

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Calpine Corporation, Dynegy Inc.,)	
Eastern Generation, LLC, Homer City)	
Generation, L.P., NRG Power Marketing)	
LLC, GenOn Energy Management, LLC,)	
Carroll County Energy LLC,)	Docket No. EL16-49-000
C.P. Crane LLC, Essential Power, LLC,)	
Essential Power OPP, LLC, Essential)	
Power Rock Springs, LLC, Lakewood)	
Cogeneration, L.P., GDF SUEZ Energy)	
Marketing NA, Inc., Oregon Clean)	
Energy, LLC and Panda Power)	
Generation Infrastructure Fund, LLC)	
)	
v.)	
)	
PJM Interconnection, L.L.C.)	Docket Nos. ER18-1314-000, -001
)	
)	Docket No. EL18-178-000
)	(Consolidated)

**MOTION FOR LEAVE TO ANSWER AND
ANSWER OF PJM INTERCONNECTION, L.L.C.**

PJM Interconnection, L.L.C. (“PJM”), pursuant to Rule 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.213, hereby submits this Motion for Leave to Answer (“Motion”) and Answer (“Answer”) to respond to certain issues raised in comments on PJM’s June 1, 2020 filing¹ in compliance with the Commission’s April 16, 2020 order,² as well as an answer submitted by Exelon Corporation (“Exelon”) on June 16, 2020³ in these proceedings. In the June 1 Filing, PJM submitted revisions to the PJM Open Access Transmission Tariff (“Tariff”), Amended and Restated

¹ *PJM Interconnection, L.L.C.*, Second Compliance Filing Concerning the Minimum Offer Price Rule, Docket No. ER18-1314-006 (Jun. 1, 2020) (“June 1 Filing”).

² *Calpine Corp. v. PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,034 (2020) (“April 16 Order”).

³ Answer of Exelon Corporation to PJM’s Answer in the Compliance Filing Proceeding under EL18-178 et. al., Docket Nos. EL18-178-002, ER18-1314-003, EL16-49-002 (June 16, 2020) (“June 16 Exelon Answer”).

Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”), and the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region (“RAA”) related to the Minimum Offer Price Rule (“MOPR”).⁴ As with PJM’s approach in the March 18 Filing, the second compliance filing also focuses on compliance with the Commission’s directives.⁵

PJM again appreciates the widespread acknowledgement of its efforts to implement the Commission’s April 16 Order. For the reasons provided in the March 18 and June 1 Filings, along with the supplemental responses provided in this answer, PJM urges prompt review and approval of its compliance filings so that the long-delayed 2022/2023 Base Residual Auction (“BRA”) and subsequent auctions can return to a more regular and predictable schedule.

I. MOTION FOR LEAVE TO ANSWER

The Commission’s rules provide that a party may answer comments where the decisional authority permits the answer for good cause shown. The Commission has accepted responses to protests when doing so will ensure a more accurate and complete record, or will assist the Commission in its deliberative process by clarifying the issues.⁶ Here, PJM respectfully requests that the Commission grant its Motion because the Answer will help clarify the record and contribute to an understanding of the issues.

⁴ For the purpose of this answer, capitalized terms not defined herein shall have the meaning as contained in the Tariff, Operating Agreement, or the RAA.

⁵ Compliance Filing Concerning the Minimum Offer Price Rule, Request for Waiver of RPM Auction Deadlines, and Request for an Extended Comment Period of at Least 35 Days of PJM Interconnection, L.L.C., Docket No. ER18-1314-003 (Mar. 18, 2020) (“March 18 Filing”).

⁶ The Commission regularly allows answers in such cases. *See, e.g., PJM Interconnection, L.L.C.*, 139 FERC ¶ 61,165, at P 24 (2012) (accepting answers to a protest because “they have provided information that assisted [the Commission] in [its] decision-making process”); *PJM Interconnection, L.L.C.*, 104 FERC ¶ 61,031, at P 10 (2003) (accepting answer because “it will not delay the proceeding, will assist the Commission in understanding the issues raised, and will [e]nsure a complete record upon which the Commission may act”).

II. ANSWER

As a general matter, PJM notes that the March 18 and June 1 Filings provide a just and reasonable means for addressing the Commission's directives. Importantly, each proposed approach is compliant with the Commission's December 19 and April 16 Orders. Moreover, PJM's compliance filings provide an administratively workable means of implementing the Commission's complex directives. As the Commission has previously stated, "[t]he Commission may approve a proposal as just and reasonable; it need not be the only reasonable proposal or even the most accurate."⁷

A. PJM Intends to Jointly Review with the Market Monitor a Non-Binding List of Programs that Are State Subsidies to Provide Guidance for Stakeholders

As explained in the March 18 Filing, PJM intends to work with the Market Monitor to develop a non-exhaustive and non-binding list of state programs that are considered to be State Subsidies, as well as a list of programs that are not considered to be State Subsidies, based on information provided by Capacity Market Sellers. PJM would post this list of specific programs in a guidance document to provide direction on which programs are deemed to be a State Subsidy and those that are not. This non-binding list would be maintained solely for purposes of providing guidance to Capacity Market Sellers. Like other aspects of PJM's Tariff,⁸ Capacity Market Sellers are responsible for their own offers. PJM maintains that Capacity Market Sellers are best positioned to know the specific benefits and eligibility requirements of any available subsidy. Therefore, the Capacity Market Sellers must certify that their resource is entitled to, or

⁷ *ISO New England Inc.*, 138 FERC ¶ 61,238 at P 27 n.40 (2012) (citing *Oxy USA, Inc. v. FERC*, 64 F.3d 679, 691 (D.C. Cir. 1995); *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984)).

⁸ See Tariff, Attachment K-Appendix, section 6.4.2(d) and parallel provision of the Operating Agreement, Schedule 1, section 6.4.2(d) ("Market Participants shall have exclusive responsibility for preparing and submitting their offers on the basis of accurate information and in compliance with the FERC Market Rules, inclusive of the level of any applicable offer cap, and in no event shall PJM be held liable for the consequences of or make any retroactive adjustment to any clearing price on the basis of any offer submitted on the basis of inaccurate or non-compliant information.").

not entitled to, a State Subsidy prior to the auction. Ultimately, individual Capacity Market Sellers must be held accountable for their own respective certifications.

In response to objections from the Public Utilities Commission of Ohio that PJM does not need to maintain a list of programs that qualify (or not) for a State Subsidy,⁹ PJM clarifies that the list is solely intended provide guidance for Capacity Market Sellers and is not intended to, nor should it be relied upon, as a final binding list of programs by which all Capacity Market Sellers must abide. Further, PJM confirms that any such list that will be provided solely as guidance for Capacity Market Sellers will not be codified in the Tariff. Thus, Capacity Market Sellers are free to disagree with the guidance provided by PJM and the Market Monitor. However, the Capacity Market Seller will be responsible for their own certifications.

The list of programs that are deemed to be State Subsidies will also include state default service auctions that PJM and the Market Monitor either believe meet, or do not meet, the requirements set forth in the proposed definition of State Subsidy. As a result, contrary to the Market Monitor's assertion,¹⁰ it is unnecessary for PJM and the Market Monitor to make the decision regarding whether a state default service auction meets the Commission's standards in place of an independent consultant or manager of the underlying state auction. If PJM or the Market Monitor believes a state default service auction meets the established criteria to be considered a State Subsidy, then that state default service auction would simply be included in the list of programs that PJM and the Market Monitor jointly agree constitute a State Subsidy.¹¹ Further, any entity that believes a state default service auction does not meet the Commission's

⁹ See Comments of the Public Utilities Commission of Ohio, Docket Nos. EL16-49-000, ER18-1314-003 and EL18-178, (June 22, 2020) ("PUCO Comments") at p.11.

¹⁰ See Comments of the Independent Market Monitor for PJM, Docket Nos. ER18-1314-000, EL16-49-000 and EL18-178-000 (June 22, 2020) ("IMM Comments") at p. 5-6.

¹¹ PJM maintains that the proposed approach for state default service auctions is consistent with the Commission's April 16 Order for the reasons provided in the June 1 Filing. Specifically, PJM's proposed approach will prevent price suppression caused by the uneconomic entry or retention of Capacity Resources as only those state default service auctions that are resource neutral and competitive and meet the proposed other meaningful restrictions will not constitute a State Subsidy.

standards or intent is always free to raise it directly with the Commission. Thus, there is no need or reason to adopt the Market Monitor’s proposal for PJM and the Market Monitor to regularly certify that the rules governing each state default service auction either meet or do not meet the Commission’s standards.¹²

B. PJM Properly Submitted a Just and Reasonable and Workable Approach in Response to the Commission’s Directive That Cleared Capacity Resources with State Subsidy Become New Entry Capacity Resources with State Subsidy after Not Participating in the Capacity Market.

The Market Monitor for PJM (“Market Monitor”) objects to PJM’s approach for reclassifying resources subject to the MOPR from “Cleared” to “New” when such resource is not the subject of a Sell Offer into a given BRA or included in an FRR Capacity at the time that BRA.¹³ The Market Monitor asserts that PJM’s approach “should be rejected because it does not comply with the Commission’s directives.”¹⁴ To the contrary, PJM’s approach is just and reasonable, as explained in the June 1 Filing, and provides a workable path for implementing the Commission’s directive, and the Market Monitor provides no support to conclude otherwise.

PJM appreciates that the Market Monitor’s overarching intent may be that all resources should participate in all RPM Auctions. While laudable, the Market Monitor overlooks that the FRR Alternative is a valid, Commission-approved means for meeting the PJM Region’s capacity needs. Moreover, as further explained below, there are various unworkable complexities and illogical consequences that would result from the Market Monitor’s proposed approach.

¹² Similarly, if the Market Monitor does not believe a state default service auction is not competitive due to certain deliverability or supplier diversity requirements, it could simply include that state default service auction on the list of programs that are deemed to be a State Subsidy. PJM maintains that these exceptions are appropriate as the deliverability requirement simply ensures the procured resources are deliverable to the load within the relevant PJM Zones. In addition, the exception on supplier diversity limits is a pro-market requirement given that it simply limits how much supply any one entity is allowed to offer and clear in the state default service auctions.

¹³ See June 1 Filing at pp. 8-13; definitions of Cleared Capacity Resource with State Subsidy; New Entry Capacity Resource with State Subsidy.

¹⁴ IMM Comments at p. 3.

1. Participation in an FRR Capacity Plan is a valid means of Participating in PJM's capacity construct.

The Market Monitor asserts that Cleared Capacity Resources with State Subsidy that participate in an FRR Capacity Plan should be considered New Entry Capacity Resources with State Subsidy when they are next offered into an RPM Auction.¹⁵ The Market Monitor disregards that participation in an FRR Capacity Plan is a valid means of providing capacity under the PJM Tariff. In addition to being consistent with the PJM Tariff, given the Commission's recognition in the April 16 Order that "[t]he capacity market and FRR Alternative are thus two different resource adequacy paradigms, either of which load-serving entities, including self-supply entities, may use,"¹⁶ PJM's approach complies with the Commission's order and reasonably excludes resources that are included in an FRR Capacity Plan submitted in advance of the BRA for a given Delivery Year from the "must participate" requirement. The capacity from those resources has already been designated to serve the region's capacity needs. Thus, a Capacity Resource's ability to retain its "Cleared" status should not be impacted regardless of whether it is satisfying capacity obligations in the PJM Region through an FRR Capacity Plan or through the BRA. Instead, a Capacity Resource's "Cleared" status should be reverted to "New" only if such resource elects not to participate in meeting the capacity needs of the PJM Region.

Moreover, there is no opportunity for Capacity Market Sellers to game under PJM's approach. Specifically, in order to be considered "Cleared" and eligible to offer in at its going-forward Avoidable Cost Rate, a resource must have "cleared an RPM Auction pursuant to its Sell Offer at or above its resource-specific MOPR Floor Offer Price or the applicable default New

¹⁵ Id.

¹⁶ April 16 Order at P 362.

Entry MOPR Floor Offer Price.”¹⁷ In other words, the resource has already demonstrated that it is economic based on its new entry costs. Thus, a New Entry Capacity Resource with State Subsidy cannot simply be included in an FRR Capacity Plan and subsequently return to the RPM Auction with the benefit of being treated as a Cleared Capacity Resource with State Subsidy without first clearing an auction at or above the New Entry MOPR Floor Offer Price.

Finally, PJM understands the Commission’s intention to encourage participation in PJM’s capacity construct, which is composed of both the capacity market and the FRR Alternative. To prioritize auction participation over the FRR Alternative would ignore the fact that both are part of the filed rate, and the Commission has found both to be just and reasonable.

2. *PJM’s approach is workable, prevents illogical results, and is consistent with the Commission’s statement that it did not alter the “must-offer” requirement*

The Market Monitor objects to PJM’s proposal to require participation only in each BRA to retain “Cleared” status.¹⁸ But, as PJM explained in the June 1 Filing, it is reasonable and appropriate to only require participation in the BRA for a given Delivery Year. This is consistent with the April 16 Order’s directive that “resources not subject to the Capacity Performance must-offer requirement seeking to re-enter the capacity market for any reason will be treated as new.”¹⁹

In evaluating how to implement this directive, PJM considered—but found unworkable—a requirement that all non-must-offer resources participate in each RPM Auction or lose their “Cleared” status. As PJM explained in the June 1 Filing, the primary problem would be the illogical consequence that a Capacity Resource could be subject to two different price floors for

¹⁷ See proposed definition of Cleared Capacity Resource with State Subsidy.

¹⁸ IMM Comments at p. 3.

¹⁹ April 16 Order at P 60.

the same Delivery Year.²⁰ This would be the case despite the fact that the resource's cost for providing capacity in that Delivery Year would not have changed; the only thing that would have changed would be that the resource missed a procedural step. Instead, PJM proposed a just and reasonable approach of designating the BRA for each Delivery Year as when resources must participate to retain their "Cleared" status.

Consider the following example that very well may arise if a Cleared Capacity Resource with State Subsidy that is not subject to the must-offer requirement were required to participate in each RPM Auction and not just each BRA in order to maintain its "Cleared" status. Assume a resource is offered into the BRA and First Incremental Auction for the 2030/2031 Delivery Year based on its going-forward Avoidable Cost Rate, but does not clear. Then, it does not participate in the Second Incremental Auction for that Delivery Year. Under the Market Monitor's approach, for the Third Incremental Auction, the resource would be considered "New" and its price floor would be based on its costs of new entry, presumably including construction and development costs. Given that the resource's costs have not changed; there is no economic basis to adjust the offer for the same Delivery Year. And, the Market Monitor provides no justification for this approach, or why such an illogical outcome would be just and reasonable.

The situation becomes even less logical when one considers that, due to the three-year forward nature of RPM, the next BRA for the 2031/2032 Delivery Year would have occurred before the resource skips participating in the Second Incremental Auction for the 2030/2031 Delivery Year. The result is that a Capacity Resource with State Subsidy can be offered into that BRA for the 2031/2032 Delivery Year based on its going-forward ACR and be required to offer into the Incremental Auctions for the 2031/2032 Delivery based on the cost of new entry.

²⁰ June 1 Filing at p. 10.

To implement the Market Monitor’s approach, PJM would need to track whether the resource participated in any later-occurring Incremental Auctions for prior Delivery Years to determine whether the applicable price floor for subsequent Incremental Auctions should be based on its Avoidable Cost Rate or new entry costs. This would require substantial system changes in order to track the resources based on participation in both the BRA and Incremental Auctions. However, such an overly complex endeavor does not prevent the illogical outcomes discussed and would not work to preserve the capacity market’s entry and exit price signals.

By contrast, PJM’s approach of only requiring participation in each BRA meets important objectives without illogical results, as it incents the largest number of resources possible participate in each BRA, which is the primary means for securing capacity commitments, and allows the BRA clearing price to send the entry and exit signal to the market. Furthermore, it is appropriate to limit this participation requirement to the BRA, because requiring participation in each RPM Auction as a condition of retaining “Cleared” status effectively would impose a must-offer requirement for resources not subject to the Tariff’s must-offer requirement through indirect means.²¹

Requiring resources to offer 100 percent of their capacity capability likewise would impermissibly convert the Commission’s “must-participate” requirement into a “must-offer” requirement where none previously existed. Given the practical reality that the price floor for “New” resources, including those not subject to the must-offer requirement, is generally higher than all previous BRA clearing prices—meaning the likelihood of clearing on a “New” offer is low, retention of “Cleared” status is crucial to earning an RPM capacity commitment. Thus, the Market Monitor’s approach would effectively coerce resources to participate in each RPM Auction or lose out on future capacity revenues. The Commission appropriately, and within the

²¹ Resources not subject to the must-offer requirement include Intermittent Resources, Capacity Storage Resources, Demand Resources, and Energy Efficiency Resources. *See* Tariff, Attachment DD, section 6.6A(c).

bounds of its FPA section 206 findings, stated that it “did not change the must-offer requirement.”²²

Finally, the Market Monitor’s own request for clarification on this very issue asked the Commission to clarify that a resource that “does not offer *in one year*, and subsequently offers in the capacity market” should be treated as “New” for purposes of the MOPR application.²³ Thus, the Market Monitor request for clarification was limited to resources that skip participation in the RPM Auctions for a Delivery Year altogether. Nothing in the April 16 Order indicates that the Commission intended this requirement to apply to resources that partially participate in the RPM Auctions rather than those that skip the RPM Auctions for a given Delivery Year altogether. Therefore, PJM maintains that the proposed approach in the June 1 Filing is consistent with the Commission’s order.

C. Consistent with the Commission’s Orders in this Proceeding, PJM’s Compliance Filing Considers All Megawatts of Resources That Previously Cleared an RPM Auction and That Are Entitled to a State Subsidy as Cleared Capacity Resources with State Subsidy.

The Market Monitor errantly contends that PJM’s approach of considering all megawatts of capacity capability of a resource that cleared an RPM before the December 19 Order as “Cleared” “should be rejected because it does not comply with the Commission’s directives.”²⁴ The Market Monitor asserts that there is “no rationale” for PJM’s approach.²⁵ However, the Market Monitor ignores that the Commission has set December 19, 2019 as a demarcation line, treating decisions made prior to that date differently from future decisions. The Commission recognized the paradigm shift created by the December 19 Order and that prior reliance on the earlier paradigm should be allowed. Indeed, that is the rationale for the three categorical

²² April 16 Order at P 61.

²³ (Emphasis added) Market Monitor Request for Clarification, Jan. 17, 2020 at p. 5.

²⁴ IMM Comments at p. 4.

²⁵ Id.

exemptions directed by the December 19 Order.²⁶ Further, the Commission explicitly stated that “[i]f such resources have previously cleared a capacity auction, we find they should be considered existing for the delivery year 2022/2023 capacity auction.”²⁷ Accordingly, PJM’s approach of considering all the capacity capability of resources that previously cleared an RPM Auction as Cleared Capacity Resources with State Subsidy is just and reasonable and compliant with the Commission’s directives.²⁸

D. PJM’s Proposal for a Single MOPR Floor Offer Price, Regardless of Seasonality and Offer Level, Is a Just and Reasonable and Workable Approach to a Complex Rule.

In the June 1 Filing, PJM proposed that only one default MOPR Floor Offer Price will be determined for a resource, and it will be applied consistently to each MW-day offered into an RPM Auction.²⁹ A Capacity Market Seller would be able to recover the full cost of each MW of capacity offered. PJM extensively explained how this approach complied with the Commission’s directive that MOPR applies to all Capacity Resource types “including seasonal resources,”³⁰ and that PJM should propose default offer price floors for seasonal resources.³¹ PJM addressed the numerous scenarios and considerations that led to and support the just and reasonableness of PJM’s approach.

²⁶ See, e.g., December 19 Order at P 174 (“We find that this limited exemption for resources participating in RPS programs is just and reasonable because decisions to invest in those resources were guided by our previous affirmative determinations . . .”); P 203 (“We find that it is just and reasonable to exempt self-supply resources that meet the requirements of the exemption outlined above because self-supply entities have made resource decisions based on affirmative guidance from the Commission . . .”); P 209 (“If such resources have previously cleared a capacity auction, we find they should be considered existing for the delivery year 2022/2023 capacity auction.”); P 13 (“This exemption is justified because [Demand Response, Energy Efficiency, and Capacity Storage Resources] traditionally have been exempt from review.”).

²⁷ December 19 Order at P 209

²⁸ The Market Monitor also requests the Commission to direct PJM to specify in the Tariff “exactly how the conversion to installed capacity [of all cleared MWs] would be calculated.” IMM Comments at 4. However, this type of technical implementation detail does not belong in the Tariff and is more appropriately placed in the PJM Manuals, as it does not “affect rates and services significantly.” *City of Cleveland v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985).

²⁹ June 1 Filing at pp. 26-30.

³⁰ April 16 Order at P 55 n.149.

³¹ April 16 Order at P 195.

The Market Monitor objects to PJM’s approach for determining the MOPR Floor Offer Price for resources offered on a seasonal basis or at a level less than their full capacity capability, arguing that the floor price should be based on the offered capacity.³² The Market Monitor asserts that “[u]sing a value other than the offered capacity and without seasonality considerations would inappropriately apply different definitions of the revenue requirement and MOPR floor offer price” as compared to resources subject to the must-offer requirement.³³ However, the Market Monitor fails to confront the practical problems with its desired approach—each of which PJM detailed in the June 1 Filing.

While PJM will not repeat in full how its approach is just and reasonable, it is worth briefly reiterating some of the reasons why the Market Monitor’s approach falls short. First, the Market Monitor’s approach would add unnecessary complexity and raises concerns for determining the appropriate MOPR Floor Offer Prices for portions that are not offered in the BRA, but are offered in the Incremental Auctions for the same Delivery Year. For example, if a 100 MW resource offers and clears 80 MWs in a BRA, based on a MOPR Floor Offer Price using 80 MW in the denominator as the Market Monitor desires, it is unclear what MOPR Floor Offer Price would be applied to the remaining 20 MW in the Incremental Auctions. Any floor price for such resource in the Incremental Auctions greater than \$0/MW-day would not accurately represent the resource’s actual costs and would ensure the resource over recovers its revenue requirement based on the two sets of supposedly cost-based offers, “while also raising questions as to whether a \$0/MW-day offer for a New Entry Capacity Resource with State Subsidy is a competitive offer reflective of the resource’s actual costs.”³⁴ Rather than confront

³² IMM Comments at pp. 10-11.

³³ IMM Comments at p. 11.

³⁴ June 1 Filing at p. 29.

this problem with such an approach, the Market Monitor simply questions its likelihood.³⁵ By contrast, PJM's approach would avoid it entirely because each MW a resource is capable of offering as capacity is assigned the same MOPR Floor Offer Price value, in both the BRA and subsequent Incremental Auctions.

Second, the Market Monitor's approach of focusing on the recovery of the costs of the Capacity Resource, instead of the cost of the offered capacity, conflicts with the Commission's directive that only the MW portion of a New Entry Capacity Resource with State Subsidy that clears at or above Net CONE becomes a Cleared Capacity Resource with State Subsidy,³⁶ and not the entire offered resource.³⁷

Third, implementation of the Market Monitor's approach would require increasing the MOPR Floor Offer Price for each MW of the resource's capacity capability not included in a Sell Offer or to the extent the resource is offered on a seasonal basis. But, as PJM explained, this "would create improper price incentives in the development of a Sell Offer, as their approach inverts traditional offer curves," as the floor price decreases with each additional MW offered, even though each additional MW increases the obligation and risk of non-performance.³⁸ For example, the Market Monitor's approach could incent a seasonal resource to offer on an annual basis to increase the likelihood of clearing an auction and obtaining capacity revenues, even though "annual capacity commitment may not be the best representation of the resource's expected Capacity Performance capability."³⁹

In short, PJM proposed a workable approach that complies with the Commission directive, does not conflict with any other directive, and allows the seller to recover the cost of

³⁵ IMM Comments at p. 11.

³⁶ See April 16 Order at P 398.

³⁷ See June 1 Filing at pp. 27-28.

³⁸ June 1 Filing at p. 29.

³⁹ Id.

providing each MW of capacity offered. Thus, the Commission should decline to adopt the Market Monitor’s proposed approach for developing MOPR Floor Offer Prices for seasonal resources.

E. PJM Appropriately Excluded Revenues Earned by Participating in an FRR Capacity Plan From the Definition of State Subsidy.

In the March 18 Filing, PJM submitted a definition for the term “State Subsidy” that also provided guidance and clarity for revenues that would be categorically excluded from being considered a State Subsidy, including “any revenues for providing capacity as part of an FRR Capacity Plan or through bilateral transactions with FRR Entities.”⁴⁰ PJM explained that participation in “a Commission-approved means for providing capacity in the PJM Region does not amount to a State Subsidy.”⁴¹ PJM did not propose any changes to the definition of State Subsidy in the June 1 Filing.

In its June 22, 2020 comments, the Market Monitor objects to this exclusion, contending that “[r]esource that sell in an FRR [Capacity] Plan should not be excluded from the definition of State Subsidy.”⁴² The Market Monitor’s sole justification for this argument is that “FRR [Capacity] Plans may compensate resources in a variety of ways including those explicitly recognized as a State Subsidy,”⁴³ but fails to identify any instance in which FRR revenues would meet the definition of State Subsidy. Such a conditional and theoretical justification is not sufficient, and fails to confront the fact that FRR participation is a Commission-approved means for providing capacity under PJM’s Tariff. In contrast, PJM’s approach properly recognizes FRR participation as a valid means of providing capacity and appropriately reconciles the FRR Alternative with RPM.

⁴⁰ March 18 Filing at p. 13.

⁴¹ March 18 Filing at p. 17.

⁴² IMM Comments at p. 7.

⁴³ Id.

Based on the Market Monitor’s conclusory observation that FRR revenues should be treated as State Subsidies, the Market Monitor asserts that bilateral capacity sales by an FRR Entity “should be treated in the same way as the bilateral sale of any subsidized resource”⁴⁴ and that resources owned by an FRR Entity cannot provide “replacement capacity for unsubsidized resources.”⁴⁵ Again, however, the Market Monitor has failed to establish that FRR Entities categorically are receiving State Subsidies for their resources, which would be a necessary demonstration for considering all their resources to be subsidized.

F. PJM’s Proposal to Allow Aggregation of Utility Based Residential Customers on a Demand Resource Registration is Just and Reasonable.

In the June 1 Filing, PJM proposed all end-use customer locations must be registered to a Demand Resource individually with the exception of utility-based residential load curtailment programs. It would be administratively burdensome to require Curtailment Service Providers (“CSP”) to register each participating residence in such a program on a separate registration instead of allowing many locations to be included on one registration given the large number of residential end-use customers typically enrolled in such programs.⁴⁶

Contrary to the Market Monitor’s assertion,⁴⁷ utility-based residential load curtailment programs are not always expected to curtail by zip codes or subzones.⁴⁸ This is because utility-based residential load curtailment programs may not have the operational capability to respond by zip codes or subzones. As a result, the Market Monitor’s proposal to increase the administrative burden by requiring CSPs to register utility-based residential programs by zip codes would not yield additional operational flexibility. Therefore, utility-based residential load

⁴⁴ IMM Comments at p. 8.

⁴⁵ Id.

⁴⁶ Historically, approximately 2 million residential customers have participated as Demand Resources in a Delivery Year.

⁴⁷ IMM Comments at p. 13.

⁴⁸ See definition of Transmission Subzone in PJM Manual 33, section 2.

curtailment programs should not be required to be aggregated by zip codes on a more granular level than that proposed in the June 1 Filing.

G. The Commission Should Adopt PJM's Just and Reasonable Proposal to Restrict Replacement of Unsubsidized Resources with Subsidized Resources through Bilateral Transactions that Are One Year or Less.

The Market Monitor suggests that Capacity Market Sellers may bypass the Commission's directive under PJM's proposed approach of restricting replacement of unsubsidized Capacity Resources with subsidized Capacity Resources through bilateral transactions that are one year or less.⁴⁹

As PJM explained in the June 1 Filing, the one year or less requirement is consistent with the underlying purpose of buying replacement capacity, as the buyer is seeking to *replace* its capacity commitment for all or part of a Delivery Year. Any bilateral transaction longer than one year is not likely to be "replacement capacity bilaterally procured to fulfill a capacity commitment," but rather is more likely to allow the resource to move from the account of one Capacity Market Seller to another (e.g., as part of a long-term power purchase-type agreement), or to permit the recording of a joint ownership or off-taker arrangement.

Further, as acknowledged in the Market Monitor comments,⁵⁰ bilateral transactions are used to handle appropriation of capacity for resources that are jointly owned. Excluding all bilateral transactions without regard to the timeframe would inhibit the ability for Capacity Market Sellers of jointly owned resources to replace resources within their own portfolio.

⁴⁹ IMM comments at p. 9.

⁵⁰ *Id.*

H. PJM Will Provide All Necessary Data to the Market Monitor - Including Data from the Generation Attribute Tracking System

The Market Monitor argues that PJM should be required to make the data from the Generation Attribute Tracking System (“GATS”) available to the Market Monitor so that it can track compliance as it relates to voluntary renewable energy credits (“RECs”).⁵¹

While GATS is separately owned and controlled by PJM-Environmental Information Services, Inc. (“PJM-EIS”), PJM will obtain relevant data from PJM-EIS to ensure that voluntary RECs are not retired for various state environmental compliance requirements. Any such data that PJM obtains for this purpose will necessarily be available to the Market Monitor pursuant to the existing service level agreement between PJM and the Market Monitor.⁵² In particular, Tariff, Attachment M, which is referenced by the service level agreement, provides the Market Monitor with data and information “that are customarily gathered in the normal course of business of PJM” including “any other information that is generated by, provided to, or in the possession of PJM.”⁵³ Thus, any data that PJM obtains from PJM-EIS to ensure that voluntary RECs are not retired for state compliance programs is already within the scope of the existing data sharing agreement with the Market Monitor under the existing service level agreement and the Tariff.

Given that that the existing service level agreement and Tariff already entitles the Market Monitor to the data necessary to ensure that voluntary RECs are not retired for state compliance programs, it is unnecessary for the Commission to take any action on this issue or direct PJM to make additional Tariff revisions to effectuate this data exchange. PJM confirms that all data

⁵¹ IMM Comments at pp. 11-12.

⁵² See Service Level Agreement between PJM and the Market Monitor: <https://www.pjm.com/directory/merged-tariffs/mmsla47.pdf>

⁵³ Tariff, Attachment M, section V.A.

obtained from PJM-EIS to ensure that voluntary RECs are not retired for state compliance requirements will be made available to the Market Monitor.

I. Given the Possibility for Near-Term Volatility in Economic Forecasts, PJM Maintains its Support of the Joint Consumer Advocates' Request for Greater Flexibility in Updating Planning Parameters.

Given the continuing economic volatility and uncertainty related to the novel coronavirus pandemic, it remains prudent to be able to post planning parameters closer to the actual conduct of the auction for the next three Base Residual Auctions (“BRAs”), if needed. In particular, as previously indicated, PJM supports reducing the number of days that the planning parameters must be posted from 100 to 60 days prior to the impacted BRAs.⁵⁴ To address Exelon’s concerns raised in its June 16, 2020 answer,⁵⁵ PJM would also support a requirement that the planning parameters be posted no later than 100 days prior to the conduct of the next BRA. However, in the event of a significant change in the economic forecast, it is prudent for PJM to retain the modest ability to update the load forecast 90 days prior to the BRA in time to post the planning parameters no later than 60 days prior to the conduct of the next BRA. This approach will ensure that all Market Participants will have access to the planning parameters at least 100 days prior to the next BRA while retaining the flexibility for PJM to update the load forecast, if necessary.

⁵⁴ PJM’s March 18 Filing included a request for waiver of the existing Tariff deadlines related to pre-auction activities including posting of the planning parameters, which PJM requested be moved to 100 days prior to the affected BRAs. March 18 Filing at 89-92, Attachment A at 2. In response to the Comments of the Joint Consumer Advocates Regarding PJM Interconnection, L.L.C’s March Compliance Filing Concerning the Minimum Offer Price Rule, Docket Nos. ER18-1314-003, et al., at 2-4 (May 15, 2020); PJM indicated that it would support retaining the ability to post the planning parameters no later than 60 days prior to the BRA. See 6/3/20 Motion for Leave to Answer and Answer of PJM at 28-30.

⁵⁵ June 16 Exelon Answer at pp. 3-7.

J. Neither the March 18 Filing nor June 1 Filing Was Intended to Preclude Clean Energy Association's Suggested Clarification on the Categorical RPS Exemption Language.

PJM also takes this opportunity to clarify that the proposed language on the categorical renewable portfolio standards exemption provision in the June 1 Filing was not intended to preclude the proposed modifications suggested by the Clean Energy Associations that any resource that had an executed interconnection or similar agreement (or unexecuted agreement but filed with the Commission) prior to the December 19, 2019 date should qualify for the exemption.⁵⁶ The Clean Energy Association's approach would include in the exemption from the MOPR any existing energy only resources with an interconnection or similar agreement as of December 19, 2019 - even if such resource may not have been a Capacity Resource as of that date.⁵⁷

PJM takes no position on this approach and has no objections with this suggested modification. Thus, while PJM's June 1 Filing did not adopt the Clean Energy Association's suggested modifications, PJM does not object to making this clarification in the Tariff if directed by the Commission.

⁵⁶ See Comments of Clean Energy Associations, Docket Nos. ER18-1314-000, EL16-49-000 and EL18-178-000 (May 15, 2020) ("Clean Energy Associations Comments") at p. 13.

⁵⁷ Id.

III. CONCLUSION

PJM respectfully requests that the Commission accept the March 18 Filing, and as modified by the June 1 Filing.

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July 7, 2020

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Audubon, PA this 7th day of July 2020.

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