

171 FERC ¶ 61,210
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick, Bernard L. McNamee,
and James P. Danly.

PJM Interconnection, L.L.C.

Docket No. ER20-1590-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued June 16, 2020)

1. On April 17, 2020, pursuant to section 205 of the Federal Power Act (FPA),¹ PJM Interconnection, L.L.C. (PJM) filed proposed revisions to its Open Access Transmission Tariff (OATT), Amended and Restated Operating Agreement (Operating Agreement), and Reliability Assurance Agreement Among Load Serving Entities in the PJM Region (RAA) (collectively Tariff).² PJM explains that these proposed revisions will enhance the testing requirements for Demand Resources and Price Responsive Demand (hereinafter Load Management Resources) to better reflect true load reduction capabilities during actual event conditions while balancing the costs associated with such testing. In this order, we accept the proposed revisions, effective June 17, 2020, as discussed below.³ We also direct PJM to submit a compliance filing within 45 days, as discussed in the body of this order.

¹ 16 U.S.C. § 824d (2018).

² PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Attachment DD, (8.0.0) § 11A; PJM Interconnection, L.L.C., Intra-PJM Tariffs, Operating Agreement, Schedule 1 (11.0.0) § 8.8; PJM Interconnection, L.L.C., Intra-PJM Tariffs, Reliability Assurance Agreement, Schedule 6.1 (7.0.0).

³ PJM did not seek waiver of the 60-day prior notice requirement of FPA section 205(d). 16 U.S.C. § 824d(d) (2018). Although PJM requests that the proposed revisions be made effective on June 16, 2020, which is the 60th day after filing, June 17, 2020 is the earliest date the revisions can be made effective (i.e., on the 61st day after filing, after 60 days' notice). *Cal. Indep. Sys. Operator Corp.*, 136 FERC ¶ 61,120, at P1 n.4 (2011); *see Cent. Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992); *Prior Notice & Filing Requirements Under Part II of the Fed. Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).

I. Background and the PJM Filing

2. PJM states that Load Management Resources support the overall reliability of the PJM region and enhance reliable system operations.⁴ PJM asserts that, as deployment of advanced metering infrastructure and retail rate innovations by state regulators continue to spread, the participation of Load Management Resources may continue to grow in PJM's wholesale markets. PJM claims that the continued role of such resources in the PJM markets could be hampered if the capacity values of those resources do not accurately reflect their true capabilities.

3. PJM argues that enhancements to the existing testing regime are now warranted to reflect the Capacity Performance construct. PJM explains that it developed the existing testing requirements for most Load Management Resources that participate in PJM's wholesale markets over a decade ago.⁵ PJM adds that these testing rules have not been substantively updated since then, and do not reflect PJM's Capacity Performance construct. PJM states that under the existing testing rules, Load Management Resources committed as Capacity Performance Resources are subject to a one-hour test sometime between June through October or in the following May.⁶ PJM notes that there is currently no requirement for annual Demand Resources that are committed as capacity resources and Price Responsive Demand to test outside of those months, despite the fact that the Capacity Performance construct requires such resources to be available to perform throughout the year.

4. PJM explains that the proposed testing enhancements in this filing update the existing load management testing rules⁷ and will help ensure that the registered load reduction capability of Load Management Resources better represent the actual capability of such resources by better reflecting actual event conditions. PJM proposes four major revisions: (1) PJM will now schedule tests and provide notice of the tests to the Curtailment Service Providers;⁸ (2) PJM will test resources once a year, during either

⁴ PJM Filing at 2.

⁵ *Id.* at 3.

⁶ *Id.* at 3, (citing PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Attachment DD, (7.0.0) § 11A(b)(ii)).

⁷ PJM Filing at 3.

⁸ PJM's OATT defines Curtailment Service Provider as a "Member or a Special Member, which action on behalf of itself or one or more other Members or non-Members, participates in the PJM Interchange Energy Market, Ancillary

the summer or winter, for two hours; (3) PJM will limit the retests available to Curtailment Service Providers for their resources; and (4) PJM will provide energy compensation to Demand Resources for load curtailments during tests. PJM explains that these proposed revisions will result in more accurate measurement of load reduction capabilities for Load Management Resources and ultimately help to ensure the reliability of the PJM system by requiring that such resources are available year-round at their committed capacity levels.⁹ PJM proposes that the testing revisions apply beginning with the 2023/2024 Delivery Year.¹⁰

A. Scheduling and Notification of Load Management Tests

5. PJM explains that under its existing testing rules, if a Load Management Resource is not dispatched during the Delivery Year, the Curtailment Service Provider must test the resource for a one-hour period from June to October or the following May of the relevant Delivery Year.¹¹ PJM states that consistent with the existing load response testing construct, the instant proposal will require Load Management Resources to be tested in any Delivery Year during which they are not dispatched for an actual load management event.

6. PJM states that under its existing testing procedures, Curtailment Service Providers can schedule their own tests and notify PJM of such test 48 hours before the test.¹² However, PJM notes that extended notification times to participating end-use customers in advance of an actual test do not accurately reflect conditions which would exist under actual load management events and may not yield an accurate representation of a Load Management Resource's actual capabilities.¹³ Under PJM's proposed Tariff revisions, PJM would schedule performance tests.¹⁴ PJM explains that "load

Services markets, and/or Reliability Pricing Model by causing a reduction in demand." PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Definitions C-D (22.0.0).

⁹ PJM Filing at 3, 9.

¹⁰ PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Attachment DD, (8.0.0) § 11A(b)(iii); PJM Filing at 16.

¹¹ PJM Filing at 4.

¹² *Id.* at 5.

¹³ *Id.* at 6-7.

¹⁴ *Id.* at 5.

management testing that is scheduled by PJM, rather than the [Curtailement Service Providers], will better reflect actual event conditions.”¹⁵

7. PJM proposes to provide three pre-test notices.¹⁶ PJM argues that this notification structure balances the cost to end-use customers with the need to mimic actual load management events.¹⁷ PJM states that this component of its filing is a compromise solution that was jointly developed by PJM and its stakeholders.¹⁸ PJM explains that under the proposed test notification procedures, PJM will: (1) provide notice on the first business day of a given week to all zones that will be tested during the following two-week test window; (2) notify Curtailement Service Providers and post a test notice on its website one day before a load management test is to be conducted; and (3) notify such Curtailement Service Providers of the specific start time of the test on the test day.¹⁹ PJM states that the test may occur during any business day within the two-week window after PJM’s initial notice. PJM asserts that this notification process balances providing a level of certainty to Curtailement Service Providers that a test will be conducted within the test window against maintaining PJM’s ability to schedule a test with little notice to better mimic actual load management events.²⁰ PJM argues that its proposed notification process also recognizes the costs to end-use customers when there are unplanned load disruptions and balances those costs against the need to design a testing scheme that reflects the true curtailment capabilities of participating end-use customers during load management events.²¹

B. Load Management Test Frequency and Duration

8. PJM proposes to test Load Management Resources in either the summer period (June through October or the following May) or winter period (November through

¹⁵ *Id.* (citing PJM Interconnection, L.L.C., Affidavit of Peter Langbein ¶ 9 (Langbein Aff.)).

¹⁶ *Id.* at 7-8.

¹⁷ *Id.* at 7.

¹⁸ *Id.* at 8.

¹⁹ *Id.* at 7-8 (citing PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Attachment DD, (8.0.0) § 11A(b)((iii)(D)).

²⁰ *Id.* at 7, n.18.

²¹ *Id.* at 8.

March) of the relevant Delivery Year.²² PJM states that a load management test will only be necessary in a given Delivery Year if the Load Management Resources in a zone have not been dispatched by PJM during a load management event in that Delivery Year.²³ PJM clarifies that this testing scheme will not require Load Management Resources to be tested in both the summer and winter periods of each Delivery Year. Instead, to balance the cost of testing against the need to obtain accurate testing results for annual Load Management Resources, PJM proposes to alternate seasons for testing each zone, with one test during the summer testing period in one year and another test in the winter testing period during the following year.²⁴ PJM asserts that expanding the months in which Load Management Resources may be tested will ensure that such resources are available year-round at their committed capacity levels, consistent with the requirements of the Capacity Performance construct.²⁵

9. PJM also proposes to increase the duration of load management tests from one hour to two hours.²⁶ PJM explains that “a [two-hour] test duration, as opposed to the current one-hour requirement, better reflects actual load management events because historical data of actual load management events indicates that the average event lasts significantly longer than one hour.”²⁷ PJM explains that a two-hour test duration will provide a more accurate representation of actual load curtailment capabilities of participating end-use customers while balancing testing costs when the resources are not needed for reliability purposes, i.e., during a test and not a PJM load management

²² PJM explains that the reason that the months of April and May are left out of the possible months where PJM would provide notification of a test is to provide Curtailment Service Providers an opportunity to retest the relevant resources as further described in section C below. *Id.* at 9.

²³ *Id.* at 9.

²⁴ *Id.* at 9-10.

²⁵ PJM’s proposal maintains the summer only testing requirements for Summer-Period Demand Resources that do not participate as Annual Demand Resources. *See* PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Attachment DD, (8.0.0) § 11A(b)(iii)(B).

²⁶ PJM Filing at 10.

²⁷ *Id.* (citing Langbein Aff. ¶ 11).

event.²⁸ PJM notes that this component of the filing is also the result of stakeholder compromise.

C. Limits to Curtailment Service Provider Scheduling of Retests

10. PJM states that its existing testing rules allow a Curtailment Service Provider to retest its registrations that did not perform to their commitment level if less than 25% of the Curtailment Service Provider's total Demand Resources in the zone fail the test.²⁹ PJM also states that its existing testing rules do not limit the number of tests or retests that a Curtailment Service Provider may perform.³⁰ Under PJM's proposed revisions, Curtailment Service Providers will continue to have the option either to accept the results of the initial test conducted by PJM or to retest some resources.³¹ However, in addition to the current rules that allow Curtailment Service Providers to retest when less than 25% of Demand Resources in a zone fail the test, Curtailment Service Providers may also perform a one-time retest, scheduled by PJM, if 25% or more of a Curtailment Service Provider's Demand Resources fail the test.³² PJM asserts that it is appropriate to allow for a one-time retest in these cases to allow Curtailment Service Providers to mitigate the risk of unforeseen issues that result in poor test performance.³³ PJM states that unlike the retest process where a Curtailment Service Provider may schedule an unlimited number of retests, PJM would schedule the retest for an under-performing portfolio, at the Curtailment Service Provider's election.³⁴

11. To conform with other proposed modifications to PJM's testing rules, PJM proposes to require that any Curtailment Service Provider that elects to retest must

²⁸ *Id.*

²⁹ PJM Filing at 11; PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Attachment DD, (7.0.0) § 11A(b)(iii).

³⁰ PJM Filing at 12.

³¹ PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Attachment DD, (8.0.0) § 11A(b)(iii).

³² PJM Filing at 11.

³³ *Id.* at 13-14

³⁴ *Id.* at 14 (citing PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Attachment DD, (8.0.0) § 11A(b)(iii)(C)).

complete it in the same season as the PJM-initiated test.³⁵ PJM states that to ensure that Curtailment Service Providers have adequate time to conduct a retest in the applicable season, PJM-initiated tests would be limited to June through October for the summer period test and November through March for the winter period test, leaving April as an additional month for Curtailment Service Providers to retest for the winter period and May for the summer period.³⁶ Taken together, PJM argues that these provisions afford Curtailment Service Providers sufficient time to gather the necessary load data after the test and to decide whether to elect a retest before the end of a Delivery Year.

D. Energy Compensation for Load Curtailments

12. PJM states that its filing also includes a new provision to compensate Demand Resources that participate in the Full Program Option³⁷ for load curtailments during a test or retest based on the real-time Locational Marginal Price at the time of the test.³⁸ PJM asserts that providing energy compensation to Demand Resources that curtail load during a test is reasonable to compensate the interruption to normal business operations on end-use customers. PJM also asserts that it is reasonable to compensate Demand Resources for actual curtailments during a test just like they would be compensated during an actual load management event, since the load reductions will reduce the need for generation.³⁹ PJM explains that compensation for load curtailment during a test or retest of Demand Resources will be recovered from Market Participants on a ratio-share basis based on their real-time exports from the PJM Region and from Load Serving

³⁵ *Id.* at 12.

³⁶ *Id.* PJM notes that the one exception to this general rule is if PJM initiates the test in March (winter period), Curtailment Service Providers may conduct a retest in May in that Delivery Year because Curtailment Service Providers may not have sufficient time to gather the test results in time to know whether it is appropriate to conduct a retest by the end of April.

³⁷ Participants in the Full Program Option receive, pursuant to OATT, Attachment DD and as applicable: (1) an energy payment for load reductions during a pre-emergency or emergency event; and (2) a capacity payment for the ability to reduce load during a pre-emergency event or emergency event measured. *See* PJM Interconnection, L.L.C., Intra-PJM Tariffs, Operating Agreement, Schedule 1 (3.0.0) § 8.1.

³⁸ PJM Filing at 15. PJM notes that a Curtailment Service Provider may elect not to submit energy settlement data if no compensation is sought for load curtailments during a test.

³⁹ *Id.*

Entities on a ratio-share basis based on their real-time loads in each zone for that month where the tests were conducted.⁴⁰

II. Notice of Filing and Responsive Pleadings

13. Notice of PJM's April 17, 2020, filing was published in the *Federal Register*, 85 Fed. Reg. 22,727 (Apr. 23, 2020), with interventions and protests due on or before May 8, 2020. Timely motions to intervene were submitted by: Advanced Energy Management Alliance (AEMA), American Electric Power Service Corp., American Municipal Power, Inc., Calpine Corp., Delaware Division of the Public Advocate (Delaware Public Advocate), Enel North America, Inc., Enerwise Global Technologies, LLC, the Independent Market Monitor for PJM (IMM), NRG Power Marketing LLC, and the PJM Industrial Customer Coalition (PJM ICC). On May 14, 2020, the Office of the People's Counsel for the District of Columbia (D.C. People's Counsel) filed a motion to intervene out-of-time. On May 8, 2020, the IMM filed comments and a limited protest. On May 18, 2020, PJM and AEMA each filed an answer. On May 20, 2020, PJM ICC filed an answer. On May 26, the D.C. People's Counsel and Delaware Public Advocate (Public Advocates) jointly filed an answer. On June 5, 2020, the IMM filed an answer to the answers of PJM ICC and the Public Advocates.

A. The IMM's Comments

14. In its comments, the IMM explains that it supports the goal of PJM's proposed Tariff revisions to better reflect the true load reduction capabilities of Load Management Resources during actual event conditions.⁴¹ The IMM asserts that PJM's existing load management testing requirements are not a good proxy for how the resources would be required to respond during a PJM-initiated load management event, and are not just and reasonable.⁴² The IMM claims that PJM's proposed testing requirements "are a clear improvement over PJM's existing testing regime."⁴³ Nevertheless, the IMM argues that PJM's filing does not go far enough in remedying the shortcomings of the current testing

⁴⁰ PJM Filing at 15; PJM Interconnection, L.L.C., Intra-PJM Tariffs, Operating Agreement, Schedule 1 (11.0.0) § 8.8. PJM explains that its proposed ratio-share formula is based on a similar methodology used to recover an Economic Load Response Participant's energy market revenue.

⁴¹ IMM Comments at 1.

⁴² *Id.* at 2.

⁴³ *Id.* at 1.

requirements and recommends that PJM's filing be approved only with the modifications recommended in the IMM's comments.⁴⁴

15. With respect to load management test duration, the IMM asserts that PJM should require a three-hour load management test, instead of a two-hour test.⁴⁵ The IMM argues that a three-hour test would align with the average duration of PJM load management events over the past 10 Delivery Years.⁴⁶ The IMM provides a table that lists the load management events, including the average zonal duration for each event, that were called over the past 10 Delivery Years.⁴⁷ This table shows that PJM called 26 load management events, with 25 of these events occurring between the 2010/2011 and 2014/2015 Delivery Years. The average duration of these events was three hours and 12 minutes. The table shows a single event occurring in the 2019/2020 Delivery Year which lasted one hour and 48 minutes.⁴⁸

16. The IMM notes that PJM's proposal requires only one load management test per zone per year, alternating between a summer test one year and a winter test the next.⁴⁹ The IMM argues PJM's proposal therefore does not test both summer and winter capability. The IMM asserts that PJM's proposed Tariff language should be revised to require PJM to test demand resources during each season in which the resource is not dispatched, i.e., twice per year, with one test in the summer and the other in the winter.⁵⁰ The IMM argues that this would be consistent with the requirement that Demand Resources must be annual resources and meet the requirements to be Capacity Performance resources.⁵¹

17. The IMM also asserts that PJM's proposal should be modified so that PJM will schedule both tests and retests, in contrast to PJM's proposal, which allows Curtailment Service Providers to schedule a retest of their portfolio when less than 25% of the

⁴⁴ *Id.* at 3.

⁴⁵ *Id.* at 4.

⁴⁶ *Id.*

⁴⁷ *Id.* at 4-5.

⁴⁸ *Id.* at 5.

⁴⁹ *Id.* at 6.

⁵⁰ *Id.*

⁵¹ *Id.*

Curtailment Service Provider's total Demand Resources in a zone fail the initial test scheduled by PJM.⁵² The IMM argues that allowing Curtailment Service Providers to schedule their retests weakens the credibility of the testing process and that there is no reason that PJM should not schedule both initial tests and any retest.⁵³

18. Lastly, the IMM asserts that PJM's filing should only be approved on the condition that the two-week notice of PJM-scheduled tests is removed.⁵⁴ The IMM argues that test and retest notice should be provided no earlier than the day before a test is scheduled. The IMM asserts that because actual load management events do not have three phases of notice, PJM's proposal to give a two-week notice, in addition to day-ahead and day-of notice, is excessive.⁵⁵

B. PJM's Answer

19. In its answer, PJM states that the proposed load management testing revisions were the result of a significant stakeholder effort and compromise. PJM explains that the IMM's proposal, as provided for in its comments, was considered, and rejected, by PJM stakeholders.⁵⁶ PJM argues that because it made this filing pursuant to FPA section 205, the Commission cannot modify PJM's proposal.⁵⁷

20. PJM asserts that its proposal is just and reasonable. PJM states that load management testing needs to be balanced with load disruptions, particularly for industrial operations, which can jeopardize the safety of employees and equipment when electric consumption must be curtailed with little advanced notice when there is no actual system emergency.⁵⁸ PJM argues that to avoid such undue disruptions to end-use customers, it is

⁵² *Id.* at 7-8.

⁵³ *Id.* at 8.

⁵⁴ *Id.* at 10.

⁵⁵ *Id.* at 10-11.

⁵⁶ PJM Answer at 1, 4.

⁵⁷ *Id.* at 2-3.

⁵⁸ *Id.* at 4.

sufficient for load management testing requirements to represent conditions that reasonably test the load curtailment capability of the participating end-use customers.⁵⁹

C. AEMA's Answer

21. In response to the IMM's comments, AEMA asserts that PJM's proposal is the product of substantial stakeholder discussions and finds that the proposal is just and reasonable. AEMA states that stakeholders voted overwhelmingly in support of the PJM's proposal, while there was little support for the IMM's proposal.⁶⁰ AEMA also argues that PJM's proposed changes will increase the rigor of testing beyond what PJM previously imposed and beyond what PJM imposes on generators. AEMA explains that, unlike other resources, PJM will initiate the load management tests, the test duration will be limited in the number of test attempts, and the test will be conducted in summer and winter.⁶¹ Further, AEMA states that while the IMM argues for a three-hour test, it did not present any evidence to show that load management drops off from hour two to hour three and did not demonstrate that PJM's proposal is unjust and unreasonable.⁶² AEMA adds that during the stakeholder process, PJM reviewed historic event data to demonstrate that no drop-off in performance occurred from hour two to hour three.⁶³

D. PJM ICC's Answer

22. The PJM ICC argues that the Commission should accept PJM's proposal because it is just and reasonable and has not been shown to be otherwise.⁶⁴ The PJM ICC also argues that the IMM's proposed modifications would result in an entirely new ratemaking scheme that is not before the Commission in the instant filing.⁶⁵ The PJM ICC asserts that the IMM has not demonstrated that any aspect of PJM's filing, including PJM's proposal to establish a two-hour test duration, PJM's proposed testing approach, or PJM's

⁵⁹ *Id.*

⁶⁰ AEMA Answer at 3-4.

⁶¹ *Id.* at 4 (citing PJM Interconnection, L.L.C., PJM Manual 21, Rules and Procedures for Determination of Generating Capability, Appendix A: Net Capability Verification Guidelines, <https://www.pjm.com/~media/documents/manuals/m21.ashx>).

⁶² *Id.* at 5.

⁶³ *Id.* at 4.

⁶⁴ PJM ICC Answer at 2.

⁶⁵ *Id.* at 1.

proposal to allow Curtailment Service Providers to retest Load Management Resources, is unjust and unreasonable.⁶⁶ The PJM ICC requests that the Commission reject the modifications to PJM's proposal sought by the IMM.⁶⁷

E. Public Advocates' Answer

23. Like AEMA and PJM ICC, the Public Advocates argue that PJM's proposal is the product of extensive stakeholder discussions and is just and reasonable.⁶⁸ The Public Advocates agree with the IMM's claim that PJM's proposal represents "a clear improvement" over the previous testing regime.⁶⁹ The Public Advocates assert that the IMM has not shown that PJM's proposal is unjust and unreasonable.⁷⁰ Further, the Public Advocates claim that the IMM's requested modifications are impermissible under *NRG*, as those modifications would make material changes to the PJM Proposal that would, in effect, constitute a new rate design.⁷¹

III. Discussion

A. Procedural Matters

24. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

25. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2019), we grant the D.C. People's Counsel's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

26. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2019), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept PJM's, AEMA's, and PJM ICC's answers because they have provided information that assisted us in our decision-making process.

⁶⁶ *Id.* at 5-7.

⁶⁷ *Id.* at 10.

⁶⁸ Public Advocates Answer at 2.

⁶⁹ *Id.* (citing IMM Comments at 1).

⁷⁰ *Id.* at 5.

⁷¹ *Id.* at 5 (citing *NRG Power Mktg. v. FERC*, 862 F.3d 108, 110 (D.C. Cir. 2017)).

We are not persuaded to accept the IMM's answer to answers and will, therefore, reject it.

B. Substantive Matters

27. As discussed below, we accept PJM's proposed Tariff revisions to modify the testing requirements for Load Management Resources, effective June 17, 2020. We find PJM's proposed Tariff revisions to be just and reasonable and find that they have not been shown to be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

28. We find that PJM's proposal establishes testing requirements that enable testing to occur under conditions that reasonably evaluate the load curtailment capability of participating end-use customers. For example, requiring PJM—rather than the Curtailment Service Provider—to schedule tests of Load Management Resources prevents a Curtailment Service Provider from scheduling a test when it may already have planned to have lower load for a particular day.⁷² Similarly, we agree that by expanding the testing period for annual Load Management Resources from summer-only to year-round, PJM's proposal reflects the Capacity Performance construct, which requires all annual capacity resources, including Load Management Resources, to be available year-round. We also agree with PJM that, in the absence of frequent load management events, PJM must rely increasingly on testing to measure Load Management Resources' load reduction capabilities.⁷³ We find that PJM's proposed revisions will appropriately test the actual capabilities of such resources, resulting in more accurate capacity payments for Load Management Resources.⁷⁴ At the same time, PJM's proposal limits the effects of those load disruptions on customers.⁷⁵ The three-phase notification provisions proposed by PJM will allow end-use customers to manage any maintenance at their facility, and conducting one test annually, in alternating seasons, limits the costs imposed on end-use customers.

29. We do not find that the concerns raised by the IMM demonstrate that PJM's filing is unjust and unreasonable. First, the IMM concedes that PJM's proposal is “a clear improvement over PJM's existing testing regime,” but requests modifications to the

⁷² Langbein Aff. ¶ 8.

⁷³ PJM Filing at 3.

⁷⁴ *Id.*

⁷⁵ PJM Answer at 4.

proposal.⁷⁶ The issue before us is not whether, as the IMM suggests, the IMM's alternative proposal is just and reasonable, or whether the IMM's proposal is preferable to PJM's, but whether PJM's proposal, as filed, is just and reasonable.⁷⁷

30. Second, we find that the IMM has not demonstrated that PJM's proposal must be rejected as unjust and unreasonable because a three-hour test is necessary to align the test duration with actual load management event durations.⁷⁸ The IMM argues that a three-hour test aligns with the average duration of PJM load management events over the past 10 Delivery Years.⁷⁹ The IMM's argument accounts for load management events that pre-date PJM's Capacity Performance construct, which PJM established in 2015.⁸⁰ In its Capacity Performance filing, PJM proposed Tariff revisions to revise its capacity market rules because the then-existing rules failed to ensure resource performance, which threatened reliability.⁸¹ The Commission accepted that proposal, finding that it would improve resource performance and reliability by enhancing capacity resources' incentive to perform during periods of system stress,⁸² periods likely to coincide with load management events. Since instituting the Capacity Performance reforms, the sole load management event that has occurred in the PJM region has been less than

⁷⁶ IMM Comments at 1.

⁷⁷ To be just and reasonable, proposed revisions do not have to be the most just and reasonable among all possible alternatives. *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,103, at P 59 (2014); see *Petal Gas Storage, L.L.C. v. FERC*, 496 F.3d 695, 703 (D.C. Cir. 2007) ("FERC is not required to choose the best solution, only a reasonable one."); *Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) ("FERC has interpreted its authority to review rates under the FPA as limited to an inquiry into whether the rates proposed by a utility are reasonable—and not to extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs.").

⁷⁸ IMM Comments at 4.

⁷⁹ *Id.*

⁸⁰ *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208, at P 24 (2015), *order on reh'g and compliance*, 155 FERC ¶ 61,157 (2016).

⁸¹ *Id.*

⁸² *Id.* P 45.

two hours.⁸³ PJM's choice of a two-hour test duration therefore reasonably reflects recent conditions under current market rules. For this reason, we find there is an insufficient basis in this proceeding to conclude that PJM's proposed two-hour test duration is unjust and unreasonable.

31. Third, we find that the IMM has not demonstrated that PJM's proposal must be rejected as unjust and unreasonable because it fails to test both summer and winter capability adequately.⁸⁴ PJM proposes that, if an Annual Demand Resource in a zone has not been dispatched for a load management event in a given Delivery Year, PJM will test both summer and winter capabilities over two years: a test in the summer period for one year and a test in the winter period the following year, or vice versa.⁸⁵ We find this proposal to be reasonable because, in contrast to the current testing regime, it incorporates winter capability testing. As measured over two years, PJM's proposal is designed to help ensure that Annual Demand Resources are available year-round at the committed capacity levels. In addition, as PJM explains, testing entails costs to Load Management Resources' end-use customers. PJM's proposal is intended to strike a balance between the need for rigorous testing and the avoidance of excessive costs associated with that testing. Based on the evidence before us, we are not persuaded on the record here that the absence of twice-yearly testing renders PJM's proposal unjust and unreasonable.

32. Finally, we find that the IMM's argument against the three-phase testing notice provisions mischaracterizes PJM's proposal. Contrary to the IMM's claim,⁸⁶ PJM will not provide Curtailment Service Providers a two-week notice before initiating a test. Rather, PJM will provide notice on the first business day of a given week to all zones that it will test during the following two-week window.⁸⁷ That test could occur on any day within that two-week window.⁸⁸ Curtailment Service Providers will not know which day

⁸³ See IMM Comments at 5 (showing the duration of the sole load management event in PJM in the past five years lasted one hour and 48 minutes).

⁸⁴ See *id.* at 6.

⁸⁵ PJM Filing at 10.

⁸⁶ IMM Comments at 10.

⁸⁷ PJM Filing at 7; PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Attachment DD, (8.0.0) § 11A(b)(iii)(D); PJM Interconnection, L.L.C., Intra-PJM Tariffs, Reliability Assurance Agreement, Schedule 6.1 (7.0.0) § L(ii)(c).

⁸⁸ PJM Filing at 7, n.18.

PJM will conduct the test until the day before.⁸⁹ We find that PJM's proposal reflects a testing scheme that reasonably reflects actual load management events, as it does not provide significant advanced notice of the test. Accordingly, we are not persuaded that PJM's proposed notice rules are unjust and unreasonable.

33. PJM's transmittal letter provides that PJM will alternate the season in which it will conduct the test for each zone. However, its proposed Tariff revisions do not explicitly include this provision.⁹⁰ We therefore condition our acceptance of this filing on PJM submitting a compliance filing, within 45 days of this order, to clarify its Tariff in accordance with its transmittal letter, and provide that it will alternate the season in which it will conduct the test for each zone.⁹¹

The Commission orders:

(A) PJM's proposed Tariff revisions are hereby accepted, to become effective June 17, 2020, as discussed in the body of this order.

(B) PJM is hereby directed to submit a compliance filing within 45 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁸⁹ PJM Filing at 7; PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Attachment DD, (8.0.0) § 11A(b)(iii)(D); PJM Interconnection, L.L.C., Intra-PJM Tariffs, Reliability Assurance Agreement, Schedule 6.1 (7.0.0) § L(ii)(c).

⁹⁰ PJM Filing at 7; PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT, Attachment DD, (8.0.0) § 11A(iii)(A).

⁹¹ The United States Court of Appeals for the District of Columbia Circuit has held that, in certain circumstances, the Commission has "authority to propose modifications to a utility's [FPA section 205] proposal *if the utility consents to the modifications.*" *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, 114-15 (D.C. Cir. 2017).