

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

**PJM INTERCONNECTION, L.L.C.**     )  
  )

**Docket No. ER14-503-000**

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

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 19 C.F.R. §§385.212 and 385.213 (2010), the PJM Power Providers Group (“P3”) hereby submits this Motion for Leave to Answer and Answer in the above-captioned proceeding.<sup>1</sup> P3 is filing this Answer in response to comments filed by Interveners in the above-referenced docket regarding PJM Interconnection L.L.C.’s (“PJM”) proposed Capacity Import Limits Filing.<sup>2</sup>

**I.     BACKGROUND AND SUMMARY**

On November 29, 2013, PJM, pursuant to section 205 of the Federal Power Act (“FPA”), 16 U.S.C. § 824d, submitted revisions to the PJM Open Access Transmission Tariff (“Tariff”) and the Reliability Assurance Agreement among Load Serving Entities in the PJM Region

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<sup>1</sup> Although the Commission’s procedural rules do not provide for answers to comments 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. *See, e.g., PJM Interconnection, L.L.C.*, 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.*, 100 FERC ¶ 61,135, at P 15 (2002), *on reh’g*, 103 FERC ¶ 61,178 (2003).

<sup>2</sup> P3 submitted initial comments on December 20, 2013, and filed a timely document-less intervention on December 4, 2013.

(“RAA”) to recognize limits on the amount of capacity from external resources that PJM can reliably import into the PJM Region (“Capacity Import Limits” or “CIL”).<sup>3</sup>

As stated in P3’s initial comments in this docket,<sup>4</sup> PJM’s Capacity Import Limits Filing is a just and reasonable means of addressing a growing concern in PJM caused by a gap in the current rules governing PJM’s capacity market. PJM and its stakeholders have worked for several months to develop a fair and reasonable framework to address this regulatory gap and enhance the reliability of the PJM market.

Various comments submitted by certain parties to the docket – particularly those submitted by the Midcontinent Independent System Operator (“MISO”) Independent Market Monitor (“IMM”) (“MISO IMM”) - attempt to misconstrue the issue at hand. Of particular concern are the direct and indirect arguments that allege that PJM’s Capacity Import Limit proposal is allegedly a “seams” issue between PJM and MISO that should be considered under the auspices of the Joint and Common Market (“JCM”) initiative, and that PJM allegedly should not have “unilaterally” determined the Capacity Import Limit.<sup>5</sup> P3 seeks leave to file this Answer to address these and other inaccurate and misleading arguments proposed by some parties to this proceeding.<sup>6</sup>

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<sup>3</sup> *PJM Interconnection, L.L.C.*, Docket No. ER13-503-000, November 29, 2013 (“Capacity Imports Limit Filing”).

<sup>4</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 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](http://www.p3powergroup.com).

<sup>5</sup> *PJM Interconnection, L.L.C.*, Docket No. ER13-503-000, Potomac Economics, Ltd., Motion to Intervene and Comments (filed December 20, 2013) (“MISO IMM filing”), p. 4.

<sup>6</sup> P3 does not attempt in this Answer to address all of the comments and protests opposing or supporting the PJM November 29 Filing, but is instead focusing on certain key points. P3’s silence with respect to other comments,

## II. ANSWER

### A. PJM's CAPACITY IMPORT LIMITS FILING IS A JUST AND REASONABLE PROPOSAL TO ADDRESS THE UNIQUE RELIABILITY NEEDS OF THE PJM FORWARD CAPACITY MARKET.

As clearly described by PJM, and widely supported by its stakeholders, the Capacity Import Limit proposal is just and reasonable and a necessary regulatory provision that is currently missing in its market. The proposed Capacity Import Limit and exception are needed to ensure that the market is competitive and price signals accurately reflect the value of capacity. Moreover, the CIL proposal is a necessary planning tool for PJM to ensure the appropriate capacity, system transferability and reserve margin for its unique, three-year forward capacity market, the Reliability Pricing Model ("RPM").

The proposal is a necessary planning tool to address a gap in PJM's ability to properly recognize the limits on the transmission system's ability to deliver external resources into PJM as capacity that can participate in its RPM market. PJM, PJM's IMM, and even MISO itself all attest to the planning and reliability need for capacity import limits. In particular, PJM's IMM states that "[t]he November 29th Filing does propose a solution to the critical issue that, under the current rules, capacity imports may exceed the physical capability of the system to import the associated energy."<sup>7</sup> MISO acknowledged that the "PJM proposal is consistent with MISO's own approach to capacity imports and embraces a major element of generation capacity deliverability: a reliability-based maximum import value."<sup>8</sup>

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assertions and arguments made by commenters and protestors opposing or in support of the PJM November 29 Filing should not be construed as meaning that P3 agrees or disagrees with such assertions and arguments.

<sup>7</sup> *PJM Interconnection, L.L.C.*, Docket No. ER13-503-000, Monitoring Analytics, L.L.C., Comments of the IMM for PJM (filed December 23, 2013) ("PJM IMM filing"), p.1.

<sup>8</sup> *PJM Interconnection, L.L.C.*, Docket No. ER13-503-000, Midcontinent Independent System Operator, Inc. (filed December 20, 2013) ("MISO filing"), p 3.

The Commission should not delay approval of the proposal here due to the ongoing JCM process. Several parties have wrongly characterized PJM's efforts in this proceeding as an abandonment of the JCM process. The proposal here is an effort by PJM to ensure the effectiveness of the RPM market to provide the appropriate resource adequacy within its region. These are matters that PJM is responsible for first and foremost. In fact, the proposal addresses imports from all neighboring regions, not just MISO. PJM borders other RTOs and operating systems – including the NY ISO, the Tennessee Valley Authority, as well as the Duke Energy Carolinas and Duke Energy Progress systems. Therefore, PJM's Capacity Import Limits proposed tariff provisions will be in effect for all these adjacent markets. While MISO's IMM and some state commissions, namely Illinois and Michigan, would like to see the Capacity Import Limit proposal discussed in the broader JCM initiative, others, like Ohio, North Carolina, and Pennsylvania, strongly support PJM's Capacity Import Limits Filing, including its requested implementation date of January 31, 2014.

Although the reliability issues in this proceeding must be resolved in time for the next auction, approval of the proposal here does not preclude MISO and PJM from developing further refinements of the CIL in the future.<sup>9</sup> PJM and MISO will continue to work together to coordinate various aspects of capacity deliverability – including attempting to coordinate modeling and methodologies – via the JCM process. Such was clearly stated by both RTOs in their joint, September 26, 2013, Informational Filing in FERC Docket No. AD12-16. It was within this joint plan that PJM made clear that while it was working on setting capacity import limits, it would continue to work with MISO through the JCM initiative to examine surrounding capacity deliverability issues. Specifically, PJM stated:

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<sup>9</sup> The JCM process does not have a strict statutory timeline for implementation of any improvements, and there is no guarantee that this particular import issue in PJM would be addressed through the JCM.

“While this effort (setting a CIL) will proceed independent of the fact-finding process described here, PJM will coordinate with MISO as this methodology is developed, and as MISO develops or refines its own methodology for the same purpose. Together, the three-step analysis described above and the two RTOs’ Capacity import analysis will provide the technical analysis necessary to complete the fact-finding envisioned by OPSI/OMS. PJM and MISO will then work to identify the feasibility of changes required to market rules and operating protocols that would be required to implement the changes to the deliverability analysis that the fact-finding determines to be beneficial to pursue. Identification of these required changes will form the basis for the cost/benefit methodology that is the last step in the OMS/OPSI fact-finding process.”<sup>10</sup>

Both MISO and PJM committed in their September 26 work plan to this further capacity deliverability fact-finding effort, with an update expected by March 31, 2014. Nothing in PJM’s current Capacity Import Limits Filing takes away from the continued work on surrounding capacity deliverability issues that the two RTOs have committed to continue.<sup>11</sup>

While P3 recognizes the importance of the JCM initiative as a means to address many important seams issues between PJM and MISO, such as enhancing coordination of outages and Financial Transmission Rights and Day-Ahead market processes, the fact of the matter is that currently these two RTOs are very distinct and diverse and do not operate a joint and common market. As this Commission knows, MISO conducts a voluntary, short-term (one-year) forward capacity auction. PJM, on the other hand, operates a mandatory three-year, forward-capacity market – one in which most of the generation owners within its market are *not* state regulated. MISO’s and the MISO IMM’s respective requests for the Commission to “clarify” or tailor PJM’s Capacity Import Limit proposal (for example, by reconfiguring PJM’s proposed five resource zones to MISO’s preferred nine (or using two for MISO, but based on MISO’s

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<sup>10</sup> PJM/MISO Informational Filing, AD12-16-000, September 26, 2013, p.8.

<sup>11</sup> See *Capacity Deliverability Across the Midwest Independent Transmission System Operator, Inc./PJM Interconnection, L.L.C. Seam*, 145 FERC ¶ 61, 258 (2013) (the Commission has required its staff to participate in and monitor these efforts).

configuration), and modifying its long-term firm transmission reservation process, among others) miss the fundamental need for PJM, as an RTO, to address the unique needs of its market in the most appropriate manner possible to ensure that market will promote resource adequacy.

This Commission has long expressed its “willingness to grant some deference to changes to an open access tariff by an ISO concerning a regional solution to an identified regional problem based on what (it) understand(s) is a broad consensus.”<sup>12</sup> All RTOs that have capacity markets – including MISO – can and do exercise individual discretion (in conjunction with their stakeholders) to set appropriate market rules to ensure their respective markets appropriately incent resource adequacy. On November 21, 2013, after several months of work through various stakeholder committees, a wide majority of PJM stakeholders overwhelmingly endorsed the Capacity Import Limit at the PJM Members Committee (4.26 of 5.00 in favor, i.e., 85% on a sector basis). PJM’s Capacity Import Limits Filing, accompanied by its strong stakeholder support, is just and reasonable and warrants the same deference to regional market design that the Commission gives to all RTOs fixing issues with their market rules.

Therefore, the Commission should accept PJM’s Capacity Import Limit proposal as a just and reasonable amendment to its RAA and Tariff that was appropriately developed with its stakeholders and addresses a pressing reliability and planning need within its individualized market.

**B. THE PROPOSED TARIFF REVISIONS, INCLUDING THE EXCEPTION APPLICABLE TO CERTAIN EXTERNAL RESOURCES, ARE REASONABLE, NOT UNDULY BURDENSOME, AND CONSTITUTE A STEP IN THE RIGHT DIRECTION TO ENSURING THAT CAPACITY COMMITTED TO PJM IS DELIVERABLE TO PJM.**

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<sup>12</sup> FERC Order 2000, 89 FERC ¶ 61,285, December 20, 1999, pp. 98 and 98, citing PJM Interconnection L.L.C., 84 FERC ¶ 61,212 (1998).

PJM has demonstrated that the proposed Tariff provisions are just and reasonable to support reliability by ensuring that external resources participating in RPM are able to reliably deliver the energy of committed capacity resources during peak supply/demand conditions. PJM proposes to determine the Capacity Import Limit to effectuate this reliability initiative by evaluating the aggregate deliverability of external resources and the limits on the ability of external resources from specific zones to deliver. In fact, the proposed Capacity Import Limit is consistent with PJM's Capacity Emergency Transfer Limit, applied to internal resources. Additionally, PJM's proposed exception to the Capacity Import Limit appropriately addresses external resources that are comparable to resources internal to PJM by exempting them from the Capacity Import Limit. External resources that have demonstrated that they have satisfied the exception criteria do not pose the same reliability concerns as resources that have not met the exception criteria. The three exception criteria together are necessary to ensure reliable deliverability comparable to an internal resource.

The current tariff does not require advance procurement of firm transmission consistent with internal generation. Therefore, the firm transmission requirement ensures unit-specific deliverability from a planning perspective and minimizes the option or opportunity to arbitrage. However, contrary to the comments submitted by the American Municipal Power, Inc. ("AMP"), Owensboro Municipal Utilities ("Owensboro"), Wabash Valley Power Associates, Inc. ("Wabash"), the Illinois Municipal Electric Agency ("IMEA") and LS Power Associates, L.P., the firm transmission requirement alone is not satisfactory to be comparable to an internal resource. Specifically, having firm transmission does not demonstrate that a resource will be simultaneously deliverable with all other resources from the external zone in real-time, which the

import limit modeling captures. Therefore, the other exception criteria are necessary to demonstrate comparability with an internal resource for reliability purposes.

Internal generation is required to meet a must-offer requirement, and therefore, this commitment from external resources is comparable to that required from internal resources. In particular, this requirement prevents external resources from having a discriminatory advantage over internal generation. The must-offer requirement also improves reliability by encouraging long-term market commitments.

Finally, the pseudo-tie requirement is an important component of the exception because it removes the risk that transmission will be cut by a TLR-5 event. IMEA, the Illinois Commerce Commission (“ICC”), and Wabash all challenge the pseudo-tie exemption criteria, arguing that it is unsupported and discriminatory. However, the opposing parties do not challenge that a TLR-5 event would impact resource deliverability. The risk of resources being undeliverable due to a TLR-5 event is significant.<sup>13</sup> Not only does a pseudo-tie obligation minimize the risk of a TLR-5 curtailment event, but it also requires a resource to make a forward commitment to be deliverable, thereby making the external resources comparable to internal resources.

Together, the three exception criteria that require a resource to make the forward commitment to be comparable to internal resources prevents price responsive behavior that may cause a resource to leave PJM’s market if it is no longer financially advantageous. Freely allowing such opportunistic movements by external resources in and out of RPM can result in

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<sup>13</sup> PJM Capacity Import Limits Filing, p. 6 (“[c]onsidering only the summer months of June through September (i.e., the period when PJM is most likely to need to call on its Capacity Resources), there were 85 separate TLR-5 events resulting in curtailment of firm transmission into PJM, for a summer-period average of close to 5 events per month.”).



compromised reliability within PJM.<sup>14</sup> Therefore, the Commission should reject requests for additional exemptions from the proposed Tariff. Specifically, AMP states that the Capacity Import Limit would allegedly “seriously impair the value of AMP’s significant investments in generation resources in MISO,” and that “resources built to serve native load on a long-term basis should be exempt from the application of PJM’s Capacity Import Limits.” AMP’s resource investments located in MISO now serve native load in PJM as a result of the Commission’s approval of Duke’s and ATSI’s migration into PJM. This one-of-a-kind circumstance where AMP made an investment decision knowing where the resource would be located does not render PJM’s proposal unjust and unreasonable. AMP can continue to serve native load by satisfying the exception criteria, or importing within the import limit. AMP never discusses the three-pronged exception and why it would be unreasonable for its resources to comply with the exception that essentially treats external resources the same as internal ones. AMP does not explain why the proposed exception would be unduly burdensome. AMP argues that its members were forcibly moved from MISO to PJM without consultation or consent and the proposed Tariff provisions would impair their investments.<sup>15</sup> The Commission approved the migration of Duke and ATSI to PJM, and the Commission should find that AMP’s comments opposing that migration are outside the scope of this proceeding because the migration of the load is a settled matter before the Commission.

The Commission should approve PJM’s proposal to implement the Capacity Import Limit methodology through the manuals as consistent with the treatment of the Capacity

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<sup>14</sup> See *PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,079, at P 111 (2006) (“to ensure that reliability is not compromised, an LSE must not be allowed to move in and out of the forward procurement auction from year to year.”).

<sup>15</sup> *PJM Interconnection, L.L.C.*, Docket No. ER13-503-000, American Municipal Power, Inc. Protest and Motion for Suspension and Other Relief (filed December 20, 2013), p. 5.

Emergency Transfer Limit methodology. The PJM Tariff sufficiently makes clear how the Capacity Import Limit methodology is to function. The Capacity Import Limit methodology, therefore, is a technical methodology to determine the importing capability of the system on a yearly basis as defined in the Tariff.<sup>16</sup> Requiring PJM to include such a technical methodology in the tariff would be inconsistent with Commission precedent.<sup>17</sup> Nonetheless, to the extent the Commission finds that the specifics of the Capacity Import Limit methodology should also be included in PJM's Tariff, given that proposed tariff language is already clear as to how the methodology is to function, the Commission can order PJM to include the specific details in the Tariff as part a compliance filing. Therefore, P3 believes that the three-pronged exception, and the overall Capacity Import Limit proposal, is just and reasonable as applied to external resources, and is a step in the right direction of ensuring that capacity is deliverable to support the reliability of the PJM market.

**C. PJM's CAPACITY IMPORT LIMITS FILING IS SUFFICIENTLY DETAILED TO SUPPORT THE REQUESTED IMPLEMENTATION DATE OF JANUARY 31, 2014.**

The Capacity Import Limits Filing provides sufficient detail for the Commission to find that it is a just and reasonable proposal. The Commission should approve PJM's proposed Tariff

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<sup>16</sup> The Commission has previously approved a reasonable discretion in modeling. *See PPL Energy Plus v. PJM Interconnection, L.L.C.*, 134 FERC ¶ 61,263, at P 43, *reh'g denied*, 136 FERC ¶ 61,060 (2011), *aff'd*, 503 F. App'x 1 (D.C. Cir. 2013).

<sup>17</sup> The FPA requires all practices that significantly affect rates, terms and conditions of service to be on file with the Commission, and these practices must be included in a Commission accepted tariff. *Cargill Power Markets, LLC v. Public Service Company of New Mexico*, 141 FERC ¶ 61,141, at P 14 (2012); *Quest Energy, L.L.C. v. Detroit Edison Co.*, 106 FERC ¶ 61,227, at P 20 (2004) ("a company's tariffs, not its manuals or handbooks, must define the rates, terms and conditions of jurisdictional services"); *complaint withdrawn*, 109 FERC ¶ 61,334 (2004); *accord Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,147, at P 58 (2009) (finding that consistent with the Commission's policy, as implemented through the rule of reason, a provision "that significantly affects rates, terms and conditions of service ... must be filed for Commission approval and made a part of the ... tariff."); *Wisconsin Power and Light Co.*, 123 FERC ¶ 61,307, at P 6 (2008) (pursuant to 18 C.F.R. §§ 35.1-35.2, rate schedules must set forth in writing, clearly and specifically, all rates, terms, and conditions for sales of electric energy subject to the Commission's jurisdiction.); *see generally Prior Notice and Filing Requirements under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,986-89 (1993), *order on reh'g*, 65 FERC ¶ 61,081 (1993).

revisions by January 31, 2014, as requested, so that they can be in effect in the next BRA. PJM has already observed an increase in imports participating in RPM that present a real risk to short-term and long-term reliability. Specifically, the Commission should not delay approval of the proposal here due to the ongoing JCM process. The proposal here is an effort by PJM to ensure that its capacity markets are able to function properly so that resources are available when needed. Although the reliability issue in this proceeding must be resolved in time for the next auction, approval of the proposal here does not preclude MISO and PJM from developing further refinements of the Capacity Import Limit in the future. Finally, it is imperative that this issue be resolved prior to the BRA because if undeliverable imports are allowed to participate in the BRA, once the BRA is run it may be too late to fix reliability issues and inaccurate market clearing prices caused by the undeliverable resources. Therefore, the Commission should reject requests to delay the implementation of the proposal.

Ultimately, this filing is about reliability in both PJM and MISO (and other RTOs as well). P3 recognizes that capacity should be able to move across RTO borders in an economically efficient manner, provided the capacity is ultimately deliverable to the load to which it is committed. Fundamentally different approaches to resource adequacy, as seen in MISO and PJM, naturally lend themselves to concerns that capacity needed in one RTO may be committed to a neighboring RTO.<sup>18</sup> A properly constructed capacity import limit, such as the one proposed by PJM, helps all RTOs have confidence that capacity committed to their market is deliverable to their market. Likewise, it allows, to a certain degree, the RTO where the capacity is being exported from to plan accordingly, knowing that capacity located within its borders will not be available to that RTO.

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<sup>18</sup> As noted by its initial comments in this docket, P3 is very concerned that over 4700 MW of capacity located in MISO is committed to the PJM market in 2016 which is the same year MISO is predicting that its reserve margin falls to 7%.

P3 shares PJM's reliability concerns that underlie its request to have the Commission approve its Capacity Import Limits Filing on January 31, 2014, and urges the Commission to accept this implementation date as well.

### **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 November 29 Capacity Import Limits Filing.

Respectfully submitted,

On behalf of the PJM Power Providers Group

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Dated: January 6, 2014

**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 6th day of January, 2014.

On behalf of the PJM Power Providers Group

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