UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.	)	**Docket Nos. ER15-623-004**
		EL15-29-003

Protest of the PJM Power Providers Group (P3)[1]

On July 9, 2015, PJM submitted for Commission approval two compliance filings in matters related to its Capacity Performance Initiative. The first compliance filing, relates to the Commission's approval to proposed revisions to PJM's Tariff and RAA pursuant to section 205 of the Federal Power Act ("FPA") seeking to ensure that capacity resources perform under peak conditions[2]. The second compliance filing, relates to the Commission's approval of proposed revisions to the Tariff and Operating Agreement pursuant to section 206 of the Federal Power Act, to ensure that PJM's operating rules are consistent with the revised RPM rules brought about the Capacity Performance proposal.[3]

While P3 applauds the efforts of PJM to put all necessary tariff revisions in place prior to the upcoming 2018/19 Base Residual Auctions, proposed revisions regarding the treatment of operating parameters in both compliance filings are inconsistent with the Commission's Order, in need of clarification and in some cases beyond the scope of what is appropriate for the compliance filing. In addition, P3 is concerned about vague provisions related to the calculation of Capacity Performance Quantifiable Risk ("CPQR") and the requirement for an officer's certification based on these vague standards.

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[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 87,000 MW of generation assets and over 51,000 miles of electric transmission lines in the PJM region, serve nearly 12.2 million customers, and employ over 55,000 people in the PJM region, encompassing 13 states and the District of Columbia. This protest represents 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, please visit www.p3powergroup.com.

[2] *PJM Interconnection, L.L.C.,* Docket No. ER15-623-000, December 12, 2014.

[3] *PJM Interconnection, L.L.C.,* Docket No EL15-29-000, December 12, 2014.

I. BACKGROUND

On December 12, 2014, in response to the extreme winter events of 2014, PJM submitted proposed changes to its tariff to address issues related to generator performance during peak demand conditions. PJM's so called "Capacity Performance Proposal" was designed such that generators would have stricter performance requirements than PJM's existing capacity product and steeper penalties for non-performance. The proposal also allowed generators additional flexibility to reflect market risk in their capacity offers. P3 generally supported PJM's proposal and the Commission's approval of most of it; however, P3 sought clarification and in the alternative rehearing on issues related to operating parameters and risk calculations as part of the ACR process.

In its initial filing, PJM made clear that it was seeking to redefine its approach to operating parameters, moving away from generic technology class operating parameters to unit specific determinations. In doing so, PJM proposed eliminating its current default parameters and replacing them with "unit-specific parameters for […] resources that are based on […] physically achievable operating design characteristics for the following parameters: (i) Economic Minimum; (ii) Economic Maximum; (iii) Minimum Down Time; (iv) Minimum Run Time; (v) Maximum Daily Starts; (vi) Maximum Weekly Starts; (vii) Maximum Run Time; (viii) Start-up Time; and (ix) Notification Time."[4] PJM proposed to develop these unit specific parameters in close consultation with the Independent Market Monitor as well as the unit owner.

Importantly, PJM asserted that, "The expectation is for the resource to be available when called upon, consistent with its unit-specific parameter limited schedule values, irrespective of previous dispatch history."[5] PJM's view in its initial filing, with which P3 agreed, is that resource availability must be measured consistent with that unit's approved operating parameters. The logical consequence of such a policy is that a unit that is operating consistent with its parameters and performing exactly as it committed to perform should not be subject to performance penalties. However, the Commission orders in both the Capacity Performance Dockets Nos. ER15-623 and EL15-29 cast doubt and as a result, P3 sought clarification and in the alternative rehearing on this issue on July 9, 2015.[6]

II. PROTEST

A. Operating Parameters

In regard to the role of a generating unit's operating parameters, PJM proposes in its compliance filing a set of provisions that are vague and outside the scope of the proceeding. The Commission determined that PJM's proposals to cap the minimum start-up and notification times for all resources and cap the minimum down time of Capacity Storage Resources were not just and reasonable because the "proposed requirements do not take into account unit-specific

[4] *PJM Interconnection, L.L.C.,* Docket No. EL15-29-000, Dec., 12, 2014, at p 9.
[5] *Id.*
[6] *See PJM Interconnection, L.L.C.,* Docket Nos. ER15-623 and EL15-29, PJM Power Providers Group Request for Clarification and in the Alternative Request for Rehearing, July 9 2015. ("P3 Request for Clarification and in the Alternative Request for Rehearing")

physical constraints faced by resources."[7] The Commission further held that: "Resources with longer minimum start-up and notification times should be permitted to accurately reflect their actual minimum times in their energy market offers….. Additionally, when such resources submit offers that reflect their actual constraints into PJM's energy markets, they should be allowed the opportunity to recover the costs of complying with PJM's dispatch instructions through compensation in the energy markets."[8]

However, PJM went well beyond the Commission's direction and proposed the following tariff language:

> The operational limitations referenced in this section 6.6 shall be (a) physical operational limitations based on the operating design characteristics of the resource, or (b) other actual physical constraints, including those based on contractual limits, that are not based on the characteristics of the resource. In considering whether a contractual or other actual constraint is a physical constraint which the Capacity Market Seller should be permitted to reflect in its unit-specific parameter limits for that resource, the Office of the Interconnection will base its determination on whether the Capacity Market Seller obtained the most flexible gas pipeline transportation contract terms available for the resource.[9]

PJM was not directed to nor should it be allowed base its determination on "whether the Capacity Market Seller obtained the most flexible gas pipeline transportation contract terms available for the resource." While the Commission cited gas contracts as one possible non-physical constraint that could render the unit unavailable, it was not offered as the sole reason envisioned by the Commission. Moreover, determining what is the "most flexible gas pipeline transportation contract terms" is a vague and unfathomably subjective notion. Gas pipeline contracts have numerous variables and can change over time. Terms that are available one month prior to delivery may not be available on the day of delivery (and vice versa). PJM should be directed to delete the entire last sentence of the provision.

Furthermore, the wording "other actual physical constraints, including those based on contractual limits" is confused wording that is inconsistent with the Commission's intent and should be altered. The Commission stated that "it is reasonable, during pre-emergency and emergency periods, to require that parameter limits for capacity resources reflect actual constraints…"[10] The Commission went on to recognize that "actual parameter limits could be the result not only of resource physical constraints, but of other constraints as well, such as contractual limits."[11] PJM's interjection of the word "physical" before "actual" fundamentally alters the Commission's clear direction to PJM to allow non-physical constraints to be

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[7] *PJM Interconnection, L.L.C.,* 151 FERC ¶61, 208 (2015) at, P 436 ("FERC CP Order").
[8] *Id*.
[9] *PJM Interconnection, L.L.C., Docket No. EL15-29-001* at pp 6-8.
[10] FERC CP Oder at P 435.
[11] FERC CP Order at P 437.

recognized as operating parameters.[12] PJM's wording should reflect the Commission's intent and, as such the word "physical" should be removed from 6.6(b).

Given the above consideration, PJM should be directed to revise its proposed section 6.6(b) of Operating Agreement, Schedule 1 as follows:

> The operational limitations referenced in this section 6.6 shall be (a) physical operational limitations based on the operating design characteristics of the resource, or (b) other actual ~~physical~~ constraints, including those based on contractual limits, that are not based on the characteristics of the resource. ~~In considering whether a contractual or other actual constraint is a physical constraint which the Capacity Market Seller should be permitted to reflect in its unit-specific parameter limits for that resource, the Office of the Interconnection will base its determination on whether the Capacity Market Seller obtained the most flexible gas pipeline transportation contract terms available for the resource.~~

B. Capacity Performance Quantifiable Risk Premium

In its initial Capacity Performance filing, PJM revised its RPM Auction offer cap rules to clearly allow generators to include a risk calculation as part of their Avoidable Cost Rate ("ACR") review. Specifically, PJM proposed to add to the ACR formula the element of "Capacity Performance Quantifiable Risk," consisting of "the documented and quantifiable costs of mitigating the risks associated with submission of a Capacity Performance Resource offer."[13]

In the June 9 Order, the Commission determined that the definition of Capacity Performance Quantifiable Risk "may be insufficiently narrow to permit resources to include quantifiable and reasonably-supported risks in their Avoidable Cost Rate."[14] While the Commission generally accepted PJM's proposal to include a risk premium in the ACR formula, it directed PJM to "clarify that both Capacity Performance Resources and Base Capacity Resources will be permitted to include quantifiable and reasonably-supported risks in their Avoidable Cost Rate."[15]

PJM responded by offering the following language in its compliance filing.

> CPQR shall be considered reasonably supported if it is based on actuarial practices generally used by the industry to model or value risk and if it is based on actuarial practices used by the Capacity Market Seller to model or value risk in other aspects of the Capacity Market Seller's business. Such reasonable support shall also include an officer

[12] *See* FERC CP Order at P 435, "However, because PJM's proposed revisions are based only on physical constraints and generic time restrictions that may prevent a resource from reflecting in its energy market offer certain parameter limitations caused by **legitimate, non-physical constraints**, those proposed revisions are not a just and reasonable solution for addressing the potential market power problem identified above. (emphasis added)."
[13] *PJM Interconnection, L.L.C.,* Docket No. ER15-623-000, December 12, 2014, at 148; proposed Tariff, Attachment DD, section 6.8(a).
[14] FERC CP Order at P 353.
[15] FERC CP Order at P 353.

certification that the modeling and valuation of the CPQR was developed in accord with such practices.

While P3 continues to appreciate the Commission and PJM's desire to include "quantifiable and reasonably-supported risks" in a generator's ACR, the language proposed by PJM lacks the clarity necessary to provide sufficient direction to PJM, the IMM and to the unit owner. How is a generator determining its ACR to know what are "actuarial practices generally used by the industry to model or value risk?" What happens if PJM, the IMM and the unit owners have different views on the appropriate "actuarial practices?" P3 continues to believe the Commission, PJM, the IMM and generation owners will be best served if greater specificity is provided in the tariff.[16]

Moreover, P3 is also concerned about the addition of an officer's certification of the "modelling and valuation of the CPQR" unless greater direction is provided by the tariff The Commission never directed PJM to expand the tariff to include such an officer certification and given the vague and ambiguous proposed tariff revisions, the inclusion of an officer certification is concerning. Certainly, a generator should be able to provide reasonable support for its risk calculation; however, the addition of an officer certification, particularly as the certification relates to an undefined standard of "actuarial practices generally used by the industry," interjects a troublesome complexity to the ACR process As such, P3 recommends that the officer certification be removed from this section unless additional language (as noted in footnote 16) is added to the tariff providing specific direction regarding acceptable risks.

[16] See P3 Request for Clarification and in the Alternative Request for Rehearing. While some of the language that was included by PJM proposed tariff was supported by P3, P3 believes that it is important to have additional tariff language that makes it clear that "CPQR shall be based on the reasonably supported business judgment of the Capacity Market Seller." P3 also supported language providing sufficient tariff direction that "risks and costs include: (i) risks associated with incurring NonPerformance Charges as a Capacity Performance Resource and (ii) quantifiable costs and risks associated with the realization of the assumed energy and ancillary services margin, which include but are not limited to:

- Unit Outage Risk – Unit outage risk is the risk that a Capacity Performance Resource fails and that energy expected to be produced by that Capacity Performance Resource was sold forward and must be replaced in the spot energy market with energy purchased at a potentially higher price.
- Volatility Risk - Volatility risk is the risk that the energy market price actually received by a Capacity Market Seller is lower than the energy market price assumed in the Avoidable Cost Rate Calculation (especially given that the energy prices used in the Avoidable Cost Rate Calculation are established based on historical energy prices).
- Liquidity risk - Liquidity risk is the risk that a Capacity Market Seller's need to sell a large quantity of energy will impact energy market prices (i.e., a forward sale of energy from a large unit or units may reduce the resulting forward energy price paid to such capacity unit)."

III. CONCLUSION

For the foregoing reasons, P3 respectfully requests that the Commission direct PJM to amend its tariff provisions consistent with the comments above.

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Respectfully submitted,

On behalf of the PJM Power Providers Group

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July 20, 2015

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 July, 2015.

On behalf of the PJM Power Providers Group

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