

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

FirstEnergy Solutions Corporation)

Docket No. EL14-36-000

**COMMENTS OF THE PJM POWER PROVIDERS GROUP
AND THE ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), 18 C.F.R. § 385.212 (2012), the PJM Power Providers Group (“P3”)¹ and the Electric Power Supply Association (“EPSA”)² hereby comment on the Petition for Declaratory Order and Request for Expedited Action submitted by FirstEnergy Solutions Corp. (“Solutions”) on April 7, 2014, in the above-captioned proceeding pursuant to section 207(a)(2) of the Commission’s Rules of Practice and Procedure,³ in which Solutions seeks a determination from the Commission that PJM Interconnection, L.L.C.’s (“PJM”) Open Access Transmission Tariff (“Tariff”) requires a generator’s Market Seller Offer

¹ 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

² 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. 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.

³ 18 C.F.R. § 385.207(a)(2) (2014).

Cap in the Reliability Pricing Model (“RPM”) to reflect the unit’s cost-based energy offers in the determination of net Projected PJM Market Revenues. Solutions has requested that a Declaratory Order be issued by May 9, 2014, which is the last business day prior to the commencement of the May 2014 Base Residual Auction (“BRA”).⁴ P3 and EPSA support Solutions’ filing and request that the Commission accept Solutions’ filing as just and reasonable.

I. BACKGROUND

Solutions’ filing seeks confirmation of the proper interpretation of PJM’s Tariff, as it has implications for the calculation of Market Seller Offer Caps that are used in BRAs, including the upcoming one that begins on May 12, 2014, as well as in subsequent Incremental Auctions. Solutions requests verification that the manner in which it (and PJM) interprets Section 6.8(d) of Attachment DD of the Tariff is correct.

Section 6.8(d) is the cornerstone provision for the manner in which the Independent Market Monitor (“IMM”) calculates a Market Seller Offer Cap for an Existing Generation Capacity Resource that submits a non-zero sell offer into an RPM auction. Solutions’ interpretation of the Tariff, and in particular, Section 6.8(d), is at odds with the manner in which the IMM interprets the same provision as it applies to calculating a Market Seller Offer Cap. Specifically, the issue involves how the IMM should calculate net PJM Market Revenues. Projected PJM Market Revenues is defined in Section 6.8(d) of Attachment DD of PJM’s Tariff, in part, as follows:

“Projected PJM Market Revenues for any Generation Capacity Resource to which the Avoidable Cost Rate is applied shall include all actual unit-specific revenues from PJM energy markets, ancillary services, and unit-specific bilateral contracts from such Generation Capacity Resource, **net of marginal costs for providing such energy** (i.e., costs allowed under cost-based offers pursuant to Section 6.4 of Schedule 1 of the Operating Agreement) and ancillary services from such resource.” (Emphasis added.)

⁴ *FirstEnergy Solutions Corporation*, Docket No. EL14-36-000, April 7, 2014 (“Solutions’ filing”).

Solutions states that “net of marginal costs” is specifically defined by Section 6.8(d) itself (“i.e., costs allowed under cost-based offers pursuant to Section 6.4 of Schedule 1 of the Operating Agreement”), as well as other corresponding provisions (including Section 6.4 of Schedule 1 of the Operating Agreement; Schedule 2 of the Operating Agreement; and Manual 15). Solutions asserts that these provisions provide the necessary references to cost-based offers to support the contention that PJM clearly intended to utilize cost-based offers to calculate marginal cost for the purpose of determining offer caps.

The IMM, however, apparently utilizes a different methodology when calculating the net revenues a unit would receive from the PJM Markets. The IMM’s approach uses the *lower* of the unit’s market-based offer and cost-based offer submitted into the energy market each hour of each day.

P3 and EPSA fully support Solutions’ filing and its interpretation of the Tariff in question, as more fully explained below.

II. COMMENTS

A. **PJM’s Tariff Clearly Provides that Projected PJM Market Revenues, for the Purpose of Establishing RPM Sell Offer Caps, Must be Calculated Using a Unit’s Cost-Based Energy Offers.**

P3 and EPSA agree with Solutions that the above-stated Tariff provisions clearly provide that Projected PJM Market Revenues are to be determined utilizing a unit’s cost-based energy offers. A plain reading of Section 6.8(d) provides the meaning of “net of marginal costs” (“i.e., costs allowed under **cost-based offers** pursuant to Section 6.4 of Schedule 1 of the Operating Agreement.” (Emphasis added.) For a further explanation of cost-based offers, Section 6.8(d) refers to Section 6.4 of Schedule 1.

Section 6.4.2(a) provides that the Market Seller for the affected unit must specify one of four amounts to reflect the level of the offer price cap [(i)the weighted average Locational Marginal Price, (ii) the incremental operating cost of the generation resource, (iii) Frequently Mitigated Units, or (iv) an amount determined by agreement between the Office of the Interconnection and the Market Seller]. Section 6.4.2(a)(ii) defines the “incremental operating cost” as follows:

The incremental operating cost of the generation resource as determined in accordance with Schedule 2 of the Operating Agreement and the PJM Manuals (“incremental cost”), plus 10% of such costs.

Schedule 2 of the Operating Agreement, entitled “Components of Cost,” delineates various components, or their equivalents, that may be used for cost-based rates. Therefore, reading each Tariff provision separately, and equally as important, reading the pertinent Tariff sections as a whole, it is clear to interpret the plain meaning of “net of marginal costs” as meaning simply “cost-based offers.”

B. PJM’s Original Interpretation of Section 6.8(d), and any Practical Interpretation of its Intended Result, Support the Determination that Only Cost-Based Energy Offers Should be Used to Determine Projected PJM Market Revenues.

Solutions’ reliance on PJM’s interpretation of Section 6.8(d), from its original submission of the Tariff provision to the Commission, is equally compelling. In its September 29, 2006 Explanatory Statement of the Settlement Agreement with regard to the implementation by PJM of RPM, PJM explained that the new Section 6.8(d) was intended to clarify certain aspects of the Offer Cap Offset. In part, PJM stated:

“The Settlement Agreement (at Section II.I.4) clarifies this matter by providing in new Section 6.8(d) that a generating unit’s Projected PJM Market Revenues shall include all unit-specific revenues over certain specified time periods from PJM energy markets, PJM ancillary services, and unit-specific bilateral contracts from such unit, net of marginal costs for providing such energy,* and ancillary services

for such unit.” (* footnote 61: “That is, costs allowed under cost-based offers pursuant to Section 6.4 of Schedule 1 of the PJM Operating Agreement.”)⁵

The fact that PJM’s original interpretation that cost-based offers are the “costs” allowed to determine “net marginal costs” pursuant to Section 6.8(d) should be determinative of the issue at hand.

Finally, P3 and EPSA believe that the IMM’s methodology that uses the lower of a unit’s market-based offer and cost-based offer for the calculation of net revenues is not a practical interpretation of PJM’s Tariff, as it would tend to defeat one of the core tenets of the RPM capacity markets: setting the correct price for capacity in the PJM region. Per PJM, “capacity, energy and ancillary services revenues are expected, in the long term, to meet the fixed and variable costs of generation resources to ensure that adequate generation is maintained for reliability of the electric grid.”⁶ While this specific concern regarding the IMM’s calculation of Projected PJM Market Revenues is very narrow and applied on a unit specific basis, the effect of the interpretation misprices the true value of the capacity in question. Therefore, Solutions’ filing requires clarification from the Commission in order to ensure that this market calculation works as intended and appropriately reflects the price of capacity in PJM. As explained by Solutions, the IMM’s interpretation has the potential of financially penalizing a seller, especially for submitting a Market-Based Offer below a unit’s marginal cost, thus prohibiting the seller from recovering its appropriate revenues from the market to cover its unit’s fixed and variable costs.

⁵ *Settlement Agreement & Explanatory Statement of the Settling Parties Resolving All Issues in PJM Interconnection, L.L.C.*, filed by PJM Interconnection, L.L. C., Docket Nos. ER05-1410-000, *et al.* at pp. 34-35 (September 29, 2006).

⁶ PJM: Reliability Pricing Model Training, February, 2014, at p.6.

III. CONCLUSION

For the foregoing reasons, P3 and EPSA agree with Solutions' filing regarding the proper interpretation of Section 6.8(d) of PJM's Tariff; specifically, that Projected PJM Market Revenues, for the purpose of establishing a Market Seller Offer Cap, must be determined utilizing a unit's cost-based energy offers. P3 and EPSA respectfully request that the Commission issue a Declaratory Order on or before May 9, 2014.

Respectfully submitted,

On behalf of the PJM Power Providers Group

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Dated: April 18, 2014

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 18th day of April, 2014.

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