

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

PJM Interconnection, L.L.C.

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Docket No. ER21-2582-000

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

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, the Organization of PJM States, Inc. (“OPSI”),¹ respectfully submits the following comments and request as described herein.

OPSI is a not-for-profit inter-governmental organization of 14 utility regulatory agencies with separate jurisdictions either wholly or partly in the service area of PJM, a Commission-approved regional transmission operator (“RTO”). PJM operates the high-voltage electric transmission grid and wholesale electricity market within its service area. OPSI’s activities include, but are not limited to, coordinating data or issue analyses and policy formulation related to PJM, its operations, its Independent Market Monitor, and related Commission matters.

¹ Approved by the OPSI Board of Directors on August 19, 2021, from the following states: Delaware PSC; PSC of District of Columbia; Illinois CC; Kentucky PSC; Maryland PSC; Michigan PSC; New Jersey BPU; North Carolina UC; Tennessee PUC; Virginia SCC; and PSC of West Virginia. Opposed: PUC of Ohio and Pennsylvania PUC

I. BACKGROUND

On July 30, 2021, PJM Interconnection, L.L.C. (“PJM”) filed (“Filing”) pursuant to Section 205 of the Federal Power Act (“FPA”),² and part 35 of the Commission’s regulations,³ proposed revisions to its Open Access Transmission Tariff (“OATT” or “Tariff”) to reform the Minimum Offer Price Rule (“MOPR”) applicable to its capacity market. PJM’s Filing explains that the replacement rate (the revised MOPR) provides a just and reasonable MOPR focused on protecting against the exercise of buyer-side market power while accommodating state policies on generation preferences.⁴ OPSI filed a Notice of Intervention in this proceeding on August 10, 2021.

II. COMMENTS

OPSI appreciates PJM’s expedited efforts to file proposed tariff changes to effect MOPR reform. OPSI requests the Commission approve the proposed Tariff changes without delay. PJM’s proposal rightfully recognizes the legitimacy of existing state policy programs, while targeting the application of MOPR to address buyer-side market power. While PJM’s expedited stakeholder process may have necessitated a narrow scope of critical capacity market improvements, OPSI is looking forward to the next phase (“Phase 2”) of improvements,⁵ and, hopefully, PJM addressing important capacity market reforms that were not included in the Filing.⁶

² 16 U.S.C. § 824d.

³ 18 C.F.R. part 35.

⁴ Filing at 3.

⁵ *Id.* at 4.

⁶ *Id.* at 54, mentioning a number of “amendments” requested as part of “other packages” that were discussed and considered by the PJM board following the Members Committee endorsement.

For instance, in addition to its Phase 2 review PJM can provide additional certainty in accommodating future state policies with an emerging technologies provision that recognizes states' legitimate role in fostering resource development, instrumental in broadening competition in PJM's capacity markets.

Implementing an accommodation for emerging technologies is warranted as, currently, PJM has only two ways for a resource's capacity value to be recognized – through (1) competitive markets or (2) the Fixed Resource Requirement Alternative (“FRR”)⁷ which removes all supply and all demand from the capacity market. There is no provision for a resource-specific FRR in PJM's Tariff, so short of states leaving the market entirely through FRR, they would expect the developers of subsidized resources, some of which may be compensated through bundled power purchase agreements, to rationally monetize their assets the best they can and return that value to the ratepayers that are paying for the project. This monetization ideally includes that these resources clear PJM's capacity market to be assured that the resource's capacity is recognized by PJM. If this capacity is not recognized, ratepayers would be required to pay twice. This consequence would apply even under PJM's proposed Tariff changes.

However, an emerging technology exemption for nascent resources that states might choose to support could make PJM's tariff even more accommodative to states, allowing states a broader range of tools to implement their policies. Such an exemption can also be tailored in a way that resembles the Resource-Specific FRR suggested by the Commission,⁸ but on a very

⁷ *Id.* at 12.

⁸ *Calpine Corp. v. PJM Interconnection, L.L.C.*, 163 FERC ¶ 61,236 (2018)

limited basis and without forcing states to exit the capacity market,⁹ and in a manner that does not constitute states setting capacity prices as proscribed by the courts.

OPSI sees an opportunity here for the Commission, when approving the Filing without delay, to signal to PJM the importance of continuing to work to more fully accommodate state policies and address remaining, but important issues, such as discussed herein, to ensure states can rightfully continue as laboratories of energy innovation.

III. CONCLUSION

OPSI respectfully requests the Commission approve PJM's proposed Tariff changes and provide guidance to PJM with respect to continuing to accommodate states policies that serve to broaden the competitive field, as outlined herein.

Respectfully Submitted,

/s/ Gregory V. Carmean

Executive Director

Organization of PJM States, Inc.

700 Barksdale Road, Suite 1

Newark, DE 19711

Tel 302-266-0914

Email: greg@opsi.us

Dated: August 20, 2021

⁹ For example, the provision PJM could propose following Phase 2 may read: *Any resource that is of an emerging or nascent technology and is being fully compensated through a state program for a product that bundles FERC-jurisdictional and non FERC-jurisdictional attributes would be required to notify PJM that it will offer as a price taker in the capacity market for no less than five years and must meet all Capacity Performance requirements, if allowed or otherwise not prohibited by the state. The resource's identity, location and UCAP amount will be made transparent in PJM's planning parameters for the capacity auction. (Offering as a price taker in this manner has the same general effect as removing the resource to an FRR portfolio with the same FRR performance and election timeframe requirements.)*

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/ Gregory V. Carmean

Executive Director

Organization of PJM States, Inc.

700 Barksdale Road, Suite 1

Newark, DE 19711

Tel: 302-266-0914

Dated at Newark, Delaware this August 20, 2021.