

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

**PJM Interconnection, L.L.C.**

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**Docket No. ER14-2940-000**

**MOTION FOR LEAVE TO ANSWER AND  
ANSWER OF THE PJM POWER PROVIDERS GROUP**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission”),<sup>1</sup> the PJM Power Providers Group (“P3”)<sup>2</sup> respectfully moves for leave to answer<sup>3</sup> and answers various comments on, and protests to, PJM’s September 25, 2014, compliance filing<sup>4</sup> in the above-captioned proceeding.<sup>5</sup> In the September 25 Filing, PJM submitted revisions to the PJM Open Access Transmission Tariff

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<sup>1</sup> 18 C.F.R. §§ 385.212, 385.213 (2014).

<sup>2</sup> 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, representing 13 states and the District of Columbia. 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. For more information on P3, visit [www.p3powergroup.com](http://www.p3powergroup.com).

<sup>3</sup> Although the Commission’s procedural rules do not provide for answers to protests as a matter of right, the Commission regularly allows answers where, as here, the answer provides further explanation or otherwise helps ensure a full and complete record and Commission understanding of that record. *See, e.g., PJM Interconnection, L.L.C., et al.*, 104 FERC ¶ 61,154 at P 14 (2003), *on reh’g*, 109 FERC ¶ 61,236 (2004); *Williams Energy Mktg. & Trading Co. v. Southern Co. Servs., Inc.*, 104 FERC ¶ 61,141 at P 10 (2003); *Ameren Servs. Co., et al.*, 100 FERC ¶ 61,135 at P 15 (2002), *on reh’g*, 103 FERC ¶ 61,178 (2003).

<sup>4</sup> PJM Interconnection, L.L.C., Docket No. ER14-2940-000 (filed September 25, 2014) (the “September 25 Filing”).

<sup>5</sup> P3 does not attempt in this answer to address all of the comments and protests opposing the September 25 Filing, but is instead focusing on certain key points. P3’s silence with respect to other assertions and arguments made by commenters and protestors opposing the September 25 Filing should not be construed as meaning that P3 agrees with such assertions and arguments.

(“Tariff”) to revise certain elements of the Reliability Pricing Model (“RPM”) following a comprehensive independent review of RPM and a stakeholder process to consider changes to RPM’s auction parameters (“September 25 Filing”). As discussed below, the tariff- required triennial review updates are ripe for decision and the September 25 Filing should not be held in abeyance for other PJM initiatives.

The Commission should accept certain elements of PJM’s September 25 Filing, while rejecting and setting a hearing for the cost of capital parameters, and accept the Sargent & Lundy labor values, as detailed and set forth in P3’s comments and limited protest in this proceeding.<sup>6</sup>

## **I. BACKGROUND**

The PJM Tariff requires that for the 2018-19 Delivery Year and for every fourth Delivery Year thereafter PJM perform a review of the shape of the Variable Resource Requirement (“VRR”) curve used to clear the RPM auctions and key inputs to that curve.<sup>7</sup> In pursuit of that mandate, PJM retained The Brattle Group (“Brattle”) as an independent consultant to assist with this triennial review of RPM and to conduct the required performance assessment. In May 2014, Brattle completed its reports<sup>8</sup> which then led to a PJM-facilitated stakeholder process that considered tariff changes to support Brattle’s findings and recommendations. P3 member companies actively participated in this stakeholder process. On September 25, 2014, PJM filed the tariff changes with the Commission.

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<sup>6</sup> See Motion to Intervene, Comments and Limited Protest of the PJM Power Providers Group, Docket No. ER14-2940-000 (filed October 16, 2014) (the “P3 Comments and Limited Protest”).

<sup>7</sup> Tariff, Attachment DD, section 5.10(a)(iii).

<sup>8</sup> The Brattle Group, *Third Triennial Review of PJM’s Variable Resource Requirement Curve* (May 15, 2014) [http://www.brattle.com/system/publications/pdfs/000/005/009/original/Third\\_Triennial\\_Review\\_of\\_PJM's\\_Variable\\_Resource\\_Requirement\\_Curve.pdf?1400252215](http://www.brattle.com/system/publications/pdfs/000/005/009/original/Third_Triennial_Review_of_PJM's_Variable_Resource_Requirement_Curve.pdf?1400252215) (“2014 Brattle VRR Curve Report”) PJM Filing Attachment E; and The Brattle Group, *Cost of New Entry Estimates for Combustion Turbines and Combined Cycle Plants in PJM* (May 15, 2014), [http://www.brattle.com/system/publications/pdfs/000/005/010/original/Cost\\_of\\_New\\_Entry\\_Estimates\\_for\\_Combus](http://www.brattle.com/system/publications/pdfs/000/005/010/original/Cost_of_New_Entry_Estimates_for_Combus)

On October 16, 2014, several parties filed comments on or protests to the September 25 Filing. For its part, P3 generally supported the September 25 Filing, but opposed the cost of capital values and labor cost adjustments. P3 noted that it supported the changes to the VRR Curve that will enhance the long-run performance of the curve, ultimately improving auction outcomes, and supporting long-run reliability.<sup>9</sup>

## II. ANSWER

P3 answers in opposition to the protest of the PJM Load Group (“PJM Load Group”)<sup>10</sup>, the protest of the Maryland Public Service Commission (“MD PSC”)<sup>11</sup>, and the comments of the Illinois Commerce Commission (“ICC”).<sup>12</sup>

### A. Triennial Review Updates are Ripe for Decision

P3 disagrees with the arguments offered by the PJM Load Group and the ICC requesting that the Commission hold the September 25 Filing in abeyance until the PJM capacity performance initiative is complete. P3 underscores the importance of expeditiously completing and instituting the triennial review reforms. Contrary to the suggestions of others, these reforms should not be delayed. The purpose of the triennial review is distinct from the capacity performance proposal. The components of the triennial review work to establish the volume of procured capacity to meet resource adequacy standards. In contrast, the capacity performance proposal describes the attributes of the capacity commitment. The capacity performance

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[tion\\_Turbine\\_and\\_Combined\\_Cycle\\_Plants\\_in\\_PJM.pdf?1400252453](#) (“Brattle 2014 CONE Report”); PJM Filing Attachment D.

<sup>9</sup> P3 Comments and Limited Protest at pages 4-5.

<sup>10</sup> See Protest of the PJM Load Group, Docket No. ER14-2940-000 (filed October 16, 2014) (“PJM Load Group Protest”).

<sup>11</sup> See Protest of the Maryland Public Service Commission Docket No. ER14-2940-000 (filed October 16, 2014) (“MD PSC Protest”).

<sup>12</sup> See Motion to File Comments Out of Time and Comments of the Illinois Commerce Commission, Docket No. ER14-2940-000 (filed October 22, 2014) (“ICC Comments”).

proposal is currently being considered in the PJM stakeholder process and the outcome and timing of that process is still very much unknown. The uncertainty of this proposal should not cloud the completion of the tariff-mandated triennial review. Further, the Tariff does not prevent or constrain PJM from modifying any of the triennial review components, if warranted, as part of the development of the capacity performance proposal.

Also, as the PJM Board stated on September 10, 2014, they “appreciate stakeholder concerns regarding the pending Capacity Performance discussion, but it is important to recognize that the Installed Reserve Margin (IRM) calculations and the Brattle analysis already assume a higher standard of resource performance than was observed last winter. Additionally, the PJM tariff requires action on the triennial review issues by October 1, 2014.”<sup>13</sup>

Moreover, PJM filed pursuant to section 205 of the FPA. Under section 205, a rate change becomes effective upon 60 days’ notice unless rejected or suspended by the Commission. Section 205 of the FPA does not, however, allow for a pleading to be held in abeyance. Thus, while the Commission could suspend a rate change for up to five months, it would be inappropriate for the Commission to hold PJM’s filing in abeyance.<sup>14</sup> P3 respectfully requests that the Commission not hold the tariff-required September 25 Filing in abeyance for the outcome of the capacity performance initiative.

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<sup>13</sup> PJM Board letter to the PJM Members Committee, September 10, 2014 Re: Triennial Review Filing to FERC. *See at:* <http://www.pjm.com/~media/committees-groups/task-forces/cstf/20140912/20140912-board-statement-on-2014-triennial-review-filing.ashx>

<sup>14</sup> *See*, California Indep. Sys. Operator Corp., 116 FERC ¶ 61,274, at PP 451-452 (2006) (finding that the incorporation of additional market enhancements, here, convergence bidding, should not delay the scheduled implementation of MRTU); 119 FERC ¶ 61,076 at PP 117-119 (2007); order on reh’g, 120 FERC ¶ 61,023 (2007); reh’g denied, 124 FERC ¶ 61,094 (2008), aff’d Sacramento Mun. Util. Dist. V. FERC, 616 F.3d 520 (D.C. Cir., 2010).

**B. The Commission Should Set for Hearing the Cost of Funds Issue for Full Consideration**

P3 opposes the protests of the PJM Load Group as well as the MD PSC which encourage the Commission to reject an after-tax weighted average cost of capital (“ATWACC”) that is reflective of market conditions. As P3, through the expert testimony of PA Consulting, exhaustively showed in its comments and limited protest, the assumptions that PJM used to develop the cost of new entry are incorrect. Specifically, P3 demonstrated that PJM’s proposed methodology utilized incorrect metrics, the debt-to-equity ratio is unreasonable, the cost of debt is not supported, and the cost of equity is unreasonably low.<sup>15</sup> As P3 stated, it believes that the experts Mr. Hardy, Mr. Heidell and Mr. Repsher in their affidavits<sup>16</sup> demonstrated a disputed issue of material fact as to the appropriate cost of funds, and, therefore, P3 requested that the Commission set this issue for hearing or settlement procedures to allow for a full consideration of the cost assessment.

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<sup>15</sup> P3 Comments and Limited Protest, at pages 6-14.

<sup>16</sup> P3 Comments and Limited Protest , Affidavit of Mr. Ryan Hardy and Mr. Mark Repsher in Support of Comments and Limited Protest of PJM Power Providers, (“Affidavit 1”) and Affidavit of James A. Heidell & Mark Repsher in Support of Comments and Limited Protest of PJM Power Providers, (“Affidavit 2”).

### **C. Labor Cost Adjustment Should be Rejected**

P3 rejects PJM Load Group's support of PJM's use of the IMM's labor inputs as superior to those recommended by Brattle and Sargent & Lundy. As P3 stated and demonstrated by the affidavit supplied by Mr. Uniszkiewicz,<sup>17</sup> attached to P3's comments and limited protest, the labor cost adjustment proposed by PJM has not been adequately supported and the level of adjustments raise issues of material fact, and have not been shown to be just and reasonable. The Sargent & Lundy values are more realistic and should be utilized, or this issue set for hearing.

### **D. PJM's Proposed VRR Curve Changes are Just and Reasonable**

P3 supported in its comments and limited protest, the changes to the VRR Curve that will enhance the long-run performance of the curve, ultimately improving auction outcomes, and supporting long-run reliability. P3 disagrees with the PJM Load Group and the MD PSC that the VRR Curve should not be changed. As PJM stated in the September 25 Filing, "Brattle found that the current VRR Curve will not meet the fundamental reliability objectives," and, therefore, Brattle recommended changes to the VRR Curve to address these concerns. PJM adopted those changes, as well as a further change to the VRR Curve shape, not recommended by Brattle but fully evaluated in Brattle's market simulation analyses, "to strike a reasonable balance between reliability and cost."<sup>18</sup> P3 believes that PJM's VRR Curve changes are within the range of reasonableness. As PJM noted, FERC has stated, "There may be a number of just and reasonable methods for determining the slope of the demand curve. . . . The derivation of the slope of the demand curve is at least in part subjective and cannot be reduced to simple

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<sup>17</sup> P3 Comments and Limited Protest, Affidavit of Robert H. Uniszkiewicz on behalf of the PJM Power Providers ("Affidavit 3").

<sup>18</sup> September 25 Filing at page 9.

metrics.”<sup>19</sup> P3 respectfully requests that the Commission accept the changes proposed to the VRR Curve in the September 25 Filing.

### **III. CONCLUSION**

**WHEREFORE**, for the foregoing reasons, P3 respectfully requests that the Commission (1) grant P3’s motion for leave to answer; and (2) consider this answer in formulating its Order on the September 25 Filing.

Respectfully submitted,

On behalf of the PJM Power Providers Group

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Dated: October 31, 2014

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<sup>19</sup> September 25 Filing at p 7, citing *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,318, at P 111 (2007).

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

Dated at Washington DC, this 31st day of October, 2014.

On behalf of the PJM Power Providers Group

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