree with PJM that generation is retiring faster than new resources are coming online, and OPSI supports prices that reflect market fundamentals. In proposing its recent capacity market changes to the Federal Energy Regulatory Commission (“FERC”) in 2023, PJM predicted that the proposed market rule changes, under tighter system conditions, could result in a cost increase of between \$4.3 and \$5.1 billion.⁶ However, the actual increase was well over \$12 billion – an outcome significantly higher than PJM expected even under extreme conditions.

Further, the IMM’s analysis raises concerns for OPSI around the efficacy of reforms put in place during the CIFP process, which focused on resource accreditation and risk modeling. OPSI appreciates that in the PJM Board’s recent letter to several consumer advocates, the Board states, “[T]here are [] actions we believe are important to pursue to try to ensure that market prices correctly reflect the supply-demand challenge we are experiencing.”⁷ The PJM Board also stated that “PJM will work with the IMM” to ensure resources’ decision to not offer is justified on a stand-alone basis and not made to benefit other resources in the resource owners’ portfolio.⁸

Yet, in that same letter the PJM Board signaled it does not intend to make any market changes before the 2026/2027 BRA. PJM’s reluctance to review and improve aspects of its capacity construct in the near term is troubling, as is its failure to investigate the potential design flaws and exercise of market power that may have led to unreasonably high prices in the 2025/2026 BRA.

The Third Circuit Court of Appeals has recently held that once a legal consequence attaches to an action during PJM’s pre-auction activities, that action may not be altered and FERC may not alter the result of that auction except in certain rare circumstances.⁹ In light of this reality, disciplined and thorough analysis is needed before initiating an auction that could significantly impact the lives of the over 65 million customers in our states. PJM should examine actions it can take before running an auction for the 2026/2027 delivery year to ensure the costs assigned to customers are just and reasonable. To this end,

⁴ See *id.* at 8-12 (quantifying the cost to consumers of various capacity market design decisions and the exercise of market power); *id.* at 3-4 (explaining how certain resources’ categorical exemptions from the must-offer requirement enabled them to drive capacity prices above competitive levels).

⁵ PJM, 2025/2026 Base Residual Auction Results presented at the PJM MRC at slide 10 (Aug. 21, 2024) available at: <https://www.pjm.com/-/media/committees-groups/committees/mrc/2024/20240821/20240821-item-08---2025-2026-base-residual-auction---presentation.ashx>.

⁶ PJM Interconnection L.L.C., *Capacity Market Reforms to Accommodate the Energy Transition While Maintaining Resource Adequacy*, Docket No. ER24-99-000, Attachment D, Affidavit of Dr. Walter Graf on Behalf of PJM Interconnection, L.L.C. at P 37 (Oct. 13, 2023) (Graf Affidavit).

⁷ PJM Board Response Consumer Advocates Letter Re Urgent Reforms PJM Capacity Market Re Reliability Must Run Units dated September 19, 2024 (“PJM Board Letter”).

⁸ *Id.*

⁹ PJM Power Providers Grp. v. FERC, 96 F.4th 390 (3d Cir. 2024).

OPSI recommends the PJM Board direct PJM to take action on six items – four before the next auction, even if it requires a slight delay, and two that should be prioritized soon after.

Before the Next Auction

1. Reliability Must Run (“RMR”) Units

The PJM Board should direct PJM to consider mandating that capacity of generating units that are under RMR contracts and expected to be operational during the relevant Delivery Year be included as available capacity. Under current auction rules, generating units that are under RMR contracts are not required to offer into PJM’s capacity auctions, nor are they included in the bid stack, even if they are contracted to remain online to preserve reliability. While RMR units are included in calculations for local reliability requirements,¹⁰ they are not included in the supply curve.¹¹ PJM must examine this inconsistency and how the reliability value of RMR units is included in the capacity market and whether adjustments are appropriate. If these units will be available for dispatch during the relevant Delivery Year, the reliability value of these units should be duly reflected when settling the capacity market.

Recent analysis estimated that the exclusion of these resources in the July auction created artificial scarcity, which alone drove up capacity prices by roughly \$5 billion,¹² and the IMM’s 2025/2026 BRA analysis confirms a market outcome impact approaching this amount.¹³ The PJM Board should direct PJM staff to determine appropriate procedures, requirements, and notice to include the RMR capacity as available capacity for the 2026/2027 BRA.

2. Must Offer Requirements for All Capacity Resources

The fact that not all generators are required to participate in PJM’s capacity auctions may lead to an inaccurate assessment of supply scarcity in the region. The IMM’s 2025/2026 BRA analysis recommends that the must-offer requirement be applied to all capacity resources.¹⁴ The analysis cautions that a failure to apply this requirement to all resources will create market power issues as capacity from intermittent and storage resources increases.¹⁵ The analysis further cautions that this lack of a requirement will create price volatility and uncertainty in the market.¹⁶ OPSI agrees that all capacity resources must participate in PJM’s capacity construct to prevent resource owners from not offering some portions of their portfolio to benefit other portions of their portfolio.

Exceptions to the must offer requirement for generation resources undermine a key component of the capacity market where consumers must buy capacity no matter how high the price. It is important that PJM consider having all resources that are expected to be online and producing power offer into PJM’s capacity auctions. This includes all intermittent and storage resources with capacity interconnection

¹⁰ PJM Response to the 2023 State of the Market Report, at 3-4 (August 2024) available at: <https://www.pjm.com/-/media/library/reports-notices/state-of-the-market/20240822-pjm-response-to-the-2023-state-of-the-market-report.ashx>.

¹¹ IMM Analysis at 9 (“In summary, holding everything else constant, the fact that the RMR resources in the BGE LDA were not included in the supply curve at \$0 per MW-day resulted in a 41.2 percent increase in RPM revenues, \$4,287,256,309, for the 2025/2026 RPM Base Residual Auction compared to what RPM revenues would have been had the capacity of those RMR resources been included in the supply curve at \$0 per MW-day.”).

¹² Synapse Energy Economics, Bill and Rate Impacts of PJM’s 2025/2026 Capacity Market Results & Reliability Must-Run Units in Maryland (Aug. 29, 2024) available at:

https://opc.maryland.gov/Portals/0/Files/Publications/RMR%20Bill%20and%20Rates%20Impact%20Report_2024-08-13%20Final%20corrected%208-29-24.pdf?ver=fHKa18_idtwi4Rm4OeK-7A%3d%3d.

¹³ IMM Analysis at 2.

¹⁴ *Id.* at 3.

¹⁵ OPSI recognizes that capacity related penalties must correspond to the ability for those resources realistically to perform.

¹⁶ Graf Affidavit at 5.

rights, which make up the vast majority of resources waiting to interconnect to PJM's system. OPSI has long been in alignment with these concerns.

3. Maximum Capacity Price

Given changes to PJM's planning parameters, PJM's 2026/2027 BRA could produce prices that reach almost \$700 MW/day and assign costs over twice as high as the \$14.7 billion assigned to customers in July. OPSI appreciates the PJM Board's commitment to reevaluate the demand curve it uses, specifically the maximum price, to ensure it sends a price in response to supply scarcity. However, PJM should prioritize reforms that would apply to the 2026/2027 BRA. Otherwise, beginning with the next auction, PJM's updated reference resource will be in effect and the demand curve price cap will be set based on the gross cost of developing a combined-cycle natural gas unit ("CCNG") instead of a combustion turbine, which PJM used in the July auction.

OPSI has become concerned that basing the VRR curve price cap on the gross Cost of New Entry ("CONE") of a CCNG unit may be problematic due to the substantial energy and ancillary service ("E&AS") revenues that a CCNG unit would receive. With a higher E&AS offset, CCNG would not be as dependent on capacity revenues as a combustion turbine and could send a price signal that only acts as a transfer of wealth from load to generators. Furthermore, recognizing that the nonperformance penalty is tied to Net CONE and Net CONE is set at \$0 in most of the RTO for the next auction, PJM will effectively be permitting many cleared resources to fail to operate when called upon for dispatch with no prospect of punitive consequences.

4. ELCC Accreditation

The PJM Board should direct PJM to conduct a review of its newly implemented marginal Effective Load Carrying Capability ("ELCC") methodology as soon as possible. It is not clear that the current methodology allows resources that can serve the region in the times of the year deemed riskiest by PJM to offer their full value into PJM's capacity auctions. More immediately, and prior to the next auction, OPSI urges PJM to review and remedy the use of summer ratings as a cap for thermal-resource accreditation, which, as the IMM's analysis explains, may "unnecessarily limit[] supply" because most of the risk used in PJM's accreditation methodology is winter risk.¹⁷ The IMM's analysis further cautions that the use of these summer ratings affects the accreditation of other resources, the auction's reliability requirement, and the assignment of capacity interconnection rights.¹⁸ The IMM estimates, "[T]he use of summer ratings rather than winter ratings for [combined cycle] and [combustion turbine] resources in the marginal ELCC based accreditation resulted, depending on the impact on the reserve margin, in... a 22.7 percent to a 118.1 percent increase in RPM revenues, \$2,721,494,123 to \$7,953,702,391, for the 2025/2026 RPM Base Residual Auction."¹⁹ OPSI is concerned that the value of natural gas units may be an underrepresentation of those units' ability to reduce winter risk. PJM's methodology relies on historic unit performance that may not reflect recent unit upgrades and PJM's more recent winter period operational practices, and it may cap their expected performance at an unrealistically low level.

After the Next Auction

5. Sub-Annual Capacity Construct

It is critical that PJM begin work studying and implementing a sub-annual capacity market which could more accurately capture risk than PJM's current construct. This would allow generators to more

¹⁷ IMM Analysis at 6.

¹⁸ *Id.*

¹⁹ *Id.* at 8.

accurately offer their contribution to reducing risk on the system. OPSI emphasized this in comments to FERC and the PJM Board last year with the expectation that once FERC accepted PJM's CIFP proposal, PJM would begin this work "as soon as possible."²⁰

6. Continued Improvements to the Interconnection Process

Lastly, the PJM Board must continue to prioritize reforms to PJM's interconnection process. New generating resources are not able to interconnect to PJM's system in a timely manner, which is one of the fundamental responses PJM should get from the market sending high prices. Because PJM's capacity construct and interconnection process have been consistently delayed and disrupted over the past few years, PJM's capacity auctions are not sending price signals to which new resources can actually respond. OPSI recognizes that there are forces outside of PJM's control that affect how fast resources can interconnect and that there may be resources with PJM approval in hand that have not begun construction. As an example, resources with signed interconnect agreements, or those close to execution, are likely to have challenges getting siting permits given the long interconnect processing delays of the past interconnect process, and that significant supply chain issues still exist for vital equipment such as transformers. However, PJM must do everything in its control to process new generation requests as quickly as possible and to ensure that generation approved to come online can do so. OPSI appreciates the PJM Board's intention to advance a proposal to "fast-track" some incremental generation projects,²¹ as it could be an important element of the Holistic Immediate Needs approach recommended by OPSI.²²

In closing, OPSI has serious concerns that the capacity prices customers will pay as a result of the 2025/2026 BRA may not reflect market fundamentals, especially since the price signals in these BRAs will not likely be actionable in the time frame applicable to these auctions. This problem could worsen with the 2026/2027 BRA. Therefore, it is critical that the PJM Board take immediate action to address the market structure flaws identified above by directing PJM to implement interim and/or comprehensive reforms that protect consumers and restore confidence in PJM's markets going forward. OPSI is committed to ensuring that customers only pay capacity prices necessary to maintain reliability and calls on the PJM Board to make the same commitment.

Respectfully submitted,



Emile Thompson
President, Organization of PJM States

²⁰ OPSI, Letter to the PJM Board of Managers at p. 1 (Aug. 30, 2023) ("If the PJM Board chooses to file at FERC an annual capacity market construct, OPSI recommends the Board direct PJM Staff to prioritize the development of a more granular capacity market design with stakeholders as soon as possible.") available at: <https://opsi.us/wp-content/uploads/2023/09/2023.08.30-OPSI-CIFP-LETTER-TO-PJM-BOM.pdf>. See also PJM Interconnection L.L.C., *See also Comments of the Organization of PJM States, Inc.*, Docket No. ER24-99-000 at p. 4-5 (Nov. 9, 2023).

²¹ PJM Board Letter at 5.

²² OPSI Letter to the PJM Board of Managers (November 28, 2023) available at: <https://opsi.us/wp-content/uploads/2023/11/HIN-Process-PJM-Board-Letter-11.28.23.pdf>.