

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

PJM Interconnection, L.L.C.

)

Docket No. ER25-682-000

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

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.212, the Organization of PJM States, Inc. (“OPSI”), respectfully submits these comments supporting PJM’s proposal¹ to adjust certain aspects of its capacity market construct.²

I. COMMENTS

On September 27, 2024, OPSI wrote a letter to the PJM Board noting the dramatic increase in capacity prices from the 2024/2025 Base Residual Auction (“BRA”) to the 2025/2026 BRA, which saw the total cost of procuring capacity to serve load for the PJM region rise from \$2.2 billion to \$14.7 billion and expressing concern that these prices may have been driven, in part, by artificial scarcity created by flaws in PJM’s capacity construct.³ OPSI recommended four reforms that PJM should consider prior to the BRA for the 2026/2027 Delivery Year:

1. Capacity of generating units that are under Reliability Must Run (RMR) contracts and expected to be operational during the relevant Delivery Year should be included in the supply stack as available capacity.
2. All generation resources other than RMR units that are expected to be online and producing power should offer into PJM’s capacity auctions (“must offer”).

¹ PJM Interconnection, L.L.C., Revisions to Reliability Pricing Model, Docket No. ER25-682-000 (Dec. 9, 2024) (“RPM Filing”).

² OPSI’s following members support these Comments: the Delaware Public Service Commission, Public Service Commission of the District of Columbia, Illinois Commerce Commission, Kentucky Public Service Commission, Maryland Public Service Commission, Michigan Public Service Commission, New Jersey Board of Public Utilities, Pennsylvania Public Utility Commission, Tennessee Public Utility Commission, Virginia State Corporation Commission, and Public Service Commission of West Virginia. The Indiana Utility Regulatory Commission, North Carolina Utilities Commission and Public Utilities Commission of Ohio abstained in the vote on this filing.

³ OPSI, Letter to the PJM Board of Managers at p. 1 (Sept. 27, 2024) (“OPSI Letter”).

3. PJM should prioritize changes to the maximum price set for the Variable Resource Requirement (“VRR”) curve, recognizing that without changes, consumers could be exposed to over \$30 billion in annual capacity costs, driven in part by flaws in PJM’s capacity construct.

4. PJM should review its Effective Load Carrying Capability (ELCC) methodology as it is not clear that the current methodology allows all resources to offer their full resource adequacy value into PJM’s capacity construct.⁴

In the current filing, PJM addresses two of these recommendations – the RMR recommendation and the VRR curve recommendation. In docket ER25-785-000, PJM addresses OPSI’s recommendation to eliminate the must offer exception for generation and storage resources.⁵ Lastly, in response to the fourth recommendation, PJM has initiated a stakeholder process to refine PJM’s ELCC methodology and improve the transparency of that process.⁶ PJM has stated that it hopes to bring proposals before the Commission so that they would apply to the 2027/2028 BRA, currently scheduled for December 2025. OPSI appreciates the work PJM is doing in response to the 2025/2026 BRA. The proposal before the Commission is a step in the right direction to modify the present capacity rules that have become unjust and unreasonable as market conditions have changed over time. Therefore, the PJM proposal in this docket is a part of a suite of reforms addressing the issues OPSI has identified, and the Commission should accept it.

A. Recognition of the Resource Adequacy Contributions of RMR Units

PJM states that it has determined that, under certain conditions, it can have confidence that resources retained under RMR contracts “*may* be reasonably counted upon” to perform during emergencies and that the resource adequacy benefits of these units can be counted towards meeting both regional and locational reliability requirements.⁷ OPSI called for just this change in a letter

⁴ OPSI Letter at p. 3-4.

⁵ PJM Interconnection L.L.C., Extending the Capacity Must-Offer Requirement to All Generation Capacity Resources, Docket No. ER25-785-000 (Dec. 20, 2024).

⁶ See PJM. Effective Load Carrying Capability Senior Task Force (“ELCCSTF”) at <https://www.pjm.com/committees-and-groups/task-forces/elccstf.aspx>?

⁷ RPM Filing at p. 13.

to the PJM Board of Managers by writing, “If these units will be available for dispatch during the relevant Delivery Year, the reliability value of these units should be duly reflected when settling the capacity market.”⁸ OPSI again wrote the PJM Board of Managers in November stating, “If Brandon Shores and Wagner 4 are being paid to operate in a way that preserves system reliability in the relevant Delivery Year, PJM should include their reliability contribution in its capacity construct.”⁹

PJM recognizes that Brandon Shores has an RMR arrangement that is currently accepted by the Commission that grants PJM authority to dispatch it in expectation of capacity emergencies.¹⁰ Further, the Sierra Club-Talen Agreement (“Agreement”) makes it clear that Brandon Shores can run beyond 2025 in emergencies pursuant to an FPA 202(c) order issued by the Secretary of Energy. Despite this, PJM asserts that Sierra Club must amend its Agreement or provide evidence that Sierra Club will not enforce it.¹¹ Otherwise, PJM contends the Agreement could be an impediment for Brandon Shores to operate beyond 2025. PJM is mistaken. Sierra Club itself disputes that the Agreement would pose a real restriction on the operations of Brandon Shores, and PJM acknowledges this.¹²

The Agreement and the Brandon Shores’ RMR Arrangement satisfy PJM’s objective criteria because Brandon Shores will be able to operate in an emergency pursuant to an FPA 202 (c) Order after 2025. Therefore, PJM should be expected to include Brandon Shores in the supply stack.

⁸ OPSI, Letter to the PJM Board of Managers at p. 3 (Sept. 27, 2024) available at: <https://opsi.us/wp-content/uploads/2024/09/OPSI-BRA-RESPONSE-LETTER-2024.09.27.pdf>.

⁹ OPSI, Letter to the PJM Board of Managers at p. 2 (Nov. 21, 2024) available at: <https://opsi.us/wp-content/uploads/2024/11/OPSI-RPM-Proposal-Letter-2024.11.21.pdf>

¹⁰ RPM Filing at p. 7.

¹¹ *Id.* at 25, n. 52.

¹² *Id.* citing *Sierra Club v. PJM Interconnection, L.L.C., Complainants’ Response to Answers*, Docket No. EL24 148-000, at 57-59 (Oct. 31, 2024).

B. PJM's Retention of a Combustion Turbine as the Reference Unit

PJM proposes to retain the dual-fuel Combustion Turbine ("CT") as its reference unit through the 2027/2028 Delivery Year. In its September Letter to the PJM Board, OPSI noted that a Combined Cycle Natural Gas (CCNG) plant could be expected to have substantial Energy and Ancillary Services ("EAS") revenues which would have the effect of both setting the maximum price at a lower point and limiting the extent to which capacity resources would be penalized for non-performance under PJM's Capacity Performance framework.¹³ Considering the flaws in PJM's capacity construct identified above, when PJM is facing a shortage of capacity, this would have the effect of assigning a higher overall cost of capacity to load, driven in part by artificial scarcity, and lowering the penalty for non-performance from this more expensive generation.

In order to approve PJM's proposal to change the reference unit, PJM must only demonstrate that the resource type is feasible to build, economic, and has a net Cost of New Entry (CONE) that can be accurately estimated.¹⁴ PJM has carried its burden of proof, and the Commission should accept PJM's proposal.

C. The Must-Offer Exception and Market Power

Lastly, PJM provides additional clarity that resources that do not offer into PJM's capacity construct pursuant to PJM's capacity market must-offer exception are not allowed to use the tariff provisions allowing that exception as a defense against allegations they have exercised market power through that withholding.¹⁵ In its letter to the PJM Board, OPSI wrote, "OPSI agrees that all capacity resources must participate in PJM's capacity construct to prevent resource owners

¹³ OPSI Letter at p. 4 ("Furthermore, recognizing that the nonperformance penalty is tied to Net CONE and Net CONE is set at \$0 in most of the RTO for the next auction, PJM will effectively be permitting many cleared resources to fail to operate when called upon for dispatch with no prospect of punitive consequences.").

¹⁴ RPM Filing at 55, citing 2014 ISO-NE Demand Curve Order, 147 FERC ¶ 61,173, at P 34.

¹⁵ RPM Filing at 73-78.

from not offering some portions of their portfolio to benefit other portions of their portfolio.”¹⁶ OPSI also wrote that failing to require all generation and storage resources from offering into PJM’s capacity auctions may lead to an inaccurate assessment of supply scarcity in the region.¹⁷ OPSI appreciates that PJM has addressed this important issue in Docket ER25-785-000.

II. CONCLUSION

For the reasons stated above, the Commission should accept PJM’s proposal to adjust certain components of its capacity construct. The revisions PJM has proposed in this docket are necessary and reasonable in addressing comparable provisions in its existing tariff that have become unjust and unreasonable as market conditions have evolved over time and reflect the urgency of this matter. OPSI maintains that further reform is necessary to the must offer requirement, ELCC valuations and the price cap to prevent PJM customers from continuing to be exposed to capacity prices which fail to reflect market conditions in PJM. OPSI urges approval of the PJM proposals in this filing as important steps in crafting reforms that are needed to address current market conditions.

Respectfully Submitted,

Gregory V. Carmean
Executive Director
Organization of PJM States, Inc.
700 Barksdale Road, Suite 1
Newark, DE 19711
302-266-0914
greg@opsi.us

Benjamin B. Sloan
Director of Legal and Regulatory Affairs
Organization of PJM States, Inc.
700 Barksdale Road, Suite 1
Newark, DE 19711
601-214-8481
ben@opsi.us

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¹⁶ OPSI Letter at p. 3.

¹⁷ *Id.*

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

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 January 6, 2025.

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