

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

PJM Interconnection, L.L.C.

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Docket No. ER24-1387-000

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

Pursuant to Rule 211 of the Federal Energy Regulatory Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.211, the Organization of PJM States, Inc. (“OPSI”),<sup>1</sup> respectfully submits this Protest in response to PJM’s March 1, 2024, filing proposing changes to PJM’s schedule-selection process in the Day-Ahead Energy Market (“DA Market”).<sup>2</sup>

OPSI is concerned that PJM’s proposal could allow market sellers to construct DA Market offers in a way that could allow them to exercise market power. PJM’s filing does not adequately address this concern. Because of this, the Commission should reject PJM’s proposal as unjust and unreasonable.

**I. PROTEST**

PJM anticipates that its Next Generation Markets model (nGEM) will be able to accommodate multiple sets of offer schedules for each configuration or operating mode for enhanced combined cycle, energy storage resource, and hybrid resource models.<sup>3</sup> PJM asserts its current market platform cannot do this.<sup>4</sup> PJM states that because of this, it will be difficult to clear the DA Market in a timely manner due to the computing demands associated with these additional

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<sup>1</sup> OPSI’s following members support these comments: the Delaware Public Service Commission, Public Service Commission of the District of Columbia, Illinois Commerce Commission, Indiana Utility Regulatory Commission, Kentucky Public Service Commission, Maryland Public Service Commission, Michigan Public Service Commission, New Jersey Board of Public Utilities, North Carolina Utilities Commission, Tennessee Public Utility Commission, Virginia State Corporation Commission, and Public Service Commission of West Virginia. Public Utilities Commission of Ohio and Pennsylvania Public Utility Commission abstain.

<sup>2</sup> *PJM Interconnection L.L.C.*, “Revisions to the Schedule Selection Process for Offer Capped Resources in the Day-ahead Energy Market to Accommodate Next Generation Markets Project Enhancements to the Market Clearing Engine”, Docket No. ER24-1387-000 (March 1, 2024) (“PJM Filing”).

<sup>3</sup> *Id.* at 8.

<sup>4</sup> *Id.* at 7.

resource configurations.<sup>5</sup> PJM notes that DA Market results are generally posted within a two and a half hour window after the close of the day-ahead bid submission period.<sup>6</sup> PJM does not, however, explain how much time it would take for PJM to clear the DA Market under the current rules once nGEM is in place nor why improvements in processing speed from new computer chips might alleviate this issue. And so, in response to the current limitations and PJM’s timing concerns, PJM is asking the Commission to approve changes to the way it would clear resources in the DA Market in anticipation of the expected nGEM functionality. PJM seeks approval for delayed implementation and proposes to notify the Commission 30 days before nGEM is in place.<sup>7</sup> PJM seeks to incorporate the changes into nGEM now instead of spending time configuring nGEM with the existing rules.<sup>8</sup>

Generally, PJM proposes to simplify its approach to select among multiple schedules in the DA Market for offer capped resources by clearing resources based on the lowest dispatch cost at a resource’s economic minimum<sup>9</sup> instead of based on the lowest overall system production costs.<sup>10</sup> In other words, when an offer-capped resource submits both a cost-based schedule and a price-based schedule into the DA Market, PJM proposes to enter only the schedule into its market clearing software that has a lower offer price at the resource’s economic minimum.<sup>11</sup>

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<sup>5</sup> *Id.* at 9.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 12.

<sup>8</sup> *Id.* at 13.

<sup>9</sup> *Id.* at 5-6 and 9-11.

<sup>10</sup> *Id.* at 3 (“To clear the Day-ahead Energy Market, PJM uses a market clearing optimization software designed to commit resources on schedules that result in the “lowest overall system production cost.”) citing PJM Operating Agreement, Schedule 1, 6.4.1(a) (“For such generation resources committed in the Day-ahead Energy Market, if the Office of the Interconnection is able to do so, such offer prices shall be capped for the entire commitment period, and such offer prices will be capped at a cost-based offer in accordance with section 6.4.2 and committed at the market-based offer or cost-based offer which results in the lowest overall system production cost.”).

<sup>11</sup> *Id.* at Operating Agreement, Schedule 1, section 6.4.1(g) (“PJM’s current process for choosing the schedule for an offer-capped resource in the RT Market is based on the resource’s Total Dispatch cost, calculated: “[s]um of hourly dispatch cost over a resource’s minimum run time [\$] + Start-Up Cost [\$].”) (brackets around dollar signs in original).

The problem is that this could lead to a situation where offer-capped resources are able to construct price-based offers that are cheaper than cost-based offers at a resource's economic minimum but could contain significant markups when the resource is committed to provide output above its economic minimum. Evaluating the cost of committing a resource at its economic minimum could therefore allow a pivotal resource to exercise market power when it is committed above its economic minimum. PJM does not address this concern in its filing.

This proposed loophole in PJM's market power mitigation regime could have enormous cost consequences for consumers. For example, a purportedly offer-capped resource that failed the three-pivotal supplier test might have a cost-based offer of \$110 per megawatt hour (MWh) at its economic minimum and \$100 per MWh at all output levels above economic minimum. In principle, the fact that the resource is "offer-capped" means it should not be able to offer and clear at prices that are higher than its cost-based offers, unless an alternative set of price-based offers would result in a lower total cost to load over the course of the day. However, under PJM's proposal, the resource could evade its offer cap by submitting price-based offers of \$109 per MWh at economic minimum and \$1,000 per MWh at all output levels above economic minimum. If the clearing software, such as nGEM, then determined meeting load required committing the resource above its economic minimum, the relevant nodal locational marginal price would then skyrocket to \$1,000 per MWh. That price would be ten times higher than the marginal resource's marginal cost of production and roughly ten times higher than its putative offer cap (\$110, i.e., its cost at economic minimum). Such a pricing outcome would be clearly unjust and unreasonable, yet it could be the mandated result under PJM's proposal.

PJM incorrectly argues that this change would be just and reasonable because the Commission approved the same methodology for the Real-Time Energy Market (“RT Market”).<sup>12</sup> Real-time dispatch commits resources for a short duration and in close proximity to known market conditions. However, there is more uncertainty in the DA Market. Therefore, it is too simplistic to say that because the Commission found that the RT Market clearing process is just and reasonable that applying those rules to the DA Market would likewise be just and reasonable. Moreover, far more energy costs come from the DA Market than the RT Market, and consequently the exercise of market power in the DA Market could create far more significant price increases for consumers.<sup>13</sup> Thus, there is no reason to assume as PJM does that the same balance between computational simplicity and effective market power mitigation should apply in both the DA and RT Markets. On the contrary, the greater effect the DA Market has on consumer bills requires that greater weight be given to ensuring effective market power mitigation in the DA Market.

To be clear, OPSI fully supports allowing resources to offer in ways that reflect all of their operating characteristics and in ways that fully value their contributions to the system. For the foregoing reasons, OPSI is concerned that, if approved, PJM’s proposal could produce rates that would not be just and reasonable.

## **II. CONCLUSION**

PJM’s proposal does not adequately explain how market power would be mitigated under foreseeable future circumstances. Therefore, the Commission should determine that PJM has not shown that its proposal is just and reasonable and reject it.

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<sup>12</sup> *Id.* at 12.

<sup>13</sup> Monitoring Analytics, 2023 State of the Market, Tables 11-12, 11-39, and 11-48 (March 14, 2024) (In 2023, 98.6% of energy costs occurred in DA markets and 1.4% in balancing markets.) available at: [https://www.monitoringanalytics.com/reports/PJM\\_State\\_of\\_the\\_Market/2023/2023-som-pjm-sec11.pdf](https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2023/2023-som-pjm-sec11.pdf).

Respectfully Submitted,

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Dated: March 22, 2024

**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  
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Dated at Newark, Delaware this March 22, 2024.