

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

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New England Ratepayers Association	)	
	)	Docket No. EL20-42-000
	)	

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**PROTEST OF THE ORGANIZATION OF PJM STATES, INC.**

Pursuant to Rule 211 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, and the Notice of Extension issued May 4, 2020, establishing June 15, 2020, as the deadline for comments in the above-captioned docket, the Organization of PJM States, Inc. ("OPSI"), respectfully submits the following Protest<sup>1</sup> in response to the Petition for Declaratory Order ("Petition") filed by the New England Ratepayers Association ("NERA") in the above-captioned docket.<sup>2</sup> On April 30, 2020, OPSI filed a timely doc-less intervention and is therefore a party to this proceeding.

**COMMENTS**

OPSI is an inter-governmental organization of utility regulatory commissions from the 14 state jurisdictions either, wholly or partly, in the service area of PJM Interconnection, LLC ("PJM"), a Commission-approved regional transmission operator. PJM operates the high-voltage electric transmission grid and wholesale electricity market within its service area. OPSI's

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<sup>1</sup> Approved unanimously and adopted by OPSI's Board of Directors on June 12, 2020.

<sup>2</sup> *New England Ratepayers Association*, "Petition for Declaratory Order of New England Ratepayers Association Concerning Unlawful Pricing of Certain Wholesale Sales," Docket EL20-42 at 1-3 (April 14<sup>th</sup>, 2020) ("Petition").

activities include, but are not limited to, coordinating data/issues analyses and policy formulation related to PJM, its operations, its Independent Market Monitor, and related Commission matters. OPSI's activities and actions include formal engagement at FERC as well as engagement in the PJM stakeholder process.

On April 14, 2020, NERA filed a Petition for Declaratory Order requesting the Commission (1) declare exclusive federal jurisdiction over wholesale energy sales from behind-the-meter generation resources and (2) order rates for such sales to be priced in accordance with the Public Utility Regulatory Policies Act of 1978 ("PURPA") or the Federal Power Act ("FPA"). OPSI formally protests the Petition, which if approved would affect substantial retail customer investment within the PJM footprint. OPSI steadfastly maintains its prior position that "the energy produced by [Net Energy Metering] generating facilities pursuant to an NEM retail tariff" is "a state jurisdictional issue."<sup>3</sup> Further, OPSI declares its support for the contemporaneously filed Protest of the National Association of Regulatory Utility Commissioners ("NARUC") and NARUC's arguments against the Petition contained therein. Therefore, herein, OPSI incorporates by reference the NARUC Protest.

### **CONCLUSION**

Wherefore, and pursuant to the relevant facts, law, authority, and positions as set forth in the NARUC Protest, OPSI formally Protests the Petition and urges the Commission dismiss the Petition.

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<sup>3</sup> OPSI Resolution No. 2012-5 (April 5, 2012) (available at <https://opsi.us/wp-content/uploads/2018/08/Resolution-OPSI-2012-5.pdf>).

Respectfully Submitted,

*/s/ Gregory V. Carmean*

Executive Director

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Dated: June 15, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. Section 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

**s/s Gregory V. Carmean**

Executive Director

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Dated at Newark, Delaware this June 15, 2020.