

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

PJM Interconnection, L.L.C.

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)

Docket No. EL14-94-000

**REPLY BRIEF OF THE PJM POWER PROVIDERS GROUP
AND THE ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) August 27, 2014, Notice of Institution of Section 206 Proceeding in the above-captioned docket and the Commission’s August 25, 2014, order in Docket Nos. EL14-36-000 and No. EL14-94-000,¹ the PJM Power Providers Group (“P3”)² and the Electric Power Supply Association (“EPSA”)³ hereby submit these comments in support of the Initial Brief submitted by PJM Interconnection, L.L.C. (“PJM”) on November 3, 2014.⁴ For the reasons discussed in this Brief, P3 and EPSA agree with PJM that the PJM Open Access Transmission Tariff (“Tariff”) currently

¹ *FirstEnergy Solutions Corp.*, 148 FERC ¶ 61,140 (2014).

² P3 is a nonprofit corporation dedicated to promoting policies that will allow the PJM region to fulfill the promise of its competitive wholesale electricity markets. P3 strongly believes that properly designed and well-functioning competitive markets are the most effective means of ensuring a reliable supply of power to the PJM region, facilitating investments in alternative energy and demand response technology, and promoting prices that will allow consumers to enjoy the benefits of competitive electricity markets. Combined, P3 members own over 87,000 megawatts of generation assets, own over 51,000 miles of transmission lines, serve nearly 12.2 million customers and employ over 55,000 people in the PJM region – encompassing 13 states and the District of Columbia. The 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. P3 filed a doc-less Motion to Intervene in this docket on December 1, 2014.

³ EPSA is the national trade association representing leading competitive power suppliers, including generators and marketers. Competitive suppliers, which collectively account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue. EPSA filed a doc-less Motion to Intervene in this docket on September 16, 2014.

⁴ PJM Interconnection, L.L.C. Nov. 3, 2014 Initial Brief, Docket No. EL14-94-000.

provides for a just and reasonable method for calculating a capacity supplier's Market Seller Offer Cap in the Reliability Pricing Model ("RPM").⁵

I. BACKGROUND

FirstEnergy Solutions Corp. ("Solutions") submitted a Petition for Declaratory Order ("Petition") on April 7, 2014.⁶ The Petition sought an order from FERC finding that PJM's Tariff requires Market Seller Offer Caps to reflect a unit's cost-based energy offers in the determination of net Projected PJM Market Revenues.⁷ PJM and the Independent Market Monitor for PJM ("IMM") were split on the Petition, with PJM supporting Solutions' position and the IMM asking the Commission to deny the Petition. The IMM argued that the Tariff required the Market Seller Offer cap calculation to reflect a unit's net Projected PJM Market Revenue by using the lower of a unit's cost-based energy offer and its market-based energy offer for a given hour.⁸

The Commission issued an order granting Solutions' Petition on August 25, 2014.⁹ The Commission also initiated a Section 206 proceeding to investigate whether the existing Tariff is just and reasonable.¹⁰ The Commission's order directed PJM to submit a brief explaining why the Tariff's existing method of calculating net Projected PJM Market Revenues continues to be just and reasonable, with all reply briefs due thirty days after the submission of PJM's brief.¹¹

In its Initial Brief, PJM explains that the existing Tariff is just and reasonable because cost-based energy offers represent a unit's short-run marginal cost.¹² PJM explains that these offers are based on categories of costs under PJM's Tariff and cost development guidelines that

⁵ Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Tariff.

⁶ FirstEnergy Solutions Corp., Petition for Declaratory Order, Docket No. EL14-36-000 (Apr. 7, 2014).

⁷ *Id.* at 7.

⁸ Independent Market Monitor for PJM, Protest, Docket No. EL14-36-000, at 15 (Apr. 18, 2014).

⁹ *FirstEnergy Solutions Corp.*, 148 FERC ¶ 61,140, at P 30 (2014).

¹⁰ *Id.* at P 32.

¹¹ *Id.*

¹² PJM Interconnection, L.L.C. Nov. 3, 2014 Initial Brief, Docket No. EL14-94-000 ("PJM Initial Brief").

were developed through PJM’s stakeholder process.¹³ PJM further explains that market-based energy offers often do not reflect the short-run incremental cost of producing the next MW of power, i.e., marginal cost, due to various operational and market considerations.¹⁴

II. COMMENTS

P3 and EPSA agree with PJM that the Tariff’s current method for establishing parameters for determining Market Seller Offer Caps is just and reasonable. A different calculation method, such as the one put forth by the IMM in the Petition proceeding, would financially penalize a seller for submitting a market-based offer into the energy market below its marginal cost. Resources need the ability to submit market-based offers into the energy market that reflect operational and other non-cost factors without jeopardizing their ability to remain economically viable.

The long standing rules for calculating cost-based energy market offers are currently objective and widely accepted by PJM market participants. As explained in the Petition and in the Comments submitted by P3 and EPSA in that proceeding, the existing Tariff provisions on this topic reflect the original understanding and agreement of PJM’s stakeholders.¹⁵ PJM’s September 29, 2006, Explanatory Statement of the Settlement Agreement explained that cost-based offers are the “costs” allowed to determine “net marginal costs” under Section 6.8(d) of Attachment DD to the Tariff.¹⁶ Moreover, PJM stakeholders worked together to ensure that the guidelines for developing cost-based offers result in offers that reflect an accurate and objective measure of marginal cost.¹⁷

The existing Tariff also sets forth a reasonable and pragmatic method of mitigating RPM sell offers. By using cost-based offers to estimate marginal cost, the Tariff makes the mitigation

¹³ *Id.* at 6-7.

¹⁴ *Id.* at 8.

¹⁵ PJM Interconnection, L.L.C., Explanatory Statement, Docket No. ER05-1410-000, at 34-35 (Sept. 29, 2006).

¹⁶ *Id.*

¹⁷ PJM Initial Brief at 7-8.

process non-discretionary and uncontroversial. Neither PJM nor the IMM needs to determine for each hour whether the cost-based offer or the market-based offer, or some combination of the two, is a better reflection of incremental cost. This non-discretionary methodology is not only consistent with Commission precedent,¹⁸ but it also makes future litigation over disagreements between a seller and the IMM or PJM less likely to occur. P3 and EPSA urge the Commission to exercise caution before making any changes to the current Tariff that will result in future disputes and litigation.

¹⁸ *Wholesale Competition in Regions with Org. Elec. Mkts.*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008), at P 379.

III. CONCLUSION

For the foregoing reasons, P3 and EPSA support PJM's Initial Brief. P3 and EPSA submit that Projected PJM Market Revenues, for the purpose of establishing a Market Seller Offer Cap, must be determined utilizing a resource's cost-based energy offers. P3 and EPSA therefore respectfully request that the Commission issue an order finding PJM's current Tariff to be just and reasonable in this respect.

Respectfully submitted,

On behalf of the PJM Power Providers Group

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Dated: December 3, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon each person listed on the official service lists maintained by the Secretary of the Commission in the above-captioned proceeding.

Dated at Washington, D.C., this 3rd day of December 2014.

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