

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

Lee County Generating Station, LLC)	
)	
Complainant)	Docket No. EL23-57-001
)	
v.)	
)	
PJM Interconnection, L.L.C.)	
)	
Respondent)	

**COMMENTS
OF THE PJM POWER PROVIDERS GROUP
ON MOTION FOR STAY**

Pursuant to the April 7, 2023 Combined Notice of Filings #1 issued by the Federal Energy Regulatory Commission (the “Commission” or “FERC”) issued in the above-captioned proceeding, The PJM Power Providers Group¹ (“P3”) submits these comments on the Lee County Generating Station, LLC (“Lee County”) “Motion for Stay, or In the Alternative Limited Waiver or Remedial Relief, Request for Immediate Alternative Dispute Resolution, Request for Waivers and Expedited Treatment” (“Lee County Motion”).²

¹ P3 is a non-profit organization dedicated to advancing federal, state and regional policies that promote properly designed and well-functioning electricity markets in the PJM Interconnection, L.L.C. (“PJM”) region. Combined, P3 members own over 83,000 MWs of generation assets and produce enough power to supply over 63 million homes in the PJM region covering 13 states and the District of Columbia. For more information on P3, visit www.p3powergroup.com.

² *Lee County Generation Station, LLC v. PJM Interconnection, L.L.C.*, Docket No. EL23-57-000 (April 5, 2023) (“Lee County Motion”).

On April 6, 2023, P3 filed a doc-less Motion to Intervene in this proceeding. P3 respectfully submits these comments,³ in the above captioned proceeding. While the Lee County Motion requests stay of Lee County’s Non-Performance Charges, P3 urges the Commission to approve the request provided that the Commission suspends the invoicing of all Winter Storm Elliott penalties and payment of all Winter Storm Elliott bonus payments for overperformance.

I. COMMENTS

P3 members own electric generating facilities in the PJM Interconnection, L.L.C. (“PJM”) footprint that serve as Capacity Resources under the PJM Reliability Pricing Model (“RPM”) forward capacity market construct. P3 members are both eligible for bonuses and liable for penalties and several are complainants in one or more of the other similar proceedings that have been initiated in recent weeks. P3 has intervened in all of those dockets as well.⁴ The Lee County Motion, filed in conjunction with a complaint (“Lee County Complaint”), requests that the Commission direct PJM to suspend the assessment of Non-Performance Charges associated with Winter Storm Elliott pending the resolution, by Commission ruling or settlement, of the Lee County Complaint. P3 supports the concept of staying assessment of Non-Performance Charges

³ The comments contained herein represent the position of P3 as an organization, but not necessarily the views of any particular member with respect to any issue.

⁴ In addition to the Lee County complaint, the additional proceedings are: *Essential Power OPP, LLC, et al. v. PJM Interconnection, L.L.C.*, Complaint of Nautilus Entities, Docket No. EL23-53-000 (Mar. 31, 2023) (“Nautilus Complaint”); *Aurora Generation, LLC v. PJM Interconnection, L.L.C.*, Complaint Requesting Fast-Track Processing and Shortened Answer Period, and Request for Interim Order Suspending Billing and Payment Provisions, Docket No. EL23-54-000 (April 4, 2023) (“ComEd Generators’ Complaint”); *Coalition of PJM Capacity Resources v. PJM Interconnection, L.L.C.*, Complaint of the Coalition of PJM Capacity Resources, Docket No. EL23-55-000 (April 4, 2023) (“Coalition Complaint”); *Talen Energy Marketing, LLC v. PJM Interconnection, L.L.C.*, Complaint of Talen Energy Marketing, LLC, Docket No. EL23-56-000 (April 5, 2023) (“Talen Complaint”); *SunEnergy I, LLC v. PJM Interconnection, L.L.C.*, Complaint of SunEnergy I, LLC, Docket No. EL23-58-000 (April 5, 2023) (“SunEnergy Complaint”); *Lincoln Generating Facility, LLC v. PJM Interconnection, L.L.C.*, Complaint Requesting Fast Track Processing and Shortened Answer Period of Lincoln Generation Facility, LL, Docket No. EL23-59-000 (April 6, 2023) (“Lincoln Complaint”); and *Parkway Generation Keys Energy Center, LLC v. PJM Interconnection, L.L.C.*, Complaint of Parkway Generation Keys Energy Center, LLC, Docket No. EL23-60-000 (April 6, 2023) (“Parkway Complaint”) A complaint has also been filed by Old Dominion Electric Cooperative (“ODEC”) but has yet to be docketed (collectively, including the Lee County Complaint, the “Non-Performance Charge Complaints”).

associated with Winter Storm Elliott and payment of all Winter Storm Elliott bonus payments for overperformance provided that it is granted for all market participants.⁵

The facts and circumstances of Winter Storm Elliott are extraordinary and well documented. PJM has indicated that over \$1.8 billion in performance assessment charges will be issued and bonus payments will be received by over 180 entities.⁶ Given the multiple complaints related to Winter Storm Elliott, the possibility of FERC-initiated settlement discussions and the inherent difficulty of reclaiming bonus payments once made, it is appropriate and prudent for the Commission to halt the collection of all penalties and the award of all bonuses until such time as the Commission resolves the issues related to the Non-Performance Charge Complaints. Doing so would allow the Commission to provide market participants the comfort of knowing that any settlement or Commission decisions in these complaints can be implemented without the complication of dealing with money that had already exchanged hands.

Justice requires that the Commission grant the motion to stay and suspend the invoicing of all Winter Storm Elliott penalties and payment of all Winter Storm Elliott bonus payments for overperformance for all market participants.⁷ Even PJM stated in its April 19, 2023, Answer to the Motion to Stay, that PJM's answer is "limited to Lee's request to stay its obligations to pay Non-Performance Charges. Notwithstanding PJM's objection, PJM's answer . . . should not

⁵ Note, in one of the Non-Performance Charge Complaints, the complainants asked FERC to direct PJM to "discontinue invoicing of Non-Performance Charges immediately until [the identified] corrections are made") *See Coalition of PJM Capacity Resources vs. PJM Interconnection, L.L.C.*, Docket No. EL23-55-000, at 52 (Apr. 4, 2023).

⁶ <https://pjm.com/-/media/committees-groups/committees/mic/2023/20230412/20230412-item-12---pai-settlements.ashx> at 3.

⁷ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,100, at P 13 (2012) ("The Commission reviews requests for stay under the standard established by the Administrative Procedure Act and grants a stay when 'justice so requires.'").

preclude a potential future request to suspend the billing Non-Performance Charges pursuant to section 309 of the Federal Power Act ('FPA') or other provision deemed appropriate by the Commission in the event good cause exists for such a request.”⁸ Because P3 is requesting that the stay apply to all, not just Lee County penalties, the Commission has good cause, and justice requires, the Motion for Stay to be expanded and granted and that the Commission suspends the invoicing of all Winter Storm Elliott penalties and payment of all Winter Storm Elliott bonus payments for overperformance.

II. CONCLUSION

For the reasons set forth above, P3 respectfully requests that the Commission order a suspension of all Winter Storm Elliott Non-Performance Charge invoicing and penalty collections for Lee County and all market participants that would be otherwise invoiced for Non-Performance charges.

Respectfully submitted,

On behalf of The PJM Power Providers Group

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Dated: April 20, 2023

⁸ *Lee County Generation Station, LLC v. PJM Interconnection, L.L.C.*, Answer of PJM Interconnection, L.L.C. To Motion for Stay or Other Interim Relief, Docket No. EL23-57-001, April 19, 2023, at p. 4.

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 20th day of April, 2023.

On behalf of The PJM Power Providers Group

By: Diane Slifer

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