

Among Load Serving Entities in the PJM Region (“RAA”) in order to increase the operational flexibility of Demand Resources (“PJM Filing”).³

I. MOTION FOR LEAVE TO ANSWER

On January 14, 2014, P3 submitted a timely Motion to Intervene and Comments and Limited Protest to PJM’s Filing in this matter. While P3 agreed with PJM’s stated need for both operational flexibility, in terms of dispatch of Demand Resources, and greater comparability of Demand Resources with other market resources, namely Generation Capacity Resources, P3 expressed concerns that PJM’s proposed means of achieving that effort would not meet their desired outcome, would continue many of the problems associated with the current rule and would fail to make the necessary changes to fix the problem that PJM had appropriately identified. Therefore, P3 recommended that the Commission reject certain components of PJM’s proposal, as more fully explained in P3’s filing.⁴

P3’s Answer herein seeks to address not only significant issues and new proposals raised by some Intervenors in their respective comments and protests to PJM’s Filing, but also to provide insight into how PJM’s system operations and market participants were impacted by the brutally cold weather of this past January. Specific details of the arctic cold of the polar vortex have recently been released by PJM, after most of the parties, including P3, filed responsive comments in this Docket. As the Commission now knows, on January 7, 2013, PJM set two new all-time winter peak records and witnessed certain operational challenges of generation owners when as much as 21 percent of PJM’s 189,658 MW of installed capacity was forced out of

³ *PJM Interconnection, L.L.C.*, Docket No. ER14-822-000 (filed December 24, 2013) (“PJM Filing”).

⁴ P3 Motion to Intervene, Comments and Limited Protest, filed on January 14, 2014, Docket No. ER14-822-000 (“P3 Filing”).

service.⁵ The manner in which Demand Resources, particularly Long and Short Lead Emergency resources, responded in the market has very real implications to the current issues raised in PJM's Filing. P3's Answer, therefore, will ensure that the Commission has a full and complete record of these important matters that directly affect PJM's proposed revisions to its Tariff, Operating Agreement and RAA.

II. ANSWER

A. The Commission should reject the attempts of protestors who seek to impair PJM's ability to address an identified tariff deficiency.

PJM's Filing in this matter is designed to address a specific tariff deficiency that has created problems in the PJM market and will continue to create problems if not remedied. As PJM articulated and P3 concurs, the current two hour notice requirement that is currently enjoyed by Demand Resources, 94% of which are registered as "emergency only" resources, has led to both reliability issues and excessive uplift charges to consumers that could have been avoided. Twice during 2013, and once during 2014, demand response was called two hours in advance in response to anticipated needs, but was ultimately not needed following the two hour lead time due to changed conditions.⁶ Unless the Commission acts decisively, this problem, and the increased costs and adverse market impacts associated with dispatching resources that are not ultimately needed for reliable operations, will persist.

P3 partially protested the initial PJM Filing in this Docket because the proposed changes offered by PJM will not result in a sufficient improvement to the status quo to remedy the PJM-identified problem. PJM has made it quite clear that it will be able to make better decisions and

⁵ <http://www.pjm.com/about-pjm/newsroom/newsletter-notices/inside-lines.aspx>

⁶ <http://www.pjm.com/~media/documents/reports/20140113-pjm-response-to-data-request-for-january%202014-weather-events.ashx>

the markets will be able to operate more efficiently if Demand Resources are required to offer the full operational capability of their resource. If tariff provisions are approved that allow the vast majority of demand response to retain a two hour notice requirement, the problem will persist and operational difficulties will compel PJM to again pursue rule changes at the Commission to support reliable operations.

The Commission should remain focused on the problem and solutions that will fix it. An underlying theme of many of the protests in this Docket is the desire to expand the exemptions to the 30-minute notice requirement so that more demand response is eligible for the problematic two hour notice requirement.⁷ In other words, protestors want to ensure that there are sufficient loopholes in the market design to provide them the maximum flexibility while making it more difficult for PJM to improve operations to support reliability at just and reasonable rates. However, as the PJM Independent Market Monitor (“IMM”) appropriately observes, “[C]ustomers that cannot reduce demand more quickly, or resume operations more quickly when reductions are no longer needed, should not attempt to provide DR or should provide DR only as part of a portfolio.”⁸

P3 believes that the PJM Filing already comes up short of the necessary revisions to address the problem and will not do enough to alter the status quo. The Commission should resist the calls of many of the protestors to remove even more teeth from PJM’s already insufficient proposal.

⁷ It is worth noting that while many of the protestors who seek to expand the exemptions to the 30-minute rule on the basis of comparability with generation, not a single protester indicates their support for a day-ahead must offer obligation or for a \$1,000 offer cap – both of which generation is subject to and demand response is not. Comparability between demand response and generation is an admirable goal that P3 supports. However, that comparability must be universal to the extent it can be.

⁸ Comments, Complaint and Motion to Consolidate of the Independent Market Monitor for PJM, Docket No. ER14-822-000 (filed January 14, 2014) (“IMM Comments”) p. 7.

1. The Commission should reject a further expansion of the exemptions to include heating, ventilation and cooling (“HVAC”).

EnergyConnect and Comverge urge the Commission to create an exemption for demand response from HVAC. Amazingly, these parties argue that because there is so much HVAC demand response in PJM (approximately 26% of the DR in 2013/14) that demand response from HVAC should get an exemption. The tremendous amount of HVAC demand response is exactly the reason why it should NOT get an exemption, as exempting such an enormous block of demand response will only exacerbate PJM’s problem. EnergyConnect and Comverge also estimate that only between 25-50 percent of HVAC Demand Resources cannot respond to PJM dispatch at current levels within 30 minutes.⁹ This means that, between 75 percent and 50 percent of HVAC can respond to PJM dispatch within 30 minutes. Therefore, a resource specific exemption would provide more than half of HVAC resources with an automatic exemption when according to EnergyConnect’s and Comverge’s statistics, they can respond to dispatch within 30 minutes. As P3 said it is initial filing and consistent with the comments of the PJM IMM, if HVAC demand response wants to be in the market, it should comply with the 30-minute notice rule and any investments necessary to comply with the rule should be factored into the offer price.

2. The Commission should reject a further expansion of the exemptions to include small commercial customers.

Likewise, the Commission should reject the suggestion offered by PEPCO and the Maryland Public Service Commission that the “residential exemption” be expanded to include non-mass market commercial customers. As P3 noted it its initial filing in this Docket, the underlying residential exemption is “vague, unnecessary, unsupported, unjust and unreasonable”

⁹ Protest of EnergyConnect, Inc., and Comverge, Inc., Docket No. ER14-822-000 (filed January 14, 2014) (“EnergyConnect and Comverge Protest”) p. 13.

and should not be approved by the Commission. The idea that commercial customers should be able to avail themselves of this ill-conceived exemption was never intended, justified or agreed to by PJM or any PJM stakeholders. The expansion of this exemption to include commercial customers is taking a bad idea and making it worse. The Commission has the responsibility to ensure that wholesale rates are just and reasonable and the Commission should reject the protests by the Maryland Public Service Commission and PEPCO arguing for state policy objectives that will interfere with PJM's proposal.¹⁰ For these reasons, the Commission should reject these protests.

3. The Commission should reject a further expansion of the problem that would be created by continuing zonal dispatch of demand response in PJM.

Several protesters argued that it is a mistake for PJM to move from a zonal dispatch to a sub-zonal dispatch of demand response in the energy market.¹¹ P3 disagrees. PJM should be applauded for moving towards a more granular dispatch of demand response resources, as such a move improves reliability and reduces costs (as zonal dispatch requires payment to all resources in the zone). Ideally, demand response dispatch should transition to a nodal dispatch as is

¹⁰ *PPL Energyplus, LLC vs. Nazarian*, No. MJG-12-1286, slip op. at 85-86 (D. Maryland. Sept. 30, 2013) (in determining that the Maryland Public Service Commission could not require utilities within the state to enter certain wholesale price setting contracts for differences, the US District Court for the District of Maryland held that “[w]here a state action falls within a field Congress intends the federal government alone to occupy, the good intentions and importance of the state’s objectives are immaterial”); *PJM Interconnection, L.L.C., PJM Power Providers Group v. PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,022, at P 143 (2011) (“the Commission acknowledges the rights of states to pursue legitimate policy interests, and while, as we have said, any state is free to seek an exemption from the MOPR under section 206, it is our duty under the FPA to assure just and reasonable rates in wholesale markets”); *see also*, *Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953, 966 (1986) (“[a] State must rather give effect to Congress’ desire to give FERC plenary authority over wholesale rates, and to ensure that the States do not interfere with that authority”); *Miss. Power & Light Co.*, 487 U.S. 354, 371 (1988) (FERC has exclusive authority to determine the reasonableness of wholesale rates”); *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,145, at P 3 (2011) (confirming FERC’s section 205 obligation to ensure rates are just and reasonable and finding that “[w]e are forced to act, however, when subsidized entry supported by one state’s or locality’s policies has the effect of disrupting the competitive price signals that PJM’s RPM is designed to produce, and that PJM as a whole, including other states, rely on to attract sufficient capacity”).

¹¹ *Conditional Protest and Protest of EnerNOC, Inc., Direct Energy Business, LLC., and Hess Energy Marketing, LLC.*, Docket No. ER14-822-000 (filed January 14, 2014) (“EnerNOC Protest”) at pp. 19-25; *EnergyConnect and Comverge Protest*, pp. 7-8.

currently done for generation resources. As the PJM IMM accurately surmised, “[I]n order to provide the flexibility promised by DR, PJM must have the ability to dispatch DR in the quantity needed and only in locations that help system reliability.”¹²

4. The Commission should reject the further weakening of the rule by moving to a 60-minute default notice.

EnerNOC offered in their protest that the Commissions should consider changing the proposed default notice time from 30 minutes to 60 minutes.¹³ Again, while changing from a 30-minute to a 60-minute default notification period might make it easier for certain Curtailment Service Providers (“CSPs”) to register their customers, such a proposal will hamper PJM’s ability to address the identified problem. As PJM’s witness Michael Bryson explained in his affidavit, on days when the grid is stressed, conditions change rapidly and operational flexibility is critical. Describing the benefit of the proposed 30-minute default rule during the events during summer of 2013, Mr. Bryson stated, “With a 30 minute Demand Resource product, system conditions would have been much more clear, and the amount of Demand Resources called likely would have been significantly less, allowing a more efficient mix of generation, interchange, and Demand Resources for power balance.”¹⁴ Moving to a 60-minute default would again hamper the ability of PJM to address the problem and should be rejected.

B. P3 supports the IMM’s position that offer price caps for Demand Resources should be comparable to those for generating resources.

As P3 has stated, PJM’s proposed stratification of the caps on the offer price for Pre-Emergency and Emergency Load Response is unnecessary, discriminatory and would lead to bad market policy. In fact, there appears to be very little support for the stratification proposal

¹² IMM Comments, p. 12.

¹³ EnerNOC Protest, p. 17.

¹⁴ PJM Filing, Affidavit of Michael E. Bryson, p. 6, P 16.

among the parties to this Docket, including some of the very CSPs to whom the program would be targeted. Although some of these parties may favor the idea of an incentivized program for shorter lead times, some quite adamantly oppose the 30-minute lead time that PJM requires to address the problem.¹⁵ In fact, as proposed, the Steel Producers acknowledge that having both price stratification and staggered lead times is counterintuitive, arguing that “[r]esources will not select their lead times based on market incentives, but will select their lead times based on the permitted exceptions to the thirty-minute default that PJM proposed.”¹⁶ Given the fact that there is so little support for a proposal that even the IMM has stated is “arbitrary and unsupported,”¹⁷ the Commission should reject PJM’s stratification of offer caps.

P3 agrees, however, with the IMM’s assertions that Demand Resources and generating resources are substitutes in the capacity market and should be subject to the same offer caps.

Specifically, the IMM states that:

“The rules applied to DR in the current market design do not treat DR in a manner comparable to other Capacity Resources, even though DR is sold in the same capacity market, is treated as a substitute for other capacity resources and displaces other capacity resources in RPM auctions.”¹⁸

However, setting a uniform pricing cap for both types of resources at \$1,000, as the IMM suggests, is unjust and unreasonable in light of current market dynamics. Recent generator cost trends – driven by record gas prices – as well as historic Demand Resource offer behavior provide strong evidence that the \$1,000 generator offer cap is an anachronism and that such a uniform offer cap should also be *at least* as high as PJM’s proposed new Demand Resource offer cap.

¹⁵ EnerNOC Protest, pp. 2-3.

¹⁶ Motion to Intervene and Protest of Steel Producers, Docket No. ER14-822-000 (filed January 14, 2014), p. 5.

¹⁷ IMM Comments, p. 9.

¹⁸ IMM Comments, p. 2.

PJM recognizes that offer caps for generators must exceed the current \$1,000 level. PJM is currently seeking a waiver from this Commission of the cost-based offers from Generation Capacity Resources. Recent cold weather events confirm the need to raise the offer cap to prevent generators from being in the untenable position of having to make energy market offers that are below their marginal cost. In their filing, PJM compellingly states, “[I]t is patently unfair to the affected generators, who should be permitted to recover their costs of generating the energy that they are required to offer into the PJM energy market.”¹⁹ An offer cap that falls below the cost of production will have a significant impact on retirement and investment decisions and has the potential to impact reliability going forward.

It is also clear that end users value energy usage in excess of not only the anachronistic \$1,000/MWh generator offer cap level, but also the current shortage price cap that bounds Demand Resource offers. Demand response consistently offers strike prices for the Emergency Load Response Program at the \$1,800/MWh cap.²⁰ Numerous studies have concluded that end users value of lost load exceeds this value.²¹ In fact, Comverge opined in its reply comments that customer VOLL exceeds \$5,000/MWh.²² End users should have the ability to fully express their willingness to curtail without undue suppression by an arbitrary cap.

Therefore, P3 avers that the Commission should reject PJM’s proposed Demand Resource offer cap stratification. Instead, the Commission should direct PJM to immediately

¹⁹ *Request of PJM Interconnection, L.L.C., for Waiver, Request for 7-Day Comment Period, and Request for Commission Action by February 10, 2014*, Docket No., ER14-1145, filed January 23, 2014, p. 5. See also *Request of PJM Interconnection, L.L.C., for Waiver and for Commission Action by January 24, 2014*, ER14-1144-000, filed January 23, 2014.

²⁰ *Midwest Independent System Operator, Inc.*, Order on Ancillary Services Filing, 122 FERC ¶61,172, February 25, 2008, p. 54.

²¹ Estimating the Value of Lost Load *Briefing paper prepared for the Electric Reliability Council of Texas, Inc. by London Economics International LLC.*, London Economics, June 17, 2013. See p. 27, where the study notes, in part, that MISO estimated VOLLs by customer class, which ranged from \$1,735/MWh to \$42,256/MWh.

²² EnergyConnect and Comverge Protest, p. 11.

develop a uniform offer cap for all resources that reflects evidence of recent actual costs incurred by generation and the body of historic evidence revealing the willingness of Demand Resources to curtail. P3 believes that such evidence reveals that PJM's proposed new Demand Resources offer cap would be insufficient to serve in this regard.

Further, P3 respectfully suggests that the Commission act decisively to approve PJM's request for a temporary waiver of the generation offer cap. Beyond these filings, PJM has committed to addressing the long-term issues related to offer caps that do not reflect market conditions. While P3 encourages the Commission to approve the requests of PJM for emergency relief, the Commission should also instruct PJM that any long-term offer cap policy should adhere to the principle that the IMM articulated in this Docket: generation and demand response should be subject to a comparable offer cap that is higher than the \$1,000/MWh cap proposed by the IMM.

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 PJM December 24, 2013 Filing.

Respectfully submitted,

On behalf of the PJM Power Providers Group

By: /s/ Glen Thomas

Glen Thomas

Laura Chappelle

GT Power Group: 1060 First Avenue, Suite 400

King of Prussia, PA 19406

gthomas@gtpowergroup.com; 610-768-8080

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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 29th day of January, 2014.

On behalf of the PJM Power Providers Group

By: s/Glen Thomas
Glen Thomas
GT Power Group
1060 First Avenue, Suite 400
King of Prussia, PA 19406
gthomas@gtpowergroup.com
610-768-8080