

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

PJM Interconnection, L.L.C. ) Docket No. ER15-623-000

**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 ("FERC" or the "Commission"), 18 C.F.R. §§ 385.212, 385.213 (2014), the PJM Power Providers Group ("P3")<sup>1</sup> respectfully submits this Motion for Leave to Answer and Answer to the Answer and Motion for Leave to Answer of the Independent Market Monitor ("IMM") for the PJM Interconnection, L.L.C. ("PJM"), filed on February 25, 2015, as revised on February 27, 2015, in the above-captioned docket.

This proceeding involves PJM's December 12, 2015, filing pursuant to Section 205 of the Federal Power Act ("FPA"),<sup>2</sup> that proposes reforms to the Reliability Pricing Model ("RPM") and related rules in the PJM Open Access Transmission Tariff ("Tariff") "to better ensure that capacity resources will perform when called upon to meet the reliability needs of the PJM Region."<sup>3</sup> PJM has requested an effective date for these requested changes of April 1, 2015.

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<sup>1</sup>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. For more information on P3 visit [www.p3powergroup.com](http://www.p3powergroup.com). 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.

<sup>2</sup> 16 U.S.C. §824d.

<sup>3</sup> *PJM Interconnection, L.L.C.*, Docket No. ER15-623-000 (filed December 12, 2014) ("PJM Capacity Performance Filing" at p1).

The Commission set January 20, 2015, as the deadline to file comments, interventions and protests in this docket.

## **I. MOTION FOR LEAVE TO ANSWER**

P3 acknowledges that the Commission's rules and procedures do not permit answers to answers.<sup>4</sup> However, the Commission has allowed an otherwise impermissible answer if good cause is demonstrated. In particular, the Commission has accepted answers when doing so will clarify complex issues, provide additional information that will assist the Commission, correct inaccurate statements and generally ensure a more accurate and complete record.<sup>5</sup>

P3 specifically provides this Answer in response to the IMM's recently filed Answer and Motion for Leave to Answer, filed in this docket on February 25, 2015, as revised on February 27, 2015.<sup>6</sup> P3's Answer seeks to clarify the record in this proceeding and ensure a more accurate and complete record with which the Commission utilizes in deciding the issues presented. For these reasons, P3 respectfully requests that the Commission accept this Answer and consider the comments herein.

## **II. BACKGROUND**

On January 20, 2015, P3 filed comments to PJM's Capacity Performance Filing. In particular, P3 supported PJM's proposal to set the Market Seller Offer Cap for any Capacity

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<sup>4</sup> 18 C.F.R. §385.213(a)(2).

<sup>5</sup> *Morgan Stanley Capital Group, Inc. v. N.Y. Independent System Operator, Inc.*, 93 FERC ¶ 61,017, at 61,036 (2000); *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,138 at 61,381 (1999).

<sup>6</sup> *Answer and Motion for Leave to Answer of the Independent Market Monitor for PJM*, re: *PJM Interconnection, L.L.C.*, Docket No. EL15-623-000, dated February 25, 2015, as revised on February 27, 2015 ("IMM's Answer"),

Performance Resource at the Net Cost of New Entry ("Net CONE"), stating, in part, that the proposed construct was just and reasonable and will incent generators to make investments to increase reliability.<sup>7</sup>

On January 20, 2015, the IMM also filed comments to PJM's Capacity Performance Filing. In particular, the IMM stated, in part, that "properly defined Net CONE is a reasonable offer cap."<sup>8</sup>

In the IMM's Answer, the IMM espouses a significant modification to PJM's proposed Tariff regarding a Market Seller Offer Market Cap.<sup>9</sup> P3 submits that this proposed, late-filed and un-vetted modification has not been shown to be just and reasonable, and should therefore be rejected at this time from further Commission consideration as part of any reforms emanating from this docket.

**A. The IMM's proposal to set the default offer cap at Net CONE \* B is a significant, last-minute proposed change that must be rejected at this time.**

The IMM's Answer recommends a new methodology for sellers of Capacity Performance Resources. The February 25, 2015, impermissible answer (subsequently amended on February 27, 2015) is the first instance that P3 – or any party to this proceeding –encountered this particular proposal. This change amounts to a significant departure from the IMM's previously filed position in this docket wherein the IMM specifically supported PJM's proposed Tariff revision to require that the "Market Seller Offer Cap for any Capacity Performance Resource shall be the Net Cost of New Entry applicable for the Delivery Year and Locational

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<sup>7</sup> *Comments of the PJM Power Providers Group*, regarding *PJM Interconnection, L.L.C.*, Docket No. ER15-623-000 ("P3 Comments"), dated January 20, 2015, at p5.

<sup>8</sup> *Comments of the IMM for PJM*, regarding *PJM Interconnection, L.L.C.*, Docket No. ER15-623-000 ("IMM Comments"), dated January 20, 2015, at p4.

<sup>9</sup> PJM Proposed Tariff, Attachment DD, section 6.4(a).

Deliverability Area for which such Capacity Performance Resource is offered."<sup>10</sup> In support of PJM's proposal, the IMM stated that:

"The Capacity Performance product is an obligation to deliver firm energy during defined hours in a forward period. If the energy is not delivered in an hour, the seller must pay the hourly equivalent of the value of the product, defined to be net CONE divided by the expected number of performance assessment hours. For that reason, a logical offer is an offer at properly defined net CONE in an overall capacity market design that includes the appropriate number of expected performance assessment hours and does not have a monthly stop loss.

In addition, the expected equilibrium price in the capacity market is properly defined net CONE and the design goal of the market is to have relatively stable pricing in a narrow bandwidth around properly defined net CONE."<sup>11</sup>

However, in its most recent filing, the IMM significantly departs from this filed position and states that the default offer cap should be Net CONE \* B, where B is the expected average balancing ratio, which will always be less than or equal to 1 leading to a lower default offer cap than previously recommended. The IMM's stated reason for this departure stems from a more "detailed review" of units that could profitably provide energy under the Capacity Performance design.<sup>12</sup> Yet none of the information upon which the IMM is basing this new proposal is new. The IMM had all of this information, including the Avoidable Cost Rate ("ACR") data and expected Performance Assessment Hours ("PAH"), when it submitted its initial position supporting PJM's proposal to set the Market Seller Offer Cap at Net CONE.

P3 submits that this significant deviation, submitted exceptionally late in this proceeding, must be rejected at this time. Rather than the IMM's proposed Answer providing clarity in this proceeding, it injects a construct which on its face is confusing, not fully explained, and may, therefore, be unjust and unreasonable in its application. Equally as important, parties to this

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<sup>10</sup> PJM Capacity Performance Filing, at p54, footnote 145.

<sup>11</sup> IMM Comments, at p4.

<sup>12</sup> IMM Comments, at p3.

proceeding are disadvantaged in responding to this proposal by themselves having to file motions for leave to answer in this proceeding. For all of these reasons, the IMM's Answer proposing a new default Market Seller Offer Cap should be rejected.

**B. The IMM has not shown that PJM's proposed Market Seller Offer Cap is not just and reasonable**

The proposed revisions to the Tariff, with respect to the Market Seller Offer Cap, require PJM to satisfy the FPA Section 205 burden of proof to demonstrate that its proposed revisions are just, reasonable and not unduly discriminatory or preferential.<sup>13</sup> The IMM's initial comments in this proceeding not only did not dispute that PJM's proposed changes were just and reasonable, they supported PJM's proposal. In the January 20, 2015, IMM Comments, the IMM stated that "properly defined net cost of new entry is a reasonable offer cap."<sup>14</sup>

Furthermore, simply because the IMM offers this last-minute proposal does not mean that in and of itself, it is somehow more reasonable than PJM's well-vetted proposal. As the Commission has stated, whether or not (another proposal) "might *also* be just and reasonable does not allow us to reject a utility's just and reasonable proposal under section 205."<sup>15</sup> Given that the IMM has failed to show, let alone allege, that PJM's Market Seller Offer Cap is not unjust and unreasonable, the IMM's proposal should be rejected.

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<sup>13</sup> See *Ala. Power Co. v. FERC*, 993 F.2d 1557, 1571 (D.C. Cir. 1993) (citations omitted).

<sup>14</sup> IMM Comments, at p4 (emphasis added).

<sup>15</sup> *PJM Interconnection, L.L.C.*, 126 FERC ¶ 61,275, at P 38 (emphasis in original).

### III. CONCLUSION

**WHEREFORE**, for the foregoing reasons, P3 respectfully requests that the Commission accept this Answer into the record, consider these comments and reject the IMM's proposed revisions to the Market Seller Offer Cap.

Respectfully submitted,

On behalf of the PJM Power Providers Group

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Dated: March 6, 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 6th day of March, 2015.

On behalf of the PJM Power Providers Group

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