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October 3, 2023

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

Re: *PJM Interconnection, L.L.C., Docket Nos. ER23-2612-000, et al.*
Motion for Leave to Answer and Answer of PJM Interconnection, L.L.C.

Dear Secretary Bose:

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ PJM Interconnection, L.L.C. (“PJM”) hereby submits the attached Motion for Leave to Answer and Answer (“Answer”) to protests and comments (“Protests”) filed in the above-referenced proceeding by the Maryland Office of People’s Counsel (“OPC”), Maryland Public Service Commission (“Maryland PSC”) and the Organization of PJM States, Inc. (“OPSI”) (collectively, “Protesters”).

As described more fully in the Answer, PJM rejects assertions regarding the proposed retirement of the Brandon Shores generating units and PJM’s closely regulated, open and transparent planning process to preserve reliable electricity service in the region. PJM, as the regional grid operator and planning entity for 13 states and the District of Columbia, is tasked with keeping electricity flowing in the state; no Maryland consumer or business should be without power.

Protesters suggest that PJM should have acted outside of its clearly defined planning authority and processes; predicted that the Brandon Shores coal-fired units were retiring when specifically told otherwise; and relied on resources and technologies that do not solve the engineering problem. Talen Energy Corp. (“Talen Energy”), owner of Brandon Shores, notified PJM in April 2023 that Units 1 and 2 would retire as of June 1, 2025. Before that time, Talen Energy made statements and public filings that it planned to switch to oil-burning operation. Commercial conditions changed and Talen Energy subsequently decided to propose to deactivate the plant by 2025 based on agreements with the Sierra Club, to which PJM was not a party.

After it received Talen Energy’s deactivation notification, PJM notified stakeholders of the Brandon Shores deactivation notice and reviewed the necessary transmission upgrades and associated costs as part of multiple PJM public stakeholder meetings; all of this was done pursuant to PJM’s FERC-approved governing documents. It is unreasonable to criticize PJM on one hand for failing to proactively plan for a deactivating generating unit (that had entered into a private agreement to close) and then, on the other hand, criticize PJM when it advances solutions to fix

¹ 18 C.F.R. §§ 385.212 and 385.213 (2023).

the issue. Whether the issue was solved three years ago or today, the substantial transmission upgrades identified by PJM to sustain reliability of the grid have to be made to keep power on for roughly half the state of Maryland. These upgrades were not done earlier because, again, Talen Energy had stated that it planned to convert to oil-burning operation.

PJM has informed the Maryland PSC as well as the Maryland Energy Administration of its need to move forward with these transmission solutions and the need to move quickly. PJM has also met with the Maryland OPC and has attempted to work with the OPC on significant information requests that have come from that organization.

Finally, there is no existing technology that can cure the reliability problems that Brandon Shores will create when it deactivates other than transmission. Brandon Shores is a spinning-mass generator that provides certain physical attributes, such as inertia, that are necessary for electricity to get from point to point. The retirement of Brandon Shores results in nearly 600 reliability violations because the area is simply lacking in bulk electric system infrastructure. Again, transmission is the only viable solution for that area right now until there are technologies deployable at a scale that could take the place of units like Brandon Shores.

PJM is committed to advancing the energy transition to a cleaner, more sustainable grid of the future for Maryland's consumers, which PJM is demonstrating with action and initiative. At the same time, PJM will continue, pursuant to its mandate, to maintain reliable power delivery as we advance through that transition. Maryland's consumers expect to have electricity, and failure to maintain a reliable power grid has economic and health ramifications that we have seen play out in other parts of the country. PJM works hard each day to try and prevent that from happening to the consumers it serves.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact the undersigned at the number above.

Respectfully submitted,

/s/ Jessica M. Lynch
Jessica M. Lynch

On behalf of PJM Interconnection, L.L.C.

cc: Service List in Docket No. ER23-2612

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

PJM Interconnection, L.L.C.)

Docket Nos. ER23-2612-000
ER23-2612-001
ER23-2612-002

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

PJM Interconnection, L.L.C. (“PJM”) hereby submits this motion for leave to answer and answer¹ in response to the protests and comments filed by the Maryland Public Service Commission (“MD PSC”), the Maryland Office of People’s Counsel (“OPC”) and the Organization of PJM States, Inc. (“OPSI”).² The Protesters make a wide range of criticisms on various aspects of the PJM planning process in general, and in particular, the application of that process to the proposed deactivation of the Brandon Shores units³ in Maryland.⁴ However, the issues raised in the Protests are both far outside the scope of this particular proceeding, and,

¹ PJM submits this Motion for Leave to Answer and Answer pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”). 18 C.F.R. §§ 385.212 and 385.213 (2023).

² *PJM Interconnection, L.L.C.*, Protest of the Maryland Office of People’s Counsel, Docket Nos. ER23-2612-000, *et al.* (Sept. 13, 2023) (“OPC Protest”); *PJM Interconnection, L.L.C.*, Protest and Comments of the Maryland Public Service Commission, Docket Nos. ER23-2612-000, *et al.* (Sept. 18, 2023) (“MD PSC Protest”); *PJM Interconnection, L.L.C.*, Comments of the Organization of PJM States, Inc., Docket Nos. ER23-2612-000, *et al.* (Sept. 25, 2023) (“OPSI Comments”) (collectively, the “Protests”). MD PSC, OPC and OPSI are collectively referred to herein as the “Protesters.”

³ As discussed below, on April 6, 2023, Talen Energy Corp. (“Talen Energy”) notified PJM that it intended to deactivate Brandon Shores units 1 and 2 (1,281.6 MW) (“Brandon Shores”) by June 1, 2025 (“Deactivation Notice”). *See* Section III.B.1, *infra*.

⁴ In particular, the Protestors raise concerns about transmission enhancements and expansions approved by the PJM Board of Managers (“PJM Board”) to address reliability violations that are driven by the proposed deactivation of Brandon Shores in Maryland. The transmission enhancements and expansions include building new substations and upgrading and expanding others, building and expanding 500 kV transmission lines, installing and reconductoring 230 kV lines, and installing capacitors (collectively referred to as the “Baseline Upgrades”).

importantly, do not contest that the PJM Region⁵ and the state of Maryland are facing significant reliability challenges as a result of the announced retirement of the Brandon Shores units. PJM responds to the Protests below.

I. EXECUTIVE SUMMARY

In this proceeding, PJM filed proposed amendments to PJM Open Access Transmission Tariff (“Tariff”), Schedule 12-Appendix A and Schedule 12-Appendix C to incorporate cost responsibility assignments for 25 baseline upgrades to be included in the Regional Transmission Expansion Plan (“RTEP”), as approved by the PJM Board of Managers (“PJM Board”) on July 12, 2023.⁶ PJM is required to update Tariff, Schedule 12-Appendix A and submit a report identifying the customers that will be responsible for Transmission Enhancement Charges based on the cost responsibility assignments determined pursuant to Schedule 12 no later than 30 days after the PJM Board of Managers (“Board”) approves additional enhancements or expansions to be included in the PJM RTEP,⁷ which is what PJM did in the August 2023 Filing.

The Commission has previously stated that it reviews such filings to determine whether the proposed cost responsibility assignments are consistent with the Commission-accepted methodologies set forth in Schedule 12 of the PJM Tariff, not whether the tariffed process used to select the projects are appropriate.⁸ Put another way, this is not the forum in which to challenge the Commission-approved process, or for that matter the prudence of the projects. In fact, OPC acknowledges that it is not challenging the cost allocation assignments that are the very subject of

⁵ All capitalized terms that are not otherwise defined herein have the meaning as defined in the Tariff, Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”), and Reliability Assurance Agreement among Load Serving Entities in the PJM Region.

⁶ *PJM Interconnection, L.L.C.*, Revisions to Incorporate Cost Responsibility Assignments for Regional Transmission Expansion Plan Baseline Upgrades, Docket Nos. ER23-2612-000, *et al.* (Aug. 11, 2023) (“August 2023 Filing”).

⁷ Tariff, Schedule 12(b)(viii).

⁸ See Section III.A, *infra*.

this proceeding, stating, “OPC does not contest the cost allocation of the [Brandon Shores-related Baseline Upgrades], assuming the projects, comprising the package, are ultimately designated and approved as baseline projects for purposes of the PJM [RTEP].”⁹

As such, the Protesters’ arguments are clearly outside the scope of this proceeding and should be rejected. There is simply no basis to transform a Federal Power Act (“FPA”) section 205 filing applying a Commission-accepted cost allocation formula to a general challenge to the PJM planning process and the currently-effective Tariff provisions that require generators to give PJM at most three months’ notice of their intent to deactivate.¹⁰ The Commission should reaffirm its consistent approach on limiting its analysis to the scope of the filing before the Commission.¹¹

Notwithstanding the narrow scope of this proceeding, PJM seeks leave to file this answer. The fact of the matter is that there is an urgent need to upgrade the Transmission System to address the reliability violations caused by the deactivation of the Brandon Shores units, currently scheduled for June 1, 2025. Specifically, PJM analyses showed that the deactivation of the Brandon Shores units resulted in nearly 600 reliability violations. There will be severe voltage drop and thermal violations across seven PJM zones particularly under N-1-1 contingency conditions, which could lead to a widespread voltage collapse in Baltimore, Maryland and the immediately surrounding areas (*e.g.*, the BGE, APS, ME, PPL, PECO, PEPCO and Dominion Zones). This can only be addressed by the PJM-identified needed Transmission System

⁹ OPC Protest at n.2.

¹⁰ See Tariff, Part V, section 113.1. PJM Members have recently initiated a stakeholder process on enhancing the deactivation process to examine such issues, including the notification periods.

¹¹ See *infra*, n.29.

reinforcements (*i.e.*, the Baseline Upgrades), in absence of timely, adequate and properly located replacement generation – which neither the Commission nor PJM have the authority to direct.

As PJM explains below, PJM could not have acted upon the deactivation of the Brandon Shores units prior to April 6, 2023, the date on which it received the Deactivation Notice from Talen Energy.¹² However, upon receipt of the Deactivation Notice, PJM recognized it had to accelerate its analyses to determine to what extent the deactivation would adversely impact the reliability of the Transmission System absent upgrades to the Transmission System.¹³ That is, although the Tariff permitted PJM to provide a Notice of Reliability Impact to Talen Energy by August 31, 2023,¹⁴ PJM fast-tracked its review and notified Talen Energy of potential reliability violations and preliminary solutions on June 1, 2023, so that the immediately needed transmission reinforcements could be placed in front of the PJM Board for review and approval at the July 2023 Board meeting; thereby allowing the transmission owner to commence construction as quickly as achievable, with the goals of maintaining system reliability and minimizing costs to ratepayers.¹⁵

¹² See Section III.B.1, *infra*.

¹³ In March 2020, at the request of the Maryland House of Delegates Environment and Transportation Committee, PJM performed an analysis to assess the impact to the Transmission System if six Maryland coal-fired generators, including Brandon Shores, were to deactivate. For purposes of that analysis, PJM assumed that all units listed in the request gave simultaneous notification to PJM of their intention to retire. The results of the PJM analysis identified seven facilities requiring system reinforcements. PJM raised the concern of large generation deficiencies in the BGE and PEPCO Zones as resources retire and the potential for significant delays to restore power if blackouts occur. See <https://www.pjm.com/-/media/library/reports-notices/special-reports/2020/20200305-pjm-requested-reliability-analysis-response-md-house-environment-transportation-committee.ashx> (“2020 Maryland Report”). Because PJM had recently performed the analysis to prepare the Maryland 2020 Report, when PJM received the Brandon Shores deactivation notice, PJM knew that there would likely be significant reliability violations triggered by the proposed deactivation. PJM therefore accelerated its reliability analysis in this instance. However, as discussed below, PJM did not know the Brandon Shores units would retire until Talen Energy provided the Deactivation Notice on April 6, 2023.

¹⁴ See Tariff, Part V, section 113.2.

¹⁵ PJM completed its analysis relative to the Deactivation Notice approximately 90 days ahead of schedule. Had PJM studied the proposed Brandon Shores deactivation under the extended timeline permitted by its Tariff, PJM’s reliability analyses would not have been completed until third quarter 2023, and PJM would not have brought the reliability violations and proposed solutions to a TEAC meeting for a first read until fourth quarter (October) 2023; the second read would have been in November 2023. The Board review and approval would not have occurred until December 2023 or early 2024, thereby delaying Transmission Owners’ ability to commence work on the projects.

PJM also felt that it was particularly important to bring the proposed transmission reinforcement solutions to the Transmission Expansion Advisory Committee (“TEAC”) as soon as possible given that it was (and remains) unclear whether the Brandon Shores units will agree to remain online beyond the communicated June 1, 2025 deactivation date. In the Notice of Reliability Impact, PJM indicated that it had identified solutions to the potential reliability violations that have initial estimated in-service dates of December 2028.¹⁶ PJM therefore requested that the Brandon Shores units remain online beyond their proposed deactivation date under a RMR arrangement until needed system upgrades are completed in order to maintain reliable operation of the system.¹⁷ Due to the fact that Talen Energy indicated that there were legal and economic impediments that would prevent it from accepting a RMR arrangement, and that PJM cannot compel a generator to stay online, PJM proceeded with presenting the immediate reliability needs to the TEAC as a first read after it issued the June 1, 2023 Notice of Reliability Impact.¹⁸

PJM is cognizant of the costs associated with transmission upgrades needed to sustain reliability of the grid and in this case, particularly attributed to the deactivation of Brandon Shores. Moreover, PJM is sympathetic to concerns about costs associated with not only putting such upgrades in-service, but also potential costs associated with keeping the Brandon Shores units online until the new transmission facilities are constructed and operational. However, PJM’s obligation is to ensure the reliability of the PJM Transmission System. To that end, PJM followed

Thus, PJM’s accelerated analyses and stakeholder presentations reduced the costs of what ratepayers would have experienced under a reliability must run (“RMR”) arrangement by at least six months.

¹⁶ PJM continues to work with the relevant Transmission Owners to accelerate the anticipated in-service date for the facilities.

¹⁷ See Tariff, Part V, section 113.2.

¹⁸ See Section III.B.3, *infra*.

its processes, and indeed expedited such processes, for identifying the transmission solutions to address the immediate reliability needs that will be caused by the deactivation of the Brandon Shores units.¹⁹ And, although the base case used to analyze the reliability impact of the Brandon Shores deactivation considered whether queued generation could alleviate such impact, PJM concluded that non-transmission alternatives cannot address these reliability needs.²⁰ PJM therefore respectfully requests that the Commission reject the Protests on substantive grounds for the reasons described below, as well as to avoid any protracted litigation that would only serve to delay putting the needed transmission upgrades in place.

II. MOTION FOR LEAVE TO ANSWER

PJM respectfully requests leave to file this Answer to address several issues set forth in the Protests.²¹ Although the Commission’s Rules of Practice and Procedure generally do not permit an answer to protests,²² the Commission routinely allows such answers when they provide useful or relevant information that will assist the Commission in its decision-making process, clarify the issues, assure a complete record in the proceeding, provide information helpful to the disposition of an issue, and permit the issues to be narrowed.²³ Here, PJM respectfully requests that the Commission grant this Motion because the Answer will help clarify the issues that are properly

¹⁹ See Section III.B.2, *infra*.

²⁰ See *id*.

²¹ PJM does not respond to all of the assertions in the Protests and Comments. PJM’s silence should not be construed as agreement with or acquiescence to any argument in the Protests or Comments.

²² 18 C.F.R. § 385.213(a)(2) (2023).

²³ See, e.g., *PJM Interconnection, L.L.C.*, 176 FERC ¶ 61,003, at P 24 (2021) (“We accept the answers filed by PJM and the Market Monitor because they provide information that has assisted us in our decision-making process.”); *Alaska Gasline Development Corp.*, 171 FERC ¶ 61,134, at P 7 (2020) (“Although the Commission’s Rules of Practice and Procedure do not permit answers to protests, we will accept the answers herein because they clarify the concerns raised and provide information that has assisted in our decision making”).

within the scope of this proceeding, and, additionally, will clarify or correct the record, and contribute to an understanding of issues.

III. ANSWER

A. The Arguments Raised in the Protests Are Outside the Scope of this Proceeding

Tariff, Schedule 12(b)(viii) requires that, within 30 days of PJM Board approval of any update to the RTEP, PJM must submit a Tariff filing and a report with the Commission setting forth the cost responsibility assignments for transmission enhancement and expansion projects selected in PJM's RTEP. Tariff, Schedule 12 further provides that customers designated to be responsible for assignments of costs that PJM files with the Commission shall have 30 days from the date of such filing to submit comments regarding the proposed cost responsibility assignments.²⁴ Consistent with that requirement, in the August 2023 Filing PJM submitted amendments to Tariff, Schedule 12-Appendix A and Schedule 12-Appendix C to include the new cost responsibility assignments for RTEP upgrades approved by the PJM Board on July 12, 2023.

In its Protest, OPC specifically acknowledges that it does not contest the cost allocations filed in this docket.²⁵ Rather, OPC's arguments – as well as the issues raised by MD PSC and OPSI – relate solely to the tariffed process used to select the Baseline Upgrades. In brief, these parties assert that PJM: (i) should have foreseen the deactivation of the Brandon Shores units and because it did not do so, PJM violated its governing documents;²⁶ (ii) failed to adequately consider non-transmission alternatives to the Baseline Upgrades in violation of PJM's governing

²⁴ Tariff, Schedule 12(b)(viii).

²⁵ See OPC Protest at n.2 (“OPC does not contest the cost allocation of the [Brandon Shores-related Baseline Upgrades], assuming the projects, comprising the package, are ultimately designated and approved as baseline projects for purposes of the PJM [RTEP]”).

²⁶ See OPC Protest at 5, 13-15.

documents;²⁷ and (iii) did not properly designate the Baseline Upgrades as Immediate-need Reliability Projects.²⁸

Consistent with Commission precedent,²⁹ these challenges are beyond the scope of this proceeding, because the only issue in this proceeding is whether PJM determined the cost responsibility assignments included in the August 2023 Filing are consistent with the Commission-accepted methodologies set forth in Schedule 12 of the PJM Tariff, not whether the tariffed process used to select the projects was appropriate. Absent any evidence that PJM failed to allocate costs consistent with the Commission-accepted methodologies set forth in Tariff, Schedule 12, the Protests should be rejected.

In passing, OPC also requests that the Commission initiate an FPA section 206 proceeding to “investigate” the issues it raises in its Protest, and “to decide on and adopt the appropriate remedies.”³⁰ There are several problems with this request that should give the Commission pause. For one, as explained below, Protesters have not established that PJM has failed to follow its Governing Documents or that the Governing Documents are unjust and unreasonable. In addition, initiating FPA section 206 proceeding specific to the Brandon Shores-related Baseline Upgrades would only work to delay the immediately needed critical work currently undertaken to address

²⁷ See OPC Protest at 3, 20-21; MD PSC Protest at 2-4; OPSI Protest at 1.

²⁸ See OPC Protest at 17.

²⁹ *PJM Interconnection, L.L.C.*, 152 FERC ¶ 61,187, at P 25 (2015); *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,028, at P 43 (Apr. 9, 2014) (“the reasonableness of the solution-based DFAX methodology is beyond the scope of this proceeding.”); *PJM Interconnection, L.L.C., et al.*, 139 FERC ¶ 61,242, at P 29 (2012) (the issue in this docket is whether PJM’s Filing complies with Order No. 503’s directives, not whether the merchant transmission facilities customer agreements allow for the pass-through of RTEP costs or whether pass-through of RTEP costs to such customers is consistent with the public interest); *PJM Interconnection, L.L.C.*, 139 FERC ¶ 61,010, at P 11 (2012) (issues raised by the Illinois Commission are beyond the scope of the docket and the only issue is “whether PJM has determined the cost responsibility . . . consistent with the methodology set forth in Schedule 12 of the PJM Tariff”); and *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,044, at P 20 (2011) (finding that the ICC did not state that the modeling assumptions used by PJM were inconsistent with the Tariff and, thus, further inquiry into the modeling assumptions required by the Tariff is beyond the scope of this proceeding).

³⁰ OPC Protest at 4.

what all parties, including the state of Maryland, acknowledge will be an imminent reliability threat that needs to be promptly addressed. For these reasons, the Commission should not accept the out-of-scope ask that the Commission undertake an unbounded investigation of the PJM planning process.

B. The Protests Raise Arguments that Are Incorrect and/or Misleading

1. Contrary to OPC's Claims, PJM Could Not Have Foreseen the Brandon Shores Deactivation

OPC repeatedly asserts that the proposed Brandon Shores deactivation was “foreshadowed,” and claims that PJM violated its Operating Agreement by failing to proactively plan transmission or non-transmission alternatives to address the expected retirement of the Brandon Shores units.³¹ OPC's claims are without merit both factually and legally.

As an initial matter, it is incorrect to argue that PJM could have foreseen or anticipated a June 1, 2025 deactivation of the Brandon Shores units.³² To the contrary, Talen Energy made public statements and submitted public filings indicating that it intended to repower the Brandon Shores coal plants to run on oil. Specifically, in November 2020, Talen Energy announced a “strategic repositioning of its power generation fleet that will eliminate the use of coal at all Talen wholly-owned facilities.”³³ Talen Energy's Press Release called out the Brandon Shores units in

³¹ See *id.* at 5, 13-15.

³² PJM acknowledges that its recently-issued report addressing the energy transition in which PJM noted that it considered public statements regarding the elimination of coal use and potential retirement of the Brandon Shores units. PJM Interconnection, L.L.C., Energy Transition in PJM: Resource Retirements, Replacements & Risks, at 8-9 (Feb. 24, 2023), <https://www.pjm.com/-/media/library/reports-notice/special-reports/2023/energy-transition-in-pjm-resource-retirements-replacements-and-risks.ashx> (“PJM 4R Report”). However, as indicated in the PJM 4R Report, PJM conducted analyses to “*explore a range of plausible scenarios* up to the year 2030, focusing on the resource mix ‘balance sheet’ as defined by generation retirements, demand growth and entry of new generation.” PJM 4R Report at 2 (emphasis added). PJM's statement in the PJM 4R Report does not confirm that PJM had actual knowledge of the Brandon Shores deactivation.

³³ Talen Energy Corp, Talen Energy Announces Transformational Move Toward a Sustainable, ESG-Focused Future (Nov. 10, 2020), <https://talenergy.investorroom.com/2020-11-10-Talen-Energy-Announces-Transformational-Move-Toward-a-Sustainable-ESG-Focused-Future> (“Talen Energy's Press Release”).

particular, and stated that they “will cease coal-fired operations by the end of 2025 and *repower pending approvals by state agencies*.”³⁴ It would have been odd indeed for PJM to simply ignore those public statements, assume that, notwithstanding Talen Energy’s public announcement that the plant would repower, and then order transmission and non-transmission solutions as a result. In fact, it is hard to imagine how the state of Maryland would have agreed to site new transmission or other alternatives that were based on an assumption that the plant would be deactivated, notwithstanding Talen Energy’s public statements.

Also in November 2020, Talen Energy entered into a settlement agreement with the Sierra Club pursuant to which Talen Energy agreed that it would cease the combustion of coal at the Brandon Shore units by December 31, 2025 (“Settlement Agreement”). The Settlement Agreement was conditioned on approval of any permits required to permit the Brandon Shores units *to burn oil as an alternate fuel source*.³⁵ Protesters do not explain why, notwithstanding the Settlement Agreement, PJM should have ignored its terms, assume that the plant would deactivate rather than switch to oil and start ordering new transmission as a result.

Subsequently, in December 2021, Raven Power Fort Smallwood LLC, a subsidiary of Talen Energy and the owner/operator of the Brandon Shores units, filed a request for a determination from the MD PSC that the proposed fuel switching from coal to oil at the Brandon Shores units would not constitute a modification to the generation stations,³⁶ signaling Talen

³⁴ *Id.* (emphasis added).

³⁵ See Maryland Dept. of Energy, Draft Part 70 Permit, which references permitting conversion of Brandon Shores Units 1 and 2 from coal to oil (June 29, 2022), <https://mde.maryland.gov/programs/permits/AirManagementPermits/Documents/Public-Review/new%20Title%20V%20public%20review/Ft%20Smallwood%20Docket%20for%20web.pdf> (MDE-ARA Permit to Construct No. 003-0468-3-0003, 3-0015, 3-0016 & 4-0507).

³⁶ See *Application of H.A. Wagner LLC for a Certificate of Public Convenience and Necessity Authorizing the Modification of the Generating Station*, Raven Power Fort Smallwood Power LLC's Request for a CPCN Modification Exemption and Amendment to PPRP Licensing Condition B-IV-1 in Order No. 86585, MD PSC Case No. 9338 (Dec. 8, 2021), <https://webpsc.psc.state.md.us/DMS/case/9338>.

Energy’s intent to move forward with the repowering. By order issued in January 2022, the MD PSC confirmed that the “proposed fuel switching would not be considered a ‘modification’ under the Public Utilities Article § 7-205...,” and approved the proposed fuel switching, subject to certain conditions.³⁷ OPC does not explain why PJM should have simply ignored this action of the Maryland PSC, which expressed support for repowering and fuel switching rather than plant deactivation.

Additionally, in parallel with Talen Energy’s Press Release, the Settlement Agreement, and the MD PSC proceeding described above, in May 2021, Talen Energy reached out to PJM through PJM’s Client Management group to inquire about Brandon Shores’ proposed fuel switching from coal to oil. Talen Energy also had subsequent discussions and meetings with PJM’s Planning group on several occasions between May 2021 and August 2022 regarding whether any studies would be necessary to support the fuel conversion, and to obtain information from PJM about Reliability Pricing Model requirements for the 2024-2025 Base Residual Auction. In short, all the public actions as well as conversations with the plant owner pointed to a repowering and fuel switch at the plant rather than deactivation.

PJM did not become aware that Talen Energy had decided to pivot from its fuel conversion plan until April 6, 2023, when PJM received the Deactivation Notice in which Talen Energy explained, for the first time, that although it had previously been evaluating a conversion of the Brandon Shores units to fuel oil combustion, it has determined that such a conversion is uneconomic and does not justify operating after June 1, 2025. In short, it is not reasonable to expect PJM to have anticipated the imminent deactivation of the Brandon Shores units when

³⁷ See *Application of H.A. Wagner LLC for a Certificate of Public Convenience and Necessity Authorizing the Modification of the Generating Station*, Letter Order Accepting Raven Power Fort Smallwood Power LLC's Request for a CPCN Modification Exemption and Amendment to PPRP Licensing Condition B-IV-1 in Order No. 86585, MD PSC MailLog No. 238117 (Jan 12, 2022).

numerous public statements and direct conversations between PJM and Talen Energy all supported the notion that the Brandon Shores would remain online, albeit using a different fuel source. And as noted previously, it would be hard to imagine that any alternatives premised on the plant deactivating would have been sited by the state given all these public indications of the plant's intention to remain in operation.

Moreover, OPC's arguments that the Brandon Shores units were "at risk" for retirement and therefore PJM's governing documents required PJM to proactively plan transmission or non-transmission alternatives to address the plant's deactivation³⁸ fail for the same reasons described above. PJM did not consider these units to be "at risk" for retirement given Talen Energy's public statements, the approvals for fuel switching by the Maryland PSC, and PJM's multiple conversations with Talen Energy's representatives about the planned conversion from coal to oil. As such, PJM properly did not include the Brandon Shores units in its forward-looking reliability analyses as an at-risk generator. That said, as discussed below, as soon as PJM became aware on April 6, 2023 of the proposed deactivation, PJM accelerated its reliability analyses to identify proposed solutions as soon as practicable.

For these reasons, the Commission should recognize that OPC, using 20/20 hindsight, is unfairly trying to place blame on PJM (let alone allege an unsubstantiated tariff violation) for not having perfect foresight as to the fate of the Brandon Shores units when all the communications from Talen Energy and the MD PSC indicated that the plant would remain in commercial operation. The Commission does not hold any public utility to such a standard and should not do so here given the clear statements made by Talen Energy and the MD PSC at the time that the plant would not deactivate.

³⁸ See OPC Protest at 14-15.

2. Claims that PJM Failed to Follow its Governing Documents Are Without Merit

OPC,³⁹ MD PSC⁴⁰ and OPSI⁴¹ all argue that PJM violated its governing documents because it did not consider other transmission alternatives as part of its analyses relative to the proposed deactivation of the Brandon Shores units. They also offer specific non-transmission alternatives that PJM should have considered in lieu of the Baseline Upgrades.⁴² As discussed below, however, although PJM ultimately determined that the Baseline Upgrades were the appropriate solution to address the reliability violations caused by the proposed deactivation, PJM properly considered transmission alternatives as one component of its analysis. Separately, none of the specific alternatives that the Protesters proposed would actually address the reliability need driven by the deactivation of the Brandon Shores units. Accordingly, the Protesters' claims are without merit and should be rejected.

When PJM receives a notification regarding a proposed generation deactivation, PJM is required to perform reliability analyses to determine whether the proposed deactivation would adversely affect the reliability of the PJM Transmission System absent upgrades to the Transmission System.⁴³ If PJM's analyses identify reliability concerns and the necessary upgrades cannot be completed prior to the proposed deactivation date, PJM seeks to identify whether there are any non-transmission alternatives or operating measures that can be used to address the violations.

³⁹ See *id.* at 3, 20-21.

⁴⁰ See MD PSC Protest at 2-4.

⁴¹ See OPSI Protest at 1.

⁴² See OPC Protest at 3, 20-21; MD PSC Protest at 2-4; OPSI Protest at 1.

⁴³ See Tariff, Part V, section 113.2.

In the case of the Brandon Shores deactivation, PJM determined that there were no viable non-transmission alternatives or operating measures that would address the significant reliability violations triggered by the proposed deactivation.⁴⁴ PJM analyses showed that upon the deactivation of the Brandon Shores units, there will be severe voltage drop and thermal violations across seven PJM zones particularly under N-1-1 contingency conditions, which could lead to a widespread voltage collapse in Baltimore, Maryland and the immediately surrounding areas (*e.g.*, the BGE, APS, ME, PPL, PECO, PEPCO and Dominion Zones). In the absence of timely, adequate and properly-located generation, violations of this size and severity can only be addressed by building Transmission System reinforcements.

Non-transmission solutions would not adequately mitigate the reliability issues created by the deactivation of the Brandon Shores units. In developing the base case to analyze the reliability impact of the Brandon Shores deactivation, PJM took into account generators in the interconnection queue with signed interconnection service agreements (“ISAs”) to determine whether such generators could make up for the loss of the Brandon Shores units. However, there are currently only approximately 52 MW of generation associated with signed ISAs that are not yet in-service but are expected to come online prior to the estimated December 2028 in-service date of the Baseline Upgrades.⁴⁵ Clearly, these 52 MW of generation would not be sufficient to mitigate the impact of the anticipated deactivation of the approximately 1,282 MW Brandon

⁴⁴ PJM notes that the impact associated with the Brandon Shores deactivation were part of the considerations included within PJM’s ongoing 2022 Window 3 competitive transmission solicitation process. *See* <https://www.pjm.com/planning/competitive-planning-process.aspx> (“2022 Window 3”). PJM will assess all proposals submitted through the 2022 Window 3 process that can address all needs as detailed on the Problem Statement of Window 3, which would include Brandon Shores deactivation needs, both on a local and regional transmission system basis. The assessment will holistically evaluate the overall system needs in the area and the effectiveness of each of the submitted proposals (either in part or combined) against the PJM Board-approved Baseline Upgrades. PJM will communicate the 2022 Window 3 results at the October 31, 2023 TEAC meeting.

⁴⁵ *See* PJM New Services Queue, <https://www.pjm.com/planning/service-requests/services-request-status>.

Shores units.⁴⁶ Nor is that generation guaranteed to come online. PJM also considered whether operating measures could be employed to address the violations. However, due to the potential wide area voltage collapse identified in the study results, PJM determined there are no interim operating measures that can alleviate such violations.⁴⁷

Other non-transmission solutions suggested by the Protesters similarly would not address the wide area voltage drop violations and thermal overloads that PJM observed across several transmission zones resulting from the deactivation of the Brandon Shores units. For instance:

- Both OPC and MD PSC point to potential alternatives resulting from the recently-enacted Maryland Energy Storage Act,⁴⁸ which authorizes the MD PSC to implement a competitive procurement program by July 1, 2025 for up to 750 MW of energy storage resources (“ESRs”) by the end of delivery year 2027 and a cumulative maximum of 3,000 MW by the end of delivery year 2033.⁴⁹ However, the competitive procurement process does not have to commence until after the proposed June 30, 2025 deactivation date, and PJM does not have the authority to order generation online pending the outcome of the competitive procurement process. More fundamentally, storage is not an appropriate replacement for the sizable Brandon Shores deactivation. The operational characteristics and performance of ESRs are still not reliable as a replacement generation resource due to their limited discharging period and temperature dependent performance. While considering the winter season is the worst system condition for Brandon Shore deactivation, the needed duration of the discharging period for reliability will be beyond an ESR’s capability, and will potentially expose the public into a wide area voltage collapse.

⁴⁶ Contrary to OPC’s claims, it would not have been appropriate for PJM to consider queued generation without a signed ISA. See OPC Protest at 20. PJM limits its reliability analyses to generators that have an executed ISA, because it is difficult to predict with certainty which generation in the queue will achieve commercial operation. In fact, PJM performed an analysis in October 2021 which showed that based on a study of the PJM interconnection queue since 2006 (when PJM implemented its interconnection queue process) through 2021, there is a commercial probability that approximately 35 percent of the capacity associated with existing generation in the interconnection queue will ultimately achieve commercial operation. See *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Initial Comments of PJM Interconnection, L.L.C., Docket No. RM21-17-000, at 21 (Oct. 12, 2021).

⁴⁷ See PJM TEAC, June Meeting Materials (June 6, 2023), <https://www.pjm.com/committees-and-groups/committees/teac>; PJM TEAC, July Meeting Materials (July 11, 2023), <https://www.pjm.com/committees-and-groups/committees/teac>.

⁴⁸ See Md. Code Ann., Pub. Util. § 7-216 (West 2023) (effective Oct. 1, 2023).

⁴⁹ See OPC Protest at 20; MD PSC Protest at 3.

- MD PSC seems to suggest that PJM either shed load or engage in some form of load reduction as an alternative to the moving forward with the Baseline Upgrades.⁵⁰ Load shedding and load reduction are emergency procedures of last resort. They involve controlled interruption of power to customers, which operators turn to after exhausting all other options for balancing supply versus demand. These procedures are not acceptable mitigation measures, given the size of load involved to avoid a wide-spread voltage collapse, thermal violations or both.
- Contrary to OPC and MD PSC’s suggestions,⁵¹ repurposing the Brandon Shores units by converting them to a synchronous condenser is not a viable alternative to the holistic transmissions solution offered by PJM. Brandon Shores generators have historically been scheduled to control transmission line loadings and not voltage support, necessitating a permanent transmission solution as opposed to synchronous condenser, which would only provide local voltage support.

In short, PJM considered potential non-transmission alternative solutions to the Baseline Upgrades, but determined that, in light of the very significant area-wide violations resulting from the proposed deactivation of the Brandon Shores units, a robust transmission solution will be necessary and that, otherwise, not only Baltimore’s load cannot be reliably served, the reliability of other zones will also be negatively impacted in a significant way.

⁵⁰ See MD PSC Protest at 3 (“PJM provided no specific information regarding what type of operational control it could take or *what amount of load reduction could be applied to preclude the need for the Baseline Upgrades, either in whole or in part*”) (emphasis added).

⁵¹ See OPC Protest at 20; MD PSC Protest at 4.

3. PJM Properly Followed the Tariff and Operating Agreement Processes Given the Immediate Need for the Baseline Upgrades

OPC raises both substantive and procedural concerns about whether PJM properly designated the Baseline Upgrades as Immediate-need Reliability Projects.⁵² These arguments should be rejected for the reasons below.

a. OPC's Substantive Arguments About Whether the Baseline Upgrades Qualify as Immediate-Need Reliability Projects Fail

OPC questions whether the Baseline Upgrades can qualify as Immediate-need Reliability Projects since the proposed transmission solution will take longer than three years to accomplish and the need for the transmission project can be delayed by keeping the plant in service.⁵³ As described above, in the Notice of Reliability Impact, PJM advised Talen Energy that the proposed deactivation of the Brandon Shores units would adversely impact reliability and that PJM and the affected Transmission Owner identified solutions to the reliability violations, with initial estimated in-service dates of December 2028.⁵⁴ PJM requested that Talen Energy continue to operate the Brandon Shores units beyond their proposed June 30, 2025 deactivation date under a RMR arrangement until needed system upgrades are completed.

As of the date of this filing, Talen Energy has not agreed to extend its deactivation date nor operate its units under a RMR arrangement. PJM cannot order a generator to stay online beyond

⁵² The Operating Agreement defines an Immediate-need Reliability Project is a “reliability-based transmission enhancement or expansion that the Office of the Interconnection has identified to resolve a need that must be addressed within three years or less from the year the Office of the Interconnection identified the existing or projected limitations on the Transmission System that gave rise to the need for such enhancement or expansion pursuant to the study process described in Operating Agreement, Schedule 6, section 1.5.3.” Operating Agreement, Section 1, Definitions. *See also Transmission Planning and Cost Allocation By Transmission Owning and Operating Public Utilities*, Compliance Filing of PJM Interconnection, L.L.C., Docket No. RM10-23-100, at n.163 (“PJM Order No. 1000 Compliance Filing”) (explaining that a request to deactivate a generating unit could cause an unanticipated, significant change to the system that would require an immediate solution to qualify as an Immediate-need Reliability Project”).

⁵³ *See* OPC Protest at 17.

⁵⁴ As noted above, PJM continues to work with the relevant Transmission Owners to accelerate the anticipated in-service date for the facilities.

its proposed deactivation date. Therefore, even though PJM is continuing to pursue options with Talen Energy that will potentially allow the Brandon Shores units to extend beyond June 30, 2025, and given that Talen Energy has not yet agreed to keep the Brandon Shores units online beyond that date, PJM has determined that the need date for the Baseline Upgrades to mitigate the planning criteria violations is June 30, 2025.

The Commission has already rejected claims that because a proposed transmission solution will take longer than three years to accomplish and the need for the transmission project can be delayed by keeping the plant in service there is not an immediate need for the project. Specifically, the Commission previously found that “it is proper for PJM to use the date a reliability need must be addressed rather than the expected in-service date of the project chosen to address that need to calculate whether a transmission project qualifies as an Immediate-need Reliability Project.”⁵⁵ The Commission directed PJM to clarify the definition of an Immediate-need Reliability Project to be “a reliability-based transmission enhancement or expansion that the Office of the Interconnection has identified to resolve a need that must be addressed within three years or less,” which is consistent with section 1.5.8 (m)(1) of Schedule 6 of the PJM Operating Agreement.

Here, the reliability violations triggered by the anticipated Brandon Shores deactivation are needed by the proposed June 30, 2025 deactivation date, approximately two years from the date that PJM brought the Baseline Upgrades to the TEAC. The Baseline Upgrades thus qualify as Immediate-need Reliability Projects under the precedent described above.

Moreover, based on the significant reliability challenges posed as a result of the announced retirement of the Brandon Shores units and the fact that the required Transmission System upgrades would not be in-service until three years after the requested deactivation date, PJM

⁵⁵ *PJM Interconnection, L.L.C.*, 156 FERC ¶ 61,030, at P 24 (2016).

determined that it was not feasible to convene a shortened proposal window without further jeopardizing the reliability of the Transmission System.⁵⁶ That said, PJM notes that the impact associated with the Brandon Shores deactivation were part of the considerations included within PJM’s ongoing 2022 Window 3 competitive transmission solicitation process.⁵⁷

b. OPC’s Procedural Arguments Regarding Whether PJM Complied with Immediate-Need Reliability Processes Should Be Rejected

OPC raises several points to support its argument that PJM “did not comply with the public comment and consultation process applicable to [Immediate-need Reliability Projects].”⁵⁸ In particular, OPC argues that:

- (i) PJM failed to post a supplemental document in advance of the relevant TEAC meeting detailing the identified immediate need reliability violations that PJM proposed to exempt from the competitive window process;⁵⁹
- (ii) the TEAC materials that PJM posted apprising stakeholders of the Brandon Shores-related reliability violations and solutions were “skeletal” and “deficient”;⁶⁰ and
- (iii) PJM failed to post comments and questions posed by OPC relevant to the deactivation of the Brandon Shores units.⁶¹

PJM addresses each of these arguments below.

i. PJM Provided Appropriate Notification in Advance of the TEAC Identifying the Immediate Need Reliability Violations

PJM acknowledges that it has committed to posting a supplemental document which identifies immediate need violations on the PJM website ten days in advance of the TEAC in which

⁵⁶ See Operating Agreement, Schedule 6, section 1.5.8(m)(2).

⁵⁷ See *infra* n.44.

⁵⁸ OPC Protest at 16.

⁵⁹ See *id.* at 18.

⁶⁰ See *id.* at 19.

⁶¹ See *id.* at 20.

PJM proposes to discuss such violations and proposed solutions,⁶² subject to the qualification that “PJM may review Immediate-need Reliability Project materials with stakeholders without the requisite ten-day notice so long as: (i) stakeholders do not object to reviewing the materials or (ii) PJM identifies in its posting to the meeting materials extenuating circumstances identified by PJM that require review of the materials at the stakeholder meeting.”⁶³ In this case, as described above, PJM received confirmation of the proposed solutions from the affected Transmission Owner and communicated the same to Talen Energy on June 1, 2023, which was only five days before the June 6, 2023 TEAC meeting at which PJM presented a first read of the Brandon Shores-related reliability violations and solutions.

In order to be able to post the supplemental document consistent with the ten-day notice requirement, PJM would have had to wait another month, until the July 11, 2023 TEAC, to present the first read of the Brandon Shores-related reliability violations and solutions. However, given the exigent need to place the Baseline Upgrades into service as soon as possible, PJM decided to proceed with the first read at the June 2023 TEAC meeting. Most importantly, no stakeholder objected to reviewing the Brandon Shores-related reliability violations and solutions as an immediate need solution at the June 2023 TEAC meeting or during the comment period following that meeting.⁶⁴ Moreover, as will be discussed below, stakeholders had ample opportunity to review and provide comments on the Brandon Shores-related reliability violations and solutions since PJM brought them back to the TEAC for a second read more than 30 days later. And, again, no stakeholder objected to reviewing the Brandon Shores-related reliability violations and

⁶² *PJM Interconnection, L.L.C.*, PJM’s Order to Show Cause Compliance Filing, Docket No. ER20-2686-000 (Aug. 17, 2020).

⁶³ Operating Agreement, Schedule 6, section 1.5.8(m)(1).

⁶⁴ *See id.*

solutions as an immediate need solution at the July 2023 TEAC meeting or during the comment period following that meeting.

ii. The Information PJM Presented to the TEAC Satisfied the Operating Agreements Requirements

OPC's claims that the TEAC materials that PJM posted apprising stakeholders of the Brandon Shores-related reliability violations and solutions were "skeletal" and "deficient" are baseless. Generator deactivations and any required system upgrades must be reviewed with PJM members and stakeholders during monthly meetings of the TEAC. PJM reviews generator deactivation notices as separate, standalone items on the TEAC agenda given that, to the extent a generator deactivation would adversely affect the reliability of the PJM Transmission System absent upgrades to the Transmission System, the required solution has historically addressed a reliability need that must be addressed within three years or less.

Accordingly, on May 7, 2023, PJM provided an update to the TEAC regarding generator deactivation notices that PJM had received and the status of the required reliability reviews, including with respect to the Brandon Shores-related Deactivation Notice.⁶⁵ As of that date, PJM was still conducting its reliability analysis to determine whether the deactivation of the Brandon Shores units would adversely affect the reliability of the PJM Transmission System absent upgrades to the Transmission System.

Subsequently, at the June 6, 2023 TEAC meeting, PJM presented a first read of the Brandon Shores-related reliability violations and solutions. Consistent with the requirements of Operating Agreement, Schedule 6, section 1.5.8(m)(1), PJM included an explanation of the decision to designate the Transmission Owner as the Designated Entity for the Immediate-need Reliability

⁶⁵ See PJM, Generator Deactivation Notification Update, Transmission Expansion Advisory Committee (May 9, 2023), [20230509-item-02---generation-deactivation-notification-update.ashx \(pjm.com\)](https://www.pjm.com/committees-panels-subcommittees/transmission-expansion-advisory-committee/updates/20230509-item-02---generation-deactivation-notification-update.ashx).

Project, including an explanation of the time-sensitive need for the Immediate-need Reliability Project, the circumstances that generated the immediate reliability need, and why the immediate reliability need was not identified earlier.

Additionally, PJM informed stakeholders that the Brandon Shores deactivation would require an estimated \$785.8 million in transmission solutions to resolve several voltage and thermal violations that would spread from the BGE zone to also impact the PEPCO, Dominion, PECO, APS, PPL and ME Zones.⁶⁶ In particular, PJM informed stakeholders that the required transmission solutions include building new substations and upgrading and expanding others, building and expanding 500 kV transmission lines, installing and reconductoring 230 kV lines, and installing capacitors (collectively referred to as the “Baseline Upgrades”).⁶⁷ PJM also informed stakeholders that although the Brandon Shores deactivation is scheduled for June 1, 2025, the work necessary to place the Baseline Upgrades into service is currently estimated to be completed in December 2028.⁶⁸

PJM presented a second read of the Brandon Shores-related reliability violations and the Baseline Upgrades solution at the July 11, 2023 TEAC meeting.⁶⁹ PJM informed stakeholders that operating measures are not available as an interim solution to address the violations, but that PJM Planning, Operations and Transmission Owner are continuing to investigate mitigation and

⁶⁶ See PJM, Generator Deactivation Notification Update, Transmission Expansion Advisory Committee (June 6, 2023), [20230606-item-02---generation-deactivation-notification-update.ashx \(pjm.com\)](https://www.pjm.com/20230606-item-02---generation-deactivation-notification-update.ashx).

⁶⁷ The Baseline Upgrades have been assigned RTEP baseline upgrade ID numbers b3780.1 through b3780.13 and b3781.

⁶⁸ See *supra*, n.16.

⁶⁹ See PJM, Generator Deactivation Notification Update, Transmission Expansion Advisory Committee (July 11, 2023), [20230711-item-02---generation-deactivation-notification-update.ashx \(pjm.com\)](https://www.pjm.com/20230711-item-02---generation-deactivation-notification-update.ashx).

timing.⁷⁰ In short, OPC’s claims that PJM’s TEAC materials and presentation were deficient should be disregarded.

iii. At OPC’s Request, PJM Had Several Discussions with OPC Regarding OPC’s Brandon Shores-Related Questions and Stakeholders Were Given Ample Opportunity to Submit Comments

The claim that “OPC submitted written comments and questions to PJM on two occasions between and immediately following the TEAC meetings regarding the [Baseline Upgrades]”⁷¹ and that PJM failed to post the questions or responses is misleading. On June 28, 2023 – more than three weeks after the June 6, 2023 TEAC meeting at which PJM presented a first read of the Brandon Shores-related reliability violations and solutions – a representative of OPC sent an email to a member of PJM’s State Government Affairs team with a set of questions “for a discussion at an informal session” with PJM subject matter experts (“June 2023 Questions”). It was not clear to PJM that OPC intended for PJM to publicly post the questions, particularly given the notation that the questions were being sent for an “informal session,” and because OPC never requested that PJM post the questions. PJM subject matter experts met with OPC to discuss OPC’s questions.

Subsequently, following the July 11, 2023 TEAC meeting at which PJM presented a second read of the Brandon Shores-related reliability violations and solutions, OPC sent an updated set of questions that expanded upon the requests set forth in the June 2023 Questions (“July 2023 Questions”). Again, OPC did not request that PJM post the questions to the PJM website. PJM staff met with OPC representatives on August 14, 2023 and August 24, 2023, during which PJM provided information and answered questions about the Brandon Shores-related reliability

⁷⁰ See *id.* at 2.

⁷¹ OPC Protest at 20.

violations and provided feedback on the July 2023 Questions. As OPC acknowledges,⁷² PJM was unable to answer many of OPC's questions, which asked for member confidential, market sensitive information as to the competitiveness of the Brandon Shores units in the PJM markets. PJM is bound by the Operating Agreement to not disclose such information⁷³ and therefore was not able to provide such answers. However, PJM provided answers to all OPC questions related to the PJM Planning process.

In addition to the above, PJM has a formal process for stakeholders to provide written comments through the PJM Planning Community⁷⁴ located on the PJM website on the main planning page at <https://www.pjm.com/planning.aspx>, as well as several of the individual pages under the main planning page and the individual committee pages (TEAC and Subregional RTEP Committees). PJM has requested that stakeholders who wish to provide feedback or ask questions about TEAC materials use the Planning Community Tool. Contrary to OPC's allegations, consistent with the requirements of the Operating Agreement, stakeholders were given the opportunity to provide written comments to PJM to communicate any concerns with project recommendations after both the first and second reads of the Brandon Shores-related reliability violations and Baseline Upgrades.

4. OPC's Other Arguments Are Irrelevant to the Issues in this Docket

OPC makes several other arguments that are not only outside of the scope of this proceeding, but are also irrelevant to the processes by which PJM analyzed whether the Brandon

⁷² *Id.* at n.16.

⁷³ Operating Agreement, section 18.17.

⁷⁴ The Planning Community is a website tool on the PJM website that provides transparency to the PJM planning processes and enables transmission and generation owner users to find answers to their questions, initiate discussions and collaborate with other users, as well as PJM subject matter experts regarding, for example, planning initiatives, proposal windows and process questions. Discussions within the Planning Community are based on planning topics and items covered at the Planning Committee and TEAC meetings.

Shores units would impact the reliability of the Transmission System and identified the Baseline Upgrades as solutions to solve the reliability need. For instance:

- OPC states that “[i]t is not apparent that Talen is making diligent efforts to repower the plant or develop alternate capacity which could utilize the plant’s [Capacity Interconnection Rights (“CIRs”)].”⁷⁵ Under the currently-effective PJM Tariff, Part VI, Subpart C, a Generation Owner will lose the CIRs associated with a deactivated generating unit one year from the Deactivation Date unless the holder of such rights submits a new Generation Interconnection Request within one year after the Deactivation Date. OPC’s allegation that Talen’s holding onto its CIRs is “essentially a hoarding of CIRs, erects a barrier to entry of new capacity, preventing market forces from addressing the potential for the exercise of market power and inducing further scarcity in generation in the BGE LDA due to the plant’s pending retirement” is an attack on the currently-effective rule and should be rejected.
- OPC’s claim that removing the Brandon Shores units from the capacity market creates a “serious risk” of the “potential for the exercise of market power”⁷⁶ ignores the fact that the Independent Market Monitor for PJM is responsible under the Tariff for analyzing whether the proposed deactivation causes any market power issues.⁷⁷
- OPC’s statement that Exelon announced at its Q2 2023 earnings call that “the PJM Board had authorized it to build \$870 million in transmission projects – which exceeds by 10% the \$785 million previously reported as the capital cost of the project”⁷⁸ is irrelevant. As reflected in the August 2023 Filing and the TEAC White Paper, the PJM Board approved the Baseline Upgrades with an estimated cost of \$785.8 million.⁷⁹

OPC has not tied these statements to any of the issues before the Commission in this narrow docket updating the cost allocation for the transmission required to address the deactivation of the Brandon Shores units, and therefore these statements are not justiciable in this docket.

⁷⁵ OPC Protest at 9.

⁷⁶ *Id.*

⁷⁷ See Attachment M – Appendix, Section IV.

⁷⁸ OPC Protest at 13.

⁷⁹ Changes in cost and scope of any PJM Board-approved baseline upgrade are reviewed by the PJM Board.

IV. CONCLUSION

PJM respectfully requests that the Commission accept this motion for leave to answer and reject the Protests for the reasons set forth above.

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On behalf of
PJM Interconnection, L.L.C.

Dated: October 3, 2023

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 3rd day of October, 2023.

/s/ Jessica M. Lynch

Jessica M. Lynch

Associate General Counsel

PJM Interconnection, L.L.C.