

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

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

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

On November 13, 2020, in compliance with the Federal Energy Regulatory Commission’s (“Commission”) October 15, 2020, order in this matter,<sup>1</sup> PJM Interconnection, L.L.C. (“PJM”) submitted revisions to the PJM Open Access Transmission Tariff (“Tariff”).<sup>2</sup> Pursuant to Rule 211 of the Commission's Rules of Practice and Procedure, the Organization of PJM States, Inc. (“OPSI”), hereby protests one such revision in PJM’s November 13 Filing.

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<sup>1</sup> *Calpine Corp. v. PJM Interconnection, L.L.C.*, 173 FERC ¶ 61,061 (2020) (“October 15 Order”).

<sup>2</sup> Compliance Filing Concerning the Minimum Offer Price Rule and Motion to Reinstate the Deadline for a Certain RPM Pre-Auction Activity of PJM Interconnection, L.L.C., Docket Nos. EL16-49 et al. (Nov. 13, 2020) (“November 13 Filing”).

## **I. Protest**

Specifically, OPSI protests PJM's proposal to add the following sentence to Tariff, Attachment DD, section 5.14(h-1)(2):<sup>3</sup>

In the event the resource-specific [Minimum Offer Price Rule ("MOPR")] Floor Offer Price is greater than the applicable Market Seller Offer Cap, the Capacity Market Seller of such Capacity Resource may only submit an offer for such resource equal to the resource-specific MOPR Floor Offer Price into the relevant RPM Auction notwithstanding the provisions in Tariff, Attachment DD, section 6.4(a) or Tariff, Attachment DD, section 6.5(a).

The addition of this sentence was not authorized by the Commission's October 15 Order and, further, is not just and reasonable. OPSI recommends that the Commission direct PJM to delete this sentence.

In its previous compliance filing, PJM also proposed that when the applicable MOPR Floor Offer Price is greater than the applicable Market Seller Offer Cap, PJM would not accept a offer lower than the applicable MOPR Floor Offer Price.<sup>4</sup> PJM proposed to allow, or require, capacity sellers to submit an offer above the applicable Market Seller Offer Cap.

OPSI protested this element of PJM's previous compliance filing.<sup>5</sup> The October 15 Order summarized OPSI's position as follows:

OPSI states that the Commission has acknowledged that the market seller offer cap serves a different function than the MOPR and argues that the market seller offer cap is therefore outside the scope of this proceeding. OPSI also contends that PJM cannot propose changes on compliance that the Commission did not order, and that the Commission would have to first find the market seller offer cap unjust and unreasonable before mandating changes in this proceeding. Further, OPSI argues, there is no precedent permitting PJM to approve an offer at a price higher than the

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<sup>3</sup> November 13 Filing, at 6-9.

<sup>4</sup> Compliance Filing Concerning the Minimum Offer Price Rule, Request for Waiver of RPM Auction Deadlines, and Request for an Extended Comment Period of at Least 35 Days of PJM Interconnection, L.L.C., Docket Nos. EL16-49 et al., at Proposed Tariff, Attachment DD, sections 6.4(a) and 6.5(a)(i) (Mar. 18, 2020).

<sup>5</sup> Comments of Organization of PJM States, Inc., Docket Nos. EL16-49 et al., at 13 (May 15, 2020).

applicable market seller offer cap. OPSI contends that PJM's proposal would allow the exercise of market power and requests the Commission find that, even where the applicable default offer price floor exceeds the applicable market seller offer cap, PJM should not accept an offer higher than the market seller offer cap.<sup>6</sup>

The Commission agreed with OPSI and rejected PJM's proposal, stating:

We reject PJM's proposal because revisions to the market seller offer cap have never been a subject of this FPA section 206 proceeding and are therefore beyond the scope of the compliance directive. Neither the December 2019 Order nor the Rehearing Order directed changes to the market seller offer cap provisions . . . .<sup>7</sup>

Despite the Commission's clear rejection of PJM's prior proposal, PJM now seeks to accomplish the same prohibited objective, but, this time, without directly modifying Tariff, Attachment DD, section 6.4(a) or Tariff, Attachment DD, section 6.5(a), which define the market seller offer cap. The Commission should reject this PJM proposal for the same reason that it rejected PJM's previous proposal – that the offer cap is beyond the scope of this proceeding. The Commission should not, in any circumstance, permit PJM to accept an offer higher than the applicable market seller offer cap—default or resource specific.

PJM claims that its proposal is needed because sellers may be left without a valid offer under potentially conflicting Tariff provisions in circumstances where the resource-specific offer price floor for a particular resource is higher than the Market Seller Offer Cap for such resource.<sup>8</sup> There is a solution to this potential problem identified by PJM that does not involve allowing, or requiring, offers to be submitted at prices exceeding the applicable market seller offer cap. Rather, in instances where the applicable MOPR Floor Offer Price is greater than the applicable Market Seller Offer Cap, PJM should only accept an offer equal to the applicable Market Seller Offer Cap. In this scenario, when the applicable MOPR Floor Offer Price is greater than the

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<sup>6</sup> October 15 Order, at P 101 (citations omitted).

<sup>7</sup> *Id.*, at P 104 (citations omitted).

<sup>8</sup> November 13 Filing, at 7.

applicable Market Seller Offer Cap, the seller should be permitted to submit an offer that is lower than the applicable MOPR Floor Offer Price by an amount equal to the difference between the applicable MOPR Floor Offer Price and the applicable Market Seller Offer Cap. This solution does not entail an inappropriate out-of-scope modification to the Market Seller Offer Cap. Rather this solution is within the scope of the current proceeding because it involves the floor price at which an offer may be submitted.

Consequently, if the Commission shares PJM's concern about sellers not having a valid offer, then the Commission should reject PJM's proposed sentence addition and replace it with the following sentence:

In the event the resource-specific MOPR Floor Offer Price is greater than the applicable Market Seller Offer Cap, the Capacity Market Seller of such Capacity Resource may only submit an offer for such resource equal to the ~~resource-specific MOPR Floor Offer Price~~ applicable Market Seller Offer Cap into the relevant RPM Auction ~~notwithstanding~~ consistent with the provisions in Tariff, Attachment DD, section 6.4(a) or Tariff, Attachment DD, section 6.5(a).

## **II. Conclusion**

In conclusion, OPSI recommends that the Commission reject PJM's proposal to accept or require price offers that exceed the applicable Market Seller Offer Cap and direct PJM to delete the sentence set out above, which PJM proposes to add to the end of Tariff, Attachment DD, section 5.14(h-1)(2).<sup>9</sup> If the Commission is concerned that sellers may not be left with a valid offer, OPSI recommends the adoption of the alternative sentence described immediately above.

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<sup>9</sup> Approved by the OPSI Board on December 4, 2020 with Pennsylvania and Ohio abstaining.

Respectfully Submitted,

*/s/ Gregory V. Carmean*

Executive Director

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Dated: December 4, 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.

Respectfully Submitted,

*/s/ Gregory V. Carmean*

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Dated at Newark, Delaware this December 4, 2020.