

167 FERC ¶ 61,114
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

PJM Interconnection, L.L.C.

Docket No. ER19-511-000
ER19-511-001

ORDER ACCEPTING TARIFF REVISIONS

(Issued May 3, 2019)

1. On December 7, 2018, pursuant to section 205 of the Federal Power Act (FPA),¹ PJM Interconnection, L.L.C. (PJM) submitted proposed revisions to PJM's Open Access Transmission Tariff (OATT), Amended and Restated Operating Agreement (OA), and the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region (RAA) (collectively, Governing Documents) to reflect load reductions from Summer-period Demand Response Resources (Summer Demand Resources) in load forecasts for PJM's capacity market (Peak Shaving Adjustment). PJM proposes to amend its governing documents to explain that Customer Baseline Load (CBL) will be the metric used for measuring the performance of peak shaving programs, add a new definition for Peak Shaving Adjustment, and amend the Price Responsive Demand (PRD) plan submission deadline for the 2022/2023 Delivery Year. PJM included with its filing, a revised version of PJM Manual 19 – Load Forecasting and Analysis (Manual 19) that includes the mechanism that implements the Peak Shaving Adjustment Plan. As discussed below, we accept the Peak Shaving Adjustment, subject to compliance filing, effective February 5, 2019, as requested.

¹ 16 U.S.C. § 824d (2012).

I. Background

2. PJM's Capacity Performance rules require that PJM purchase annual-only capacity resources.² PJM states that because the capacity market procures annual resources only, sub-annual resources, like Summer-Period Capacity Performance Resources (Summer Resources) and Winter-Period Capacity Performance Resources (Winter Resources), must aggregate with resources available in the opposite season to participate.³

3. PJM states that it recognized that there may still be certain summer-only demand response resources (Summer Demand Resources) that are unable to make annual commitments, aggregate commercially prior to the auction, or clear as "summer only" through the enhanced seasonal aggregation rules. PJM established a Summer-only Demand Response Senior Task Force ("SODRSTF") to explore additional opportunities to value Summer Demand Resources, including potential changes to the load forecasting process, which could serve as an alternative to supply-side participation in the capacity market. PJM states that after nearly a year of stakeholder discussions, it and its Members agreed to revise PJM's load forecast methodology for certain Summer Demand Resources to better recognize those resources as resources on the demand side (*i.e.*, through adjustments to individual LSEs' load obligations) rather than as supply side resources, giving rise to the instant proposal.⁴

II. Filing

4. PJM proposes to revise its Governing Documents to incorporate its Peak Shaving Adjustment. PJM states that its proposed Peak Shaving Adjustment, as detailed in the submitted revisions to PJM's Manual 19, requires Summer Demand Resources that wish to participate in peak shaving to provide a "Peak Shaving Adjustment Plan and Performance Rating" (Peak Shaving Adjustment Plan) to PJM. PJM states that the Summer Demand Resource's Peak Shaving Adjustment Plan "must provide information that supports the authorized entity's intended Peak Shaving Adjustment and demonstrates

² See *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208, at P 28 (2015) ("PJM proposes to replace its existing capacity products with a new capacity product, a Capacity Performance Resource, capable of sustained, predictable operation such that the resource will be reliably available to provide energy and reserves in an emergency condition.").

³ For example, Summer-period Demand Response would aggregate with Winter-period wind resources. See *PJM Interconnection, L.L.C.*, 162 FERC ¶ 61,159 (2018) (order approving resource aggregation rules).

⁴ PJM Transmittal at 2-3.

that the peak shaving program(s) is/are being offered with the intention that the MW quantity is reasonably expected to be physically delivered through program registrations for the relevant summer period.”⁵

5. PJM states that to better recognize curtailment activities associated with peak shaving programs, PJM developed a revised load forecasting model for program administrators that elect to participate based on each program’s anticipated curtailment behavior.⁶ PJM states that the Summer Demand Resources that submit a Peak Shaving Adjustment Plan will be called on to reduce their load consumption when the actual maximum daily temperature-humidity index (THI Index) value is met or exceeded for the relevant zone. PJM states that if that THI Index is triggered, the Summer Demand Resource must comply with its pre-established parameters that it submitted in its Peak Shaving Adjustment Plan and will be expected to reduce load without any communication from PJM dispatch.⁷

6. PJM states that, for the purposes of load forecasting, pursuant to the revisions in PJM’s Manual 19, PJM will initially assume that the Summer Demand Resource’s anticipated curtailment behavior actually occurred in all historical years used in the forecast model. PJM will use these assumed values in its weather simulation process to establish the program’s initial forecast adjustment MW value.⁸ PJM adds that in subsequent years, PJM will compare the Summer Demand Resource’s claimed MW value in its Peak Shaving Adjustment Plan against the Resource’s actual MW performance by using CBL methodology over a rolling three-year period.⁹ After three years of peak shaving, PJM’s load forecast adjustment values will be determined entirely by the Summer Demand Resource’s actual average rolling three-year performance. PJM adds that a Summer Demand Resource’s failure to reduce load by its specified parameters in

⁵ PJM Filing, Manual 19 Revisions, Attachment D: Peak Shaving Adjustment Plan and Performance Rating, at 44.

⁶ PJM Transmittal at 4.

⁷ *Id.*

⁸ PJM Filing, Manual 19 Revisions, Load Forecasting and Analysis, Peak Shaving Adjustments, at 15.

⁹ PJM Transmittal at 5. PJM notes that it will use the CBL as the metric for measuring actual performance of a peak shaving resource. PJM Transmittal at 8.

its Peak Shaving Adjustment Plan will result in decreased MW reduction capabilities in the Peak Shaving Adjustment for future load forecasts.¹⁰

7. PJM states that, while it will incorporate the MW reduction values submitted by each Summer Demand Resource via its Peak Shaving Adjustment Plan in future load forecasts for the Reliability Pricing Model's Base Residual Auction (BRA), the submitted MW values cannot later be reduced in Incremental Auctions (IAs). PJM states that this rule is reasonable since it permits new Summer Demand Resources that wish to practice peak shaving to be included in planning parameters for a Delivery Year without having to wait for the next BRA while deterring speculative MW values that have no reasonable expectation of curtailment.¹¹

8. PJM states that after accounting for the peak shaving resource's load reducing contributions in its load forecasts, PJM's Variable Resource Requirement Curve (VRR Curve) used in the capacity market's BRA and IAs will shift left. PJM states this leftward shift of the VRR Curve would value Summer Demand Resources that practice peak shaving in the form of avoided capacity costs.¹²

9. To incorporate the proposed Peak Shaving Adjustment into its Governing Documents, PJM notes that the specifics of PJM's annual load forecast methodology are contained in Manual 19. PJM claims the bulk of the modifications necessary to facilitate the adoption of the Peak Shaving Adjustment is contained in Manual 19, specifically, in Attachments D and E, since the Peak Shaving Adjustment is primarily an amendment to PJM's existing load forecasting methodology.¹³

10. As a part of the Peak Shaving Adjustment filing, PJM also proposes a transition mechanism for resources that would like to submit a Peak Shaving Adjustment Plan. PJM states this transition mechanism is necessary because PRD plans were due to PJM by January 15, 2019, but some resources may prefer to submit Peak Shaving Adjustment Plans instead. Therefore, PJM states, it proposes to adjust the deadline for submitting PRD plans to April 15, 2019.¹⁴

¹⁰ *Id.*

¹¹ *Id.* at 5-6.

¹² *Id.* at 3.

¹³ *Id.* at 7.

¹⁴ *Id.* at 9-10.

11. Finally, PJM requests a February 5, 2019 effective date.¹⁵

III. Notice and Responsive Pleadings

12. Notice of PJM's December 7, 2018 filing was published in the *Federal Register*, 83 Fed. Reg. 64,118 (2018), with interventions and protests due on or before December 28, 2018. Timely interventions were filed by the Office of the People's Counsel for the District of Columbia, the Delaware Division of the Public Advocate, the Natural Resources Defense Council (NRDC), Exelon Corporation (Exelon), Monitoring Analytics acting in its capacity as the Independent Market Monitor for PJM (IMM), NRG Power Marketing LLC, PJM Power Providers Group (P3), Advanced Energy Management Alliance (AEMA), Dominion Energy Services, Inc. Pennsylvania Public Utilities Commission (PA PUC), Enwave Chicago LLC (Enwave), the FirstEnergy Utility Companies (FirstEnergy), Enel X North America, Inc., American Municipal Power, Inc., and the Electric Power Supply Association (EPSA).

13. NRDC, FirstEnergy, AEMA, and the PA PUC filed protests. Exelon filed comments in support of the filing.

14. On January 11, 2019, the P3 filed a Motion for Leave to Answer and Answer. On January 16, 2019, PJM filed an Answer to AEMA, the PA PUC, and FirstEnergy.

15. On February 14, 2019, Commission staff issued a deficiency letter seeking additional information related to PJM's requirement that each participating program must be sponsored by a Relevant Electric Retail Regulatory Authority (RERRA) and its prohibition against participating in other PJM markets during periods when the THI trigger is not met.

16. PJM filed its response to the deficiency letter (Deficiency Letter Response) on March 6, 2019. Notice of PJM's Deficiency Letter Response was published in the *Federal Register* 84 Fed. Reg. 9320 (2019), with interventions and protests due on or before March 27, 2019. Enwave, Exelon, and the IMM filed comments. On April 10, 2019, PJM filed a Motion for Leave to Answer and Limited Supplemental Answer to the IMM's comments. On April 26, 2019, the IMM filed an Answer and Motion for Leave to Answer to PJM's April 10 answer.

¹⁵ *Id.* at 10-11.

IV. Discussion

A. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to the above-noted proceeding.

18. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.213(a)(2) (2018), prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We accept P3's, PJM's, and the IMM's answers because they provided information that assisted us in our decision-making process.

B. Substantive Matters

19. For the reasons discussed below, we accept PJM's Peak Shaving Adjustment filing, effective February 5, 2019, as requested. We find the Peak Shaving Adjustment filing to be a just and reasonable, and not unduly discriminatory or preferential, mechanism for PJM to value the load reductions from Summer Demand Resources that would otherwise not be reflected in PJM's markets.

1. Eligibility Requirement

a. Filing

20. PJM states that only Summer Demand Resources that are governed by a tariff or order from a RERRA may participate in the Peak Shaving Adjustment program. PJM argues that this requirement is reasonable because load curtailment that occurs on the demand side is appropriately governed by a RERRA. PJM claims that this requirement is necessary because RERRA-sponsored programs are likely to exist for several years, making it unlikely that these resources will practice peak shaving one year but not participate the next year, which in turn will prevent fluctuating load forecasts and annual VRR curve shifts.¹⁶ PJM also claims that the RERRA requirement ensures that the inclusion of peak shaving programs in PJM's load forecast does not unintentionally usurp state authority or impede states from taking actions within their authority.¹⁷

¹⁶ PJM Transmittal at 6.

¹⁷ *Id.* (citing *Demand Response Compensation in Organized Wholesale Energy Markets*, Order No. 745, 134 FERC ¶ 61,187, *order on reh'g and clarification*, Order No. 745-A, 137 FERC ¶ 61,215 (2011), *aff'd*, *EPSA v. FERC*, 136 S. Ct. 760 (2016); *Advanced Energy Economy*, 161 FERC ¶ 61,245 (2017)).

b. Comments and Protests

21. NRDC argues that PJM's claim that because peak-shaving programs exist "on the demand side" and therefore are not subject to Commission jurisdiction, undermines the precedent established in Order Nos. 719-A and 745, and in *EPSA v. FERC*.¹⁸ NRDC states that load forecasting activities are "an integral part of FERC-jurisdictional capacity markets" and eligibility to participate in those markets is squarely within the Commission's jurisdiction.¹⁹ NRDC charges that PJM's Peak Shaving Adjustment program is unduly discriminatory because the eligibility requirement discriminates against quickly-built Summer Demand Resources with low capital requirements that enter and leave the Peak Shaving Adjustment based on market conditions.²⁰

22. AEMA supports PJM's proposal that requires a Summer Demand Resource wishing to participate in the Peak Shaving Adjustment program to submit a RERRA's order or tariff qualifying a state peak shaving program for PJM participation.²¹ AEMA argues that the RERRA is in the best position to designate the details of a state peak shaving program for use in PJM's Peak Shaving Adjustment and that the RERRA is in the best position to help guarantee the success of a functioning program over time.²² Similarly, the PA PUC argues that PJM's participation requirement is reasonable because load curtailment that occurs on the demand side is appropriately governed by a RERRA.²³

c. Deficiency Letter Response and Comments

23. In its deficiency letter response, PJM justifies the Peak Shaving Adjustment's RERRA-sponsored eligibility requirement on the grounds that this requirement ensures consistent levels of peak shaving, which, in turn, provides a stable load forecast.²⁴ PJM

¹⁸ NRDC Protest at 15.

¹⁹ *Id.*

²⁰ *Id.* at 16.

²¹ AEMA Protest at 16.

²² *Id.* at 16-17.

²³ PA PUC Comments at 4.

²⁴ PJM Deficiency Response at 4-5.

argues that a stable load forecast provides confidence for resource investment and transmission studies for purposes of the Regional Transmission Expansion Plan.²⁵

24. PJM notes that, in certain states, RERRA-sponsored resources either have no explicit termination date or are subject to periodic reviews. The lack of specific termination dates, PJM argues, suggests that RERRA-sponsored resources are intended to last for several years and are unlikely to be modified absent unforeseen circumstances.²⁶

25. PJM argues that its rationale for the RERRA-sponsored participation requirement is grounded in the same rationale that the Commission used to create the “opt-out” in Order No. 719-A. PJM states that Order No. 719-A’s “opt-out” provision permits all retail customers in a large electric distribution company to participate as demand response unless the RERRA passes an order, ordinance or resolution that qualifies or prohibits participation.²⁷ PJM argues that without a clear mechanism for RERRAs to opt-out of peak shaving, similar to the rules for other demand reduction programs, there may be jurisdictional clashes between states and the Commission. PJM claims that this requirement may present an impediment to states to act within their authority.²⁸ PJM states that it recognizes that the services provided by peak shaving are different than those associated with supply-side participation at issue in Order No. 719-A. PJM asserts that, since peak shaving is a demand-side phenomenon, there should be a greater level of state oversight than there is over supply-side resources.²⁹

26. Enwave argues that PJM’s Deficiency Letter Response demonstrates the limits of the Peak Shaving Adjustment program and that the program is not an effective substitute

²⁵ *Id.* at 5.

²⁶ *Id.* at 3-4 (citing Maryland Public Service Commission, Order No. 88514 and Pennsylvania Public Utilities Commission, Energy Efficiency and Conservation Program Implementation Order, Docket No. M-2014-2424864 (June 11, 2015)).

²⁷ PJM Deficiency Letter Response at 7 (citing *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719-A, 128 FERC ¶ 61,059 at P 51 (2009)).

²⁸ *Id.* at 10 (citing Order No. 719-A, 128 FERC ¶ 61,059 at P 54. *See also FERC v. Electric Power Supply Association*, 136 S. Ct. 760, 779-780 (2016) (ability for states to prohibit customers from making demand response bids in the wholesale market “is a program of cooperative federalism, in which the States retain the last word”).

²⁹ *Id.* at 11.

for stranded Summer Demand Resources to participate in PJM's capacity market.³⁰ Enwave argues that the Peak Shaving Adjustment program's RERRA-sponsored requirement prevents it from participating in the Peak Shaving Adjustment, since it is not subject to RERRA jurisdiction.³¹ Further, Enwave argues that if it were eligible to participate in the program, the program would not properly value Enwave's load reducing capabilities. Enwave argues that its resource operates like a battery and allows it to operate at normal levels during non-peaking times but also affords it the ability to take load off PJM's system during the peaking summer months. Because of this unique characteristic, Enwave asserts, its resource is comparable to dispatchable generation and, therefore, end-users that curtail load by ceasing operations per the Peak Shaving Adjustment program's THI trigger do not in any sense provide a comparable resource.³² Additionally, Enwave argues that PJM has not demonstrated that forecasting models will be equally reliable with the RERRA-sponsored eligibility requirement. Enwave also argues that the Peak Shaving Adjustment program fails to recognize that stress on PJM's grid is equally probable during periods when the THI trigger is not exceeded.³³

27. The IMM argues that PJM's deficiency letter response does not demonstrate why the Peak Shaving Adjustment program requires participants or the associated RERRA-sponsored peak shaving program to be available for several years. The IMM adds that, if a Peak Shaving Adjustment program does not continue in future delivery years, PJM should adjust its load forecast accordingly. The IMM argues that there is no reason to assume that RERRA-sponsored programs will be better at enrolling end-use customers compared to other PJM demand response programs.³⁴ However, the IMM agrees with PJM's deficiency letter response that permitting resources to enroll in the Peak Shaving Adjustment program while also participating as a supply resource in other PJM markets is problematic.

³⁰ Enwave Comment on PJM Deficiency Letter Response at 1.

³¹ *Id.* at 3-4.

³² *Id.* at 4.

³³ *Id.* at 5.

³⁴ IMM Comment on PJM Deficiency Letter Response at 1-2.

d. Determination

28. We accept PJM's proposal to limit participation in the Peak Shaving Adjustment program to "resources governed by a tariff or order adopted by" a RERRA.³⁵ We find that PJM's proposal is not unduly discriminatory because EDCs with RERRA-sponsored load curtailment programs are not similarly situated to EDCs without RERRA-sponsored load curtailment programs. We find that PJM has sufficiently demonstrated that the RERRA-sponsorship requirement is just and reasonable because it provides PJM with greater confidence in the durability of the peak-shaving program, as load reductions provided by RERRA-sponsored resources are more likely to continue over time, creating stability in load forecasts, which in turn will ensure efficient transmission planning and resource investment.³⁶

29. NRDC contends that the Commission should not permit PJM to restrict the Peak Shaving Adjustment only to RERRA-sponsored resources, and takes issue with PJM's justification for the RERRA requirement that this requirement gives deference to state preferences under the rationale used in Order No. 719-A by ensuring that the states have opted-in to the program. We do not address the merits of PJM's second justification that Order No. 719-A's "opt-out" provision is the basis for PJM's program, because we find that PJM's distinction between EDCs with RERRA-sponsored load curtailment programs and without RERRA-governed load curtailment programs is just and reasonable and not unduly discriminatory or preferential, as discussed above.

30. We also reject Enwave's arguments suggesting that PJM's proposal is flawed because it fails to value the specific capabilities of its resource, and fails to address stresses to the PJM system when the THI trigger is not exceeded. PJM's Peak Shaving Adjustment is a load forecasting adjustment that is only available to Electric Distribution Companies (EDC) that can lower the load forecast that PJM uses for billing. Enwave, in effect, is suggesting that PJM offer a different program for which it can qualify. As

³⁵ PJM Transmittal at 6. In this order, we use the term "Relevant Electric Retail Regulatory Authority," i.e., "RERRA," as PJM uses the term in its filing to refer to a peak shaving program initiated by a state agency, municipality or cooperative. However, as discussed below, we do not need to address PJM's argument that its program for calculating wholesale load is a demand response program as discussed in Order No. 719.

³⁶ Most of the existing RERRA-sponsored resources in the PJM region are associated with direct load control programs that have been in operation for decades and are based on rates and rules included in RERRA-approved tariffs. *See* MD. Public Utilities Code Ann. § 7-211, Pennsylvania Act 129, Energy Efficiency and Conservation (EE&C) Program, Peak demand, 66 Pa.C.S. § 2806.1(d), 26 Del. C. § 1008; DE PSC Order No. 8253 (2012).

discussed herein, we find PJM's proposal, which PJM filed pursuant to FPA section 205, to be just and reasonable; we need not find that it is the most just and reasonable proposal, nor do we need to offer possible alternative proposals.³⁷

2. Multiple Market Participation Prohibition

a. Filing

31. PJM proposes that Summer Demand Resources participating in the Peak Shaving Adjustment cannot participate in PJM's capacity market as Price Responsive Demand or as Demand Resources (both emergency and economic) or in PJM's energy market and ancillary services market. PJM states this prohibition is necessary to avoid double-counting Summer Demand Resources' MW contributions.³⁸ PJM states that if Price Responsive Demand or Demand Resources practiced peak shaving, the resulting load forecast would be reduced such that there is no longer the expectation that demand response customers consume normal levels of load when the THI trigger is met. PJM states that as a result, Summer Demand Resources that wish to peak shave cannot also be available as either Demand Resources or as Price Responsive Demand since their MW reducing capabilities would already be accounted for via lowered load forecast, which assumes Summer Demand Resources with Peak Shaving Adjustment Plans will reduce load without being dispatched. PJM states that absent this prohibition, load curtailment customers practicing both peak shaving and participating in PJM's markets as either Demand Resources or as Price Responsive Demand, would receive the benefits of reduced load forecasts as well as supply-side payments for the same reduced MW value.³⁹

³⁷ See *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,103, at P 59 (2014) ("In submitting proposed tariff changes pursuant to a FPA section 205 filing, PJM need only demonstrate that its proposed revisions are just and reasonable, not that its proposal is the most just and reasonable among all possible alternatives.").

³⁸ PJM Transmittal at 6.

³⁹ *Id.* at 7 ("Any End-Use Customer identified in an approved peak shaving plan shall not also participate in PJM Markets as Price Responsive Demand, Demand Resource, Base Capacity Demand Resource, Capacity Performance Demand Resource, or Economic Load Response Participant.").

b. Comments and Protests

32. Exelon supports the Peak Shaving Adjustment filing's prohibition on resource participation in other PJM markets as a means to avoid double counting the demand reduction capabilities of a given resource.⁴⁰

33. The PA PUC endorses PJM's Peak Shaving Adjustment filing because it recognizes the contributions of Summer Demand Resources, but recommends that the Commission reject PJM's proposal to prohibit peak shaving resources from also participating as Price Responsive Demand or as Demand Resources.⁴¹ The PA PUC argues that customers should not be required to select between the two programs when current technology allows for development of mechanisms to prevent any double-recovery.⁴² The PA PUC recommends that, while the majority of PJM's tariff proposal is acceptable, the Commission reject PJM's proposal to restrict dual participation in both state-sponsored load forecast adjustment and PJM administered demand response programs.⁴³

34. Similarly, AEMA filed a limited protest that generally supports PJM's Peak Shaving Adjustment filing, but objects to PJM's prohibition on resources participating in the Peak Shaving Adjustment program from offering services in other PJM markets.⁴⁴ AEMA argues that PJM has not sufficiently developed a record demonstrating the need for the prohibition on participation in other PJM markets and has not demonstrated that the prohibition to prevent double counting is just and reasonable.⁴⁵ AEMA suggests that there are other pathways PJM may explore to prevent double counting, such as formulaic de-rates and measurement and verification processes and calculations.⁴⁶ Further, AEMA argues that by prohibiting additional means of participation beyond the Peak Shaving

⁴⁰ Exelon Comments at 3-4.

⁴¹ PA PUC Comment at 8.

⁴² *Id.* at 6.

⁴³ *Id.* at 8.

⁴⁴ AEMA Limited Protest at 1.

⁴⁵ *Id.* at 5.

⁴⁶ *Id.* at 11-12. AEMA offers an example akin to how PJM converts the installed capacity MWs of Generation Capacity Resources' to unforced capacity MWs to account for forced outages.

Adjustment filing, PJM's proposal disregards the principles the Commission set forth in the Notice of Proposed Rulemaking for distributed energy resources that distributed energy resources may provide multiple services.⁴⁷ AEMA requests that the Commission require PJM to revise its filing to permit customer participation in other wholesale demand response opportunities and to include appropriate safeguards to prevent double counting.⁴⁸

35. NRDC argues that PJM offers no support for the proposed ban on peak-shaving participants providing energy or ancillary services, and thus fails to meet the burden of proof to show that this prohibition will result in just and reasonable rates. NRDC further contends that this ban also appears to contradict Order No. 719's requirement that RTOs accept bids for ancillary services from all demand response resources capable of providing the service, and, by preventing otherwise eligible demand response from bidding, subverts the Order No. 745 requirement that demand resources receive the same Locational Marginal Price (LMP) as other resources, under certain conditions.⁴⁹ Enwave argues that PJM does not address the apparent functional redundancy between economic demand response and the proposed Peak Shaving Adjustment program.⁵⁰

c. Answers

36. P3 also supports PJM's proposed prohibition on other market participation for PJM's cited reason of preventing double counting.⁵¹ P3 argues that it is difficult, if not impossible, to divide load reductions among different programs.⁵²

37. In its answer to protestors, PJM addresses AEMA's and PA PUC's concerns about the Peak Shaving Adjustment program's prohibition on resources participating in other PJM markets. PJM states that the Peak Shaving Adjustment filing will improve the accuracy of PJM's load forecast by accounting for MW reductions by Summer Demand Resources that are already practicing peak shaving but are not accounted as demand or

⁴⁷ *Id.* at 7-8.

⁴⁸ *Id.* at 12.

⁴⁹ NRDC Protest at 18.

⁵⁰ Enwave Comment on PJM Deficiency Letter Response at 5.

⁵¹ P3 Motion for Leave to Answer and Answer at 3-4.

⁵² *Id.* at 5-6.

supply resources. PJM adds that the Peak Shaving Adjustment filing does not provide additional compensation for resources that already participate in other PJM markets.⁵³

d. Deficiency Letter Response and Comments

38. In response to questions regarding PJM's proposed prohibition on peak shaving resources participating in other PJM markets during periods when a THI trigger is not exceeded, PJM reiterates its argument that permitting a market participant to enroll in the Peak Shaving Adjustment program while also enrolling as an Economic Load Response Participant on the supply side presents several problematic challenges. First, PJM argues that it is not clear how "excess" MWs that may be available for participation outside of the Peak Shaving Adjustment will be determined since performance evaluation for measuring load reductions is based on the aggregate performance of all customers in the Peak Shaving Adjustment plan which differs from the aggregation of customers that participate as Economic Demand Response resources.⁵⁴

39. Second, PJM argues that, even if the complexities of permitting resources to participate in both the Peak Shaving Adjustment and Economic Load Response are solved, it is not clear how "excess" MWs would be defined. PJM offers the example of a resource that commits to reduce two MWs under the Peak Shaving Adjustment and an additional two MWs as Economic Load Response. According to PJM, if the customer's load reduction resulted in only three MWs, it would be unclear how to allocate the actual-curtailed MWs between the two programs. PJM notes that it would need to establish an allocation mechanism, but without such a rule in place, PJM's proposed prohibition represents a just and reasonable method while this issue is further discussed in the stakeholder process.⁵⁵

40. Third, PJM argues that participation in the Peak Shaving Adjustment program requires customers to reduce load once the THI trigger is exceeded, regardless of wholesale energy market prices, and, therefore, does not satisfy PJM's Net Benefits Test.⁵⁶ PJM states that this means that the costs to other loads resulting from the Peak

⁵³ PJM Answer at 3.

⁵⁴ PJM Deficiency Letter Response at 13-14.

⁵⁵ *Id.* at 4.

⁵⁶ *Id.* at 15 (citing Tariff, Attachment K-Appendix, section 3.3A.4, OA, Schedule 1, section 3.3A.4). The Net-Benefits Test is a monthly calculation to determine a price threshold above which the net benefits of Demand Response are deemed to exceed the cost to load.

Shaving Adjustment load reduction's impact exceeds the benefits of any reduction in price from such dispatch.

41. Fourth, PJM states that challenges still exist even if Economic Load Response Participants are permitted to only participate in the energy and ancillary services market on different days from Peak Shaving Adjustment days, since it is not always clear whether the THI trigger will be exceeded the day before the operating day. Because of this lack of THI trigger foresight, Economic Load Response Participants would be required to submit Day-Ahead offers before knowing if it would be required to curtail load under the Peak Shaving Adjustment.⁵⁷ PJM notes that its concerns about permitting dual participation under the Peak Shaving Adjustment would not be alleviated by dual-metering since PJM currently tracks all customer load reductions on an Electric Distribution Company level, and it cannot track load on a meter level without substantial changes to the current rules, processes, and systems that manage load reduction.⁵⁸

42. The IMM agrees with and supports PJM's deficiency letter response on prohibiting Summer Demand Resources that participate in the Peak Shaving Adjustment program from participating in PJM's capacity, energy, and ancillary services markets. The IMM adds that there is no reasonable way to reconcile participation in both programs and, therefore, customers must make a choice. The IMM states that the Peak Shaving Adjustment filing is designed to allow resources that cannot participate as annual resources to behave as true demand-side participants and avoid paying for energy and capacity that they choose not to use. The IMM notes that the Peak Shaving Adjustment program will reduce PJM's load forecast, effectively reducing its capacity requirement, and that participation in traditional demand response programs adds to the available supply of those resources. The IMM argues that if resources are eligible to participate in demand-side and supply-side load reduction programs at the same time, PJM will overestimate potential load reductions of resources. Further, the IMM states that this problem is not alleviated by dual-metering loads since it provides for the opportunity to shift power between meters leading to possible gaming opportunities.⁵⁹

e. Determination

43. We find that PJM's proposed prohibition on participation in other PJM markets is a just and reasonable method of preventing the double counting of MW reductions from Summer Demand Resources enrolled in the Peak Shaving Adjustment program. PJM

⁵⁷ *Id.* at 15-16.

⁵⁸ *Id.* at 16-17.

⁵⁹ IMM Comment on PJM Deficiency Letter Response at 2-3.

does not currently have a method of allocating MW reductions between demand and supply, and would need to establish a method to do so. Although protesters assert that, as compared to PJM's proposal, other less restrictive methods exist to address double counting, PJM's proposal need only be a just and reasonable rate, not necessarily the most just and reasonable means of achieving a particular goal.⁶⁰ We therefore disagree with AEMA's and PA PUC's arguments on this issue and find PJM's proposal to be just and reasonable.

44. We disagree with NRDC's arguments that PJM's Peak Shaving Adjustment filing violates Order No. 745's compensation rules for demand response resources. Order No. 745 directs each RTO or ISO compensate demand response resources for "the service it provides to the energy market at the market price for energy."⁶¹ We find that PJM's proposal is not subject to the requirements established by Order No. 745, because PJM's proposal does not relate to the compensation of those resources in the energy market.

45. We reject Enwave's argument that PJM does not address the apparent functional redundancy between economic demand response and the proposed Peak Shaving Adjustment program. PJM's Peak Shaving Adjustment values the load reductions from Summer Demand Resources and serves as an *alternative* to supply-side participation in the capacity market. Enwave has not demonstrated why PJM providing an alternative participation option in the form of the Peak Shaving Adjustment is not just and reasonable.

3. Other Capacity Market Proceedings

a. Comments and Protests

46. NRDC argues that PJM's Peak Shaving Adjustment filing validates the claim that Summer Resources can substitute for annual resources with no negative reliability impacts. NRDC argues that the Peak Shaving Adjustment filing is an attempt by PJM to salvage Capacity Performance's annual-only resource requirement that is at issue in various proceedings at the Commission.⁶²

⁶⁰ See *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,103, at P 59 (2014) ("In submitting proposed tariff changes pursuant to a FPA section 205 filing, PJM need only demonstrate that its proposed revisions are just and reasonable, not that its proposal is the most just and reasonable among all possible alternatives.").

⁶¹ Order No. 745, 134 FERC ¶ 61,187 at P 2.

⁶² NRDC Protest at 5.

47. FirstEnergy argues that PJM's Peak Shaving Adjustment filing demonstrates that PJM's capacity market is unjust and unreasonable since it continues PJM's piecemeal changes to its market rules and does not adequately compensate resources for the services they provide. FirstEnergy requests that the Commission consolidate the Peak Shaving Adjustment filing with the VRR Curve update proceeding (Docket No. ER19-105-000) and the PJM Minimum Offer Price Rule expansion proceeding (Docket Nos. EL16-49-000, ER18-1314-000, ER18-1314-001, and EL18-178-000) and undertake a comprehensive evaluation of PJM's markets.⁶³

b. Answers

48. PJM argues that there is no reason to consolidate the Peak Shaving Adjustment filing with other ongoing proceedings since the Peak Shaving Adjustment filing is limited to better valuing certain resources. PJM adds that the mere fact that valuing such resources may result in lessened load requirements does not necessitate the consolidation of otherwise wholly unrelated proceedings.⁶⁴

c. Determination

49. We need not address NRDC's claims that the Peak Shaving Adjustment filing proves that Summer Demand Resources can substitute for annual resources. Nor must we address the effect that this proceeding has on PJM's position in the other capacity proceedings pending before the Commission. PJM made this filing pursuant to FPA section 205, and the Commission thus must respond whether this filing is, or is not, just and reasonable. As discussed above, we find this filing is just and reasonable on its own merits. Any possible effect or implication of the program in this filing for other proceedings is more appropriately addressed in those proceedings.⁶⁵ We also reject FirstEnergy's request to consolidate PJM's Peak Shaving Adjustment filing with the VRR Curve update proceeding (Docket No. ER19-105-000) and the PJM Minimum Offer

⁶³ FirstEnergy Utility Companies Protest at 3.

⁶⁴ PJM Limited Answer at 9.

⁶⁵ *Old Dominion Electric Cooperative et al. v. PJM*, Complaint, Docket No. EL17-32-000 (filed Dec. 23, 2016); *AEMA et al. v. PJM*, Complaint, Docket No. EL17-36-000 (filed Jan. 5, 2017). See *Michigan Pub. Power Agency*, 128 FERC ¶ 61,268, at n. 47 (2009) ("The Commission has discretion to decide when and where it will resolve an issue.") (citations omitted).

Price Rule expansion proceeding (Docket Nos. EL16-49-000, ER18-1314-000, ER18-1314-001, and EL18-178-000).⁶⁶

4. Technical Concerns

a. The IMM's Deficiency Letter Comments

50. The IMM argues that the Peak Shaving Adjustment filing's proposed use of the CBL to measure compliance is flawed and that PJM should instead use the Firm Service Level (FSL), which the IMM argues is a superior method because it measures compliance based on metered consumption rather than measurement and verification protocols. The IMM states that because CBL uses prior load data to estimate the normal load usage in the future, CBL is a moving target that fluctuates depending on real-time usage and prior conditions. The IMM states that FSL-based verification sets clear, static goals that do not need any additional metrics for measuring performance.⁶⁷

b. PJM's Deficiency Letter Answer and IMM's Answer

51. In its motion for leave to answer and limited supplemental answer, PJM defends the Peak Shaving Adjustment filing's proposed use of CBL as the performance measurement metric rather than the IMM's proposed use of FSL. PJM argues that using FSL would not be in line with the goal of the Peak Shaving Adjustment because CBL accounts for customers' actions as well as weather conditions. PJM notes that a majority of its stakeholders agreed that CBL provides an accurate real-time load reduction estimate to forecast customers' future expected consumption and that hourly CBL is typically based on customer history adjusted for weather conditions. Further, to produce an aggregated zonal unrestricted load forecast, PJM states that, as designed, the Peak Shaving Adjustment filing's use of CBL is relatively straightforward since CBL represents what the hourly load would have been absent any load reduction and is

⁶⁶ We formally consolidate cases when we are ordering additional hearing procedures, which is not the case here. *See Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,238, at n.85 (2015) ("Accordingly, we deny requests to consolidate the Edwards Year 3 Rate Schedule 43C proceeding in Docket No. ER15-946-000 with these proceedings, given our determination to accept MISO's Edwards Year 3 Rate Schedule 43C in Docket No. ER15-946-000 without further procedures."); *and Am. Elec. Power Serv. Corp.*, 122 FERC ¶ 61,083, at P 55 (2008) ("With no further hearing procedures, there is no need for consolidation."). We note that the Commission has issued an order accepting PJM's VRR Curve update filing. *PJM Interconnection, L.L.C.*, 167 FERC ¶ 61,029 (2019).

⁶⁷ IMM Comment on PJM Deficiency Letter Response at 4-5.

used to calculate the magnitude of future load reductions.⁶⁸ PJM then notes that the IMM's proposed use of FSL would produce a less accurate load forecast since FSL requires a comparison to a resource's Peak Load Contribution (PLC). PJM argues that by advocating the use of FSL rather than CBL, the IMM is essentially suggesting that one peak load number based on the prior summer is a more accurate estimate of the customer's load under all conditions and all times than an hourly CBL. However, since customer's hourly load varies depending on the time of day and weather conditions, the use of the FSL in load forecasts will result in an inaccurate load reduction amount used to gross-up the load for determining the unrestricted peak load forecast, and, therefore, produce a less accurate load forecast.⁶⁹

52. In its answer and motion to leave to answer, the IMM reiterates its argument that the FSL is a more accurate basis for the reliable measurement of performance. The IMM argues that the CBL is an inexact approximation of load usage and that the FSL is a better metric because it helps eliminate uncertainty in the load forecast and sets a clear signal to participants.⁷⁰

c. Determination

53. We find that PJM's use of the CBL methodology is a just and reasonable means of performance measurement. We disagree with the IMM's argument that PJM should use the FSL instead of the CBL. As noted in PJM's answer to the IMM, PJM and its stakeholders designed the Peak Shaving Adjustment filing to use the CBL methodology because this methodology provides an accurate real-time load reduction estimate to forecast customers' future expected load given that hourly CBL is typically based on customer history adjusted for weather conditions.

5. Federal Power Act Compliance

a. Comments and Protests

54. NRDC also argues that PJM's Peak Shaving Adjustment filing violates the Federal Power Act because PJM includes the terms of service for the Peak Shaving Adjustment in Manuals rather than the PJM Tariff, which would deprive market

⁶⁸ PJM Answer to IMM Comment on PJM Deficiency Letter Response at 2-3.

⁶⁹ *Id.* at 4.

⁷⁰ IMM Deficiency Response Answer at 3.

participants of their section 205 rights to review and comment on future changes to the Peak Shaving Adjustment.⁷¹

b. Determination

55. We agree with NRDC that PJM's Peak Shaving Adjustment filing contains terms and conditions of service that should be included in the Tariff. Specifically, we find that PJM's proposed Manual 19, Attachment D: Peak Shaving Adjustment Plan and Performance Rating, Section 2: Peak Shaving Adjustment Plan Template, Sections A through E should be included in PJM's Tariff.⁷² The FPA requires all practices that significantly affect rates, terms, and conditions of service to be on file with the Commission, and these provisions governing resource registration must be included in a Commission-accepted tariff rather than other documents.⁷³ Therefore, we direct PJM to submit a compliance filing within 30 days of the date of this order that incorporates the Peak Shaving Adjustment reflected in Manual 19 in its Tariff.

The Commission orders:

(A) PJM's proposed Peak Shaving Adjustment is accepted, effective February 5, 2019, as described above.

⁷¹ NRDC Protest at 14 (citing 16 U.S.C. § 824d (c)).

⁷² PJM Manual 19 Revisions, Attachment D: Peak Shaving Adjustment Plan and Performance Rating, at 44-47.

⁷³ See *Demand Response Coalition v. PJM Interconnection, L.L.C.*, 143 FERC ¶ 61,061 (2013) (granting a complaint by PJM stakeholders who alleged that PJM's manual proposal would significantly affect jurisdictional rates for demand response resources); *Cargill Power Markets, LLC v. Public Service Company of New Mexico*, 141 FERC ¶ 61,141, at P 14 (2012); *Quest Energy, L.L.C. v. Detroit Edison Co.*, 106 FERC ¶ 61,227, at P 20 (2004) (“a company's tariffs, not its manuals or handbooks, must define the rates, terms and conditions of jurisdictional services”), *complaint withdrawn*, 109 FERC ¶ 61,334 (2004); *accord Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,147, at P 58 (2009) (finding that consistent with the Commission's policy, as implemented through the rule of reason, a provision “that significantly affects rates, terms and conditions of service ... must be filed for Commission approval and made a part of the ... tariff.”); *Wisconsin Power and Light Co.*, 123 FERC ¶ 61,307, at P 6 (2008) (pursuant to 18 C.F.R. §§ 35.1-35.2, rate schedules must set forth in writing, clearly and specifically, all rates, terms, and conditions for sales of electric energy subject to the Commission's jurisdiction.); see generally *Prior Notice and Filing Requirements under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,986-89, *order on reh'g*, 65 FERC ¶ 61,081 (1993).

(B) PJM is hereby directed to submit a further compliance filing within 30 days of the date of this order, as discussed in the body of this order. .

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.