

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

PJM INTERCONNECTION, L.L.C.) Docket Nos. ER13-535-000
) ER13-535-001

**REPLY COMMENTS OF THE
PJM POWER PROVIDERS GROUP**

On March 4, 2013, PJM Interconnection, L.L.C. (“PJM”) submitted a filing responding to the Deficiency Letter (“PJM Deficiency Letter Response”).¹ In its response, PJM requested approval of its filing by May 3, 2013, in order to implement changes for the May 2013 Base Residual Auction (“BRA”).

The PJM Power Providers Group (“P3”) provided comments to the PJM Deficiency Letter Response on March 25, 2013², and hereby provides reply comments to the comments filed in response to the PJM Deficiency Letter Response.³

I. REPLY COMMENTS

As United States Supreme Court Chief Justice John Roberts once stated, “... it’s my job to call balls and strikes and not to pitch or bat.”⁴ It is with this in mind that P3 respectfully urges

¹ *PJM Interconnection, L.L.C.*, Docket No. ER13-535-001, March 4, 2013 (“PJM Deficiency Letter Response”).

² *PJM Interconnection, L.L.C.*, Comments of the PJM Power Providers Group, Docket No. ER13-535-000 and ER13-535-001, March 25, 2013. P3 also filed in response to PJM’s December 7, 2012 filing regarding proposed MOPR revisions, a Motion to Intervene and Comments on December 28, 2012 and a Motion to Leave for Answer and Answer on January 14, 2013, Docket No. ER13-535-000.

³The comments contained in this filing represent the position of P3 as an organization, but not necessarily the views of any particular member with respect to any issue. For more information on P3, visit www.p3powergroup.com.

⁴ See, <http://www.cnn.com/2005/POLITICS/09/12/roberts.statement/>

the Commission to act now. While P3 appreciates the thoughtful comments that the Commission has received so far in this docket, P3 respectfully submits that PJM's proposed MOPR reforms that were the subject of a robust stakeholder process involving numerous meetings and hours of discussion, an extensive regulatory process that has seen approximately 48 sets of comments and a supplemental response period created by a Commission finding of deficiency, are now ripe for decision.

As evidenced by the numerous responses to the PJM Deficiency Letter Response to the Commission's request, the positions of the parties are known and not wavering. Passions are intense and leadership from the Commission is appropriate at this time. It is hard to imagine that any additional facts could be added to this very well developed record and clarity is needed for the markets to move forward.

Like 89% of the PJM stakeholder body, P3 supports the PJM proposal as a "reasonable compromise among PJM stakeholders" and urges the Commission to accept it.⁵ As this Commission is very well aware, some market participants may have an incentive to depress market clearing prices by offering supply at less than a competitive level to the detriment of the overall market. The Commission has an obligation to prevent such an activity from occurring and the proposed MOPR reforms presented by PJM offer a reasonable means of meeting that duty.

P3 continues to be amazed at the lengths that other parties are willing to go to defend the status quo. It is ironic that many of the supporters of the status quo were involved in many of the activities that prompted 89% of the PJM stakeholders to agree to reform. For example, the

⁵ In the event that the Commission does not accept PJM's filing, P3 continues to endorse all the positions it raised in previous MOPR related filings with this Commission and reserves all its rights with respect to such filings.

Director of New Jersey Division of Rate Counsel argues in response to PJM that “the existence of a *possible* price-suppression motive does not justify impeding resource-planning and procurement programs. . . .”⁶ However, this same Director boasted following last May’s BRA about the benefits New Jersey consumers received from price suppression.⁷

Likewise in Maryland, the Maryland Public Service Commission (“MD PSC”) has been aware for several years that price suppression is an available “tool” in its tool box. Two years after the MD PSC was told by their consultants that “new generation supported by assured cost recovery from IOU ratepayers can provide benefitsby temporarily creating a “long” market, thereby reducing energy and capacity prices,”⁸ the MD PSC chose to issue a RFP to do exactly what its consultants told it to do. Cloaking arguments in the veil of “pursuing legitimate state policy goals” or “ensuring resource adequacy” does not change the fact that new generation is being subsidized in a market that does not need new capacity and existing capacity is priced well below the cost of new entry. As this Commission so succinctly stated, “...there is no valid state interest in ensuring that uneconomic offers can submit below-cost offers into the RPM auction.”⁹

In Maryland, numbers offered by the Competitive Markets Coalition in their response to PJM tell a compelling story. Competitive Power Ventures (“CPV”) sought to offer a new,

⁶ *PJM Interconnection, L.L.C.* Protest of New Jersey Division of Rate Counsel, et.al, Docket No. ER13-535-000, March 25, 2013 at p14.

⁷ “New Jersey Division of Rate Counsel Director Stefanie Brand noted the price in last May’s capacity auction dropped from \$225 per megawatt hour per day \$167 in the previous auction, which she described as a significant reduction. A consultant retained by the board projected if only a \$6 drop in capacity prices was attributed to the new capacity provided by ratepayers’ subsidies, they would break even, Brand said.” *Payments Proposed at Power-Capacity Auction Impact NJ Ratepayers*, NJ Spotlight, Oct. 4, 2012.

⁸ *Analysis of Resource and Policy Options for Maryland’s Energy Future*, prepared for the MD PSC by Levitan & Associates, Dec. 2008, page 108.

⁹ *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,022, at P 142 (2011).

ratepayer-supported unit at \$13.95 MW/day or approximately 6% of the Cost of New Entry.¹⁰

These numbers are both eye-popping and jaw-dropping. It is hard to imagine that a market could survive if new entry that is not needed for reliability is competing with other forms of generation that are not receiving out of market subsidies.

Surprisingly, both PJM and the Independent Market Monitor for PJM (“IMM”) arrived at wildly different conclusions about the actual costs of the CPV unit with PJM setting the bid price at \$96.13 MW/day and the IMM at \$136 MW/day. The fact that PJM and the IMM came to numbers that were about 40 percent apart on the unit’s actual costs is a compelling indictment of the unit specific review process itself which is based on vague standards, void of transparency and burdened by subjectivity that led to such a wide gap between PJM and the IMM.

The justifications to retain the unit specific review process come mostly from those parties who have long advocated subsidized new entry. The Commission should not be moved by these pleas from those who advocate non-competitive entry into a saturated market with the apparent goal of price suppression. PJM has put forth a reasonable proposal that eliminates this problematic unit-specific exemption, protects those who seek to enter the market “legitimately,” and shields the market from the ill effects of price suppression.

II. CONCLUSION

The importance of implementing changes to the MOPR at this time cannot be stressed enough. The record in this proceeding is robust, the facts are evident and the time for decision is now. The Commission has an opportunity to deliver a message to PJM and beyond that the

¹⁰ *PJM Interconnection, L.L.C.*, The Competitive Markets Coalition’s Comments In Support of PJM March 4, 2013 Responses, Docket No. ER13-535-001, March 25, 2013 at pp. 2-3 (note that MD PSC has not approved the contract yet).

Commission is serious about buy side market manipulation and willing to take a strong stand. The ability to make such a bold statement with the support of 89% of the PJM stakeholder body is unique and perhaps unprecedented on such a controversial issue. It is time for the Commission to “call balls and strikes” and to do so prior to this year’s BRA.

Respectfully submitted,

On behalf of the PJM Power Providers Group

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Dated: April 8, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the Official Service List compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 8th day of April, 2013.

On behalf of the PJM Power Providers Group

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