UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Calpine Corporation, Dynegy Inc., Eastern Generation, LLC, Homer City Generation, L.P., NRG Power Marketing LLC, GenOn Energy Management, LLC, Carroll County Energy LLC, C.P. Crane LLC, Essential Power, LLC, Essential Power OPP, LLC, Essential Power Rock Springs, LLC, Lakewood Cogeneration, L.P., GDF SUEZ Energy Marketing NA, Inc., Oregon Clean Energy, LLC and Panda Power Generation Infrastructure Fund, LLC,) Complainants,	)	Docket No. EL16-49-000
v.	)	
PJM Interconnection, L.L.C., Respondent.	)	

ANSWER OF PJM INTERCONNECTION, L.L.C.

PJM Interconnection, L.L.C. ("PJM"), pursuant to Rule 213 of the rules of the Federal Energy Regulatory Commission's ("Commission"),[1] and the Commission's March 22, 2016 Notice of Complaint, submits this answer to the March 21, 2016 complaint.[2] The Complaint seeks a Commission order requiring PJM Open Access Transmission Tariff ("Tariff") modifications in time for the upcoming Reliability Pricing Model ("RPM")[3] Base Residual Auction ("BRA") which will commence on May 11,

[1] 18 C.F.R. § 385.213.

[2] *Calpine Corporation, et al. v. PJM Interconnection, L.L.C.,* Complaint Requesting Fast Track Processing, Docket No. EL16-49-000 (Mar. 21, 2016) ("Complaint"). Complainants include: Calpine Corporation, Dynegy Inc., Eastern Generation, LLC, Homer City Generation, L.P., NRG Power Marketing LLC, GenOn Energy Management, LLC, Carroll County Energy LLC, C.P. Crane LLC, Essential Power, LLC, Essential Power OPP, LLC, Essential Power Rock Springs, LLC, Lakewood Cogeneration, L.P., GDF SUEZ Energy Marketing NA, Inc., Oregon Clean Energy, LLC and Panda Power Generation Infrastructure Fund, LLC. ("Complainants").

[3] Capitalized terms not otherwise defined herein have the meaning specified in, as applicable, the Tariff, the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. ("Operating Agreement"), or Reliability Assurance Agreement Among Load Serving Entities in the PJM Region ("RAA").

2016 ("May 2016 BRA"). Specifically, Complainants seek to expand the Minimum Offer Price Rule ("MOPR") to apply to Sell Offers for Existing Generation Capacity Resources when such resources are subsidized by state-approved out-of-market payments.

As discussed herein, the Complaint should be denied to the extent it seeks to establish and apply new MOPR provisions prior to the May 2016 BRA. However, PJM agrees that under certain circumstances and given the existing PJM MOPR, Sell Offers in RPM Auctions submitted by Existing Generation Capacity Resources could result in unjust and unreasonable rates when such resources are subsidized by state-approved out-of-market payments. Thus PJM believes the Commission could find the current MOPR provisions, to the extent they distinguish unit specific, state-subsidized new generation from existing generation, are incomplete and not sustainable over time and therefore unjust and unreasonable. The Commission should then direct PJM to submit revised rules, after vetting through a stakeholder process, in time for the Commission to act prior to the BRA that will take place in May, 2017 ("May 2017 BRA").[4] This approach would allow the Commission to carefully and comprehensively identify the problem raised by Complainants and allow an orderly process to consider alternatives through an open stakeholder process. Alternatively, the Commission could direct further analysis by PJM through a stakeholder process and keep this Complaint open so that PJM can report back to the Commission on the results of its analyses including proposed solutions for the

[4] PJM would expect to file any resulting Tariff revisions by mid-October, 2016 to accommodate the MOPR time line as it pertains to the May 2017 BRA.

Commission to consider.[5] Such a "staging" of this proceeding would provide stakeholders an inclusive role in formulating a rule having widespread application and send the appropriate signal that the issue requires further analysis and focus. Moreover, this would allow the Commission to consider these issues not only with a full record from an open stakeholder process but also with consideration of the Supreme Court's resolution of the *Hughes* proceeding.[6]

Finally, should the Commission nonetheless determine action must be taken prior to the May 2016 BRA, PJM offers an alternative proposal that is narrowly drawn and can be implemented in short order and without the complexity inherent in the proposed remedy. PJM proposes these short-term alternatives to the Complainants' proposal should the Commission feel immediate action is needed; but again we would caution that a more deliberate approach – one which directs PJM to make a filing to address the problem prior to next year's BRA – would be less disruptive to the market. In its approach to the Complaint, PJM is mindful of the Commission's action adapting the ISO-NE MOPR to address specific circumstances in the New England market and believes that a similar approach is needed to adapt the PJM MOPR to address specific subsidization issues in the PJM region. Without a remedy, subsidization of Existing Generation Capacity Resources could negatively impact the very goal of RPM to provide

[5] The case law is quite clear that in crafting remedies to any 206 findings, the Commission's authority is at its "zenith". PJM urges the Commission to use this discretion in a manner which balances the need for timely resolution while, at the same time avoiding the disruptive impact of an uncertain and untested remedy being imposed prior to the 2016 BRA. *See Niagara Mohawk Power Corp. v. FPC*, 379 F.2d 153, 159 (D.C. Cir. 1967). PJM would fully anticipate and plan for a stakeholder process to help craft such a filing and would periodically report to the Commission on its progress

[6] *Hughes v. PPL EnergyPlus, LLC*, 753 F.3d 467 (4th Cir. 2014), *cert. granted*, 136 S. Ct. 382 (Oct. 19, 2015) (No. 14-614).

an appropriate price signal for the development of new resources or retention of economic existing resources.

I. ANSWER TO COMPLAINT

A. PJM agrees there may be a gap in its MOPR that could allow, under certain circumstances, uncompetitive offers from Existing Generation Capacity Resources.

The Complaint highlights a potential gap in the MOPR, which could allow, in certain circumstances, uncompetitive offers from Existing Generation Capacity Resources to suppress clearing prices and undermine PJM's efforts to support competitive market entry through RPM. The Ohio power purchase agreements ("Ohio PPAs") that are the focus of the Complaint[7] could be only the first example of later similar agreements or initiatives that, while legal under state law, raise potential to undermine the price signals that PJM and the Commission have worked so hard to achieve through the RPM capacity market. The current MOPR does not apply to Existing Generation Capacity Resources because such resources have going-forward costs (net of energy market revenues) that are typically low, thus raising less concern about below-cost offers. The Complaint raises the legitimate question—not yet addressed in the PJM Tariff—of whether a MOPR should apply to Existing Generation Capacity Resources under certain circumstances.

[7] The Ohio PPAs are more fully described in the recent Public Utilities Commission of Ohio ("PUCO") orders that accepted those agreements. *See In re Application of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider* and *In Re Application of Ohio Power Company for Approval of Certain Accounting Authority,* Nos. 14-1693-EL-RDR and 14-1694-EL-AAM (March 31, 2016) ("AEP PUCO Order"). *In re Application of Ohio Edison Co., Cleveland Elec. Illuminating Co., and Toledo Edison Co. for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Security Plan*, No. 14-1297-EL-SSO (Mar. 31, 2016) ("FirstEnergy PUCO Order").

The Commission has frequently found (in the context of new entry offers) that competitive resources will offer at their going-forward costs. In a prior order on PJM's MOPR, for example, the Commission explained: "[f]or a competitive market like RPM to function as intended, 'offers submitted into PJM's capacity auctions must accurately reflect avoidable net costs.'"[8] The Commission has invoked this same standard for the Midcontinent Independent System Operator ("MISO") capacity market, finding: "[i]t is optimal and consistent with the behavior of market participants in a competitive market to permit a market participant to offer capacity into the Auction according to that market participant's going-forward costs[;]"[9] and for the New York Independent System Operator ("NYISO") capacity market, finding: "competitive offers are expected to reflect going-forward costs as adjusted for revenues that are consistent with revenues earned in competitive markets."[10]

The potential harm from uncompetitive offers by existing resources is implicitly the same as that repeatedly recognized by the Commission as to uncompetitive offers by new resources, i.e., below-cost offers will set clearing prices too low for sellers that rely on revenues from a competitive market to enter or remain in the market. The only difference between competitive offers from new resources and competitive offers from existing resources is that the relevant costs are much lower for an existing resource, because most of its costs are sunk. But the costs for an existing resource (even after accounting for expected market revenues) still may be above zero. Consequently, if an

[8] *PJM Interconnection, L.L.C.*, 138 FERC ¶ 61,194, at P. 19 (2012), *quoting PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,145, at P. 255 (2011).

[9] *Public Citizen, Inc. v. Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,224 at P 89 (2016).

[10] *Independent Power Producers of New York, Inc. v. New York Independent System Operator, Inc.,* 150 FERC ¶ 61,214 at P 66 (2015) ("IPPNY v. NYISO").

existing resource has a positive value of net avoidable costs, after allowing for revenues consistent with those expected from a competitive market, a minimum offer price at or near that net cost level may be warranted, especially if there is cause for concern that the seller may consistently offer below that level, and there are no other considerations or safeguards that justify reliance on out-of-market revenues.

Here, the Complaint identifies a set of conditions in which there may be valid concerns that below-cost offers from existing resources may warrant mitigation.[11] In particular, targeted state subsidization of particular named units—with the level of the subsidy dependent on the level of the capacity revenues obtained by the unit—can change a seller's competitive incentive to offer and commit as capacity only if it can recover its going forward costs (net of energy and ancillary service market revenues) through RPM. In the face of targeted subsidies that change a seller's competitive offer incentives, it may no longer be sustainable to distinguish between new resources and existing resources. PJM recognizes, however, that these concerns can be addressed through a targeted change that carries forward existing exceptions in MOPR for Sell Offers that are consistent with long standing business models such as those utilized by public power. For these reasons, PJM seeks a directive from this Commission, consistent with section 206 of the FPA, to present to the Commission a targeted remedy to this market design issue for implementation prior to the May 2017 BRA.

PJM also is mindful that the Commission has recognized different Regional Transmission Organizations ("RTOs") may properly take different approaches to buyer-side mitigation issues. Even for RTOs with similar MOPR-type rules the Commission

[11] PJM clarifies that it does not prejudge whether any particular Sell Offer from any of the units covered by the Ohio PPAs would warrant mitigation under these principles.

has permitted important differences. ISO-New England's approved MOPR, for example, applies to all new capacity resources, including renewable resources, whereas PJM's approved MOPR focuses on new gas-fired generation. Responding to parties that object to such differences, the Commission explained that "there are differences between PJM and ISO-NE that affect the balancing of the [relevant] considerations."[12] Accordingly, regardless of whether the MOPR-type rules of other RTOs apply to existing resources, the Commission can and should consider whether existing resource offers made in the context of agreements like the Ohio PPAs would, given the circumstances specific to PJM's capacity markets, lead to unjust and unreasonable rates or market outcomes.

B. The Commission should Deny the Requested Relief to Apply Proposed Expanded MOPR Rules to the May 2016 BRA.

The current MOPR is being implemented for the May 2016 BRA. A Capacity Market Seller with a MOPR-screened resource will submit its offer at the appropriate MOPR Floor Price unless it has asked for and received a competitive entry, self-supply or unit-specific exemption under the MOPR to be able to offer below such MOPR Floor Price.[13] While PJM believes there may be a gap in the rules that, if exploited, could result in unjust and unreasonable auction outcomes in certain circumstances, any corrosive effect of such subsidies would occur over time. Moreover the extent to which

[12] *New England States Committee on Electricity v. ISO-New England Inc.*, 142 FERC ¶ 61,108, at P. 35 (2013) (listing, among other relevant differences, differing sizes of the two RTOs, differing supply/demand balances, and differences in possible degree of price suppression). *See also Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,199, at PP. 66-68 (2012), *reh'g denied*, 153 FERC ¶ 61,299, at PP. 105-119 (2015) (rejecting RTO's proposed MOPR based on Commission's assessment of likelihood of price-suppressing offers in region that is more reliant on traditional regulation and pre-existing long-term capacity contracts, and that employs a short-term "spot" capacity market).

[13] Under the Tariff, exemption requests were submitted to PJM and the Independent Market Monitor for PJM ("IMM") by December 28, 2015 – 135 days before the commencement of the BRA. Final determinations on the exemptions were due by PJM 65 days after receipt of the MOPR request (e.g., for a request submitted on December 28, 2015, PJM's final determination was due by March 2, 2016). *See* Tariff, Attachment DD, section 5.14(h)(9) and http://pjm.com/markets-and-operations/rpm.aspx.

the existing gap in the PJM rules is in fact exploited for the May 2016 BRA (as opposed to future BRAs) will not be known until offers are submitted at the time of the May 2016 BRA.

Importantly, the long-term harm to the accuracy of the price signal must be balanced with the harm resulting from a hurried, disruptive and chaotic effort to revise existing rules through the complex proposal offered by the Complaint, none of its elements having undergone any semblance of stakeholder review. PJM is concerned the potential for creating *other* unintended harmful consequences in the process is real and militates against making quick and untested changes for the May 2016 BRA.

1. The potential exploitation of any MOPR gap depends on several variables.

The potential for exploitation of the rules that could result in an unjust and unreasonable BRA outcome depends on several variables. Facially, nothing in the PPA Orders requires such below-cost or zero price offers.[14] Each company's offering strategy will turn on its interpretation of the PPA Orders and provisions of such orders that could deter such activity. For instance, the PPA Orders require an annual prudency review which would disallow retail rate recovery if the PPA-related resources are not bid in a manner consistent with participation in a broader competitive marketplace comprising sellers attempting to maximize revenues.[15] Also, the PPA Orders place the risk of RPM non-performance charges and any benefits of RPM bonus payments on the companies

[14] This distinguishes the Ohio PPAs from the arrangements in Maryland and New Jersey, both of which required the selected resources to clear PJM's RPM Auctions.

[15] AEP PUCO Order at 89; FirstEnergy PUCO Order at 91.

and not the ratepayers, which places the risks and rewards in the hands of the entities who are responsible for offering the resources in to RPM.[16]

Additionally, the market based rate under which AEP and FirstEnergy are authorized to offer their resources in to the May 2016 BRA is before the Commission presently in the Affiliate Waiver Complaints.[17] PJM continues to support the Affiliate Waiver Complaints, because the facts and circumstances that originally provided reason for the waivers have changed with the PUCO's approval of the affiliate PPAs.[18] Until the Commission rules on the Affiliate Waiver Complaints, it cannot be known whether the PPA-related resources will be offered under AEP or FirstEnergy's market-based rate authority, or if the Commission will undertake a review of the PPAs which, while pending, could limit AEP and FirstEnergy to offering the PPA-related resources in at cost-based rates.

2. Any potential harms are outweighed by other interests which must be taken into consideration before modifying the rules for the May 2016 BRA.

PJM is concerned that acting now to both reform and implement new MOPR provisions before the May 2016 BRA will result in disruption and uncertainty among market participants that are presently marginally, or not at all, involved in the instant controversy. PJM appreciates the Complainants intentions to craft narrowly drawn

[16] *See, e.g.,* AEP PUCO Order at 88; FirstEnergy PUCO Order at 92. PJM, in its limited participation in the proceeding before the PUCO, requested this relief. PJM appreciates the PUCO hearing and fully resolving this concern.

[17] *Electric Power Supply Association, et al., v. AEP Generation Resources, Inc., et al.,* Docket No. EL16-33-000 (Jan. 27, 2016) ("AEP Affiliate Waiver Complaint"); *Electric Power Supply Association, et al., v. FirstEnergy Solutions Corporation, et al.,* Docket No. EL16-34-000 (Jan. 27, 2016) ("FirstEnergy Affiliate Waiver Complaint") (together, "Affiliate Waiver Complaints").

[18] AEP Affiliate Waiver Complaint, *Motion to Intervene and comments in Support of PJM Interconnection, L.L.C.*, Docket No. EL16-33-000 (Feb. 23, 2016); FirstEnergy Waiver Complaint, *Motion to Intervene and comments in Support of PJM Interconnection, L.L.C.*, Docket No. EL16-34-000 (Feb. 23, 2016).

MOPR revisions to be used on an interim basis for the May 2016 BRA.[19] However, without having developed adequate criteria around the actual implementation of such rules, PJM believes it is premature to apply even these narrowly drawn new MOPR provisions to the May 2016 BRA. It is important for the certainty and stability of PJM's capacity market, in terms of price signals and supporting investment for economic resources, that the BRA be run without delay the hasty application of any new MOPR would require.

Defining the triggers, scope, and extent of a minimum offer price for Existing Generation Capacity Resources presents considerable challenges. In particular, the goal of ensuring clearing prices that attract needed capacity must be balanced against respect for long-standing procurement and contracting practices that are consistent with long-standing business models such as those utilized by public power entities and recognized in today's MOPR.[20] With respect to PJM's MOPR, the Commission has recognized that some strategies could reduce capacity costs in the short-run, by procuring a capacity surplus which could harm other suppliers but, the Commission found three was a greater concern with the "deleterious" impact of such behavior in the long-run.[21] The Commission should recognize the harm outlined by the complainants is cumulative and occurs over time. As result, the Commission should require PJM work with its stakeholders to develop clear rules to ensure the long-term impacts of any such price suppression are addressed.

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[19] *See* Complaint at 36.

[20] To PJM's knowledge, the Commission has not yet applied a MOPR-type rule in any RTO to existing resources. PJM's current MOPR, applies to Sell Offers from an existing Generation Capacity Resource only to the extent it proposes to increase installed capacity by at least 20 megawatts. *See* Tariff, Attachment DD, section 5.14(h)(2).

[21] *PJM Interconnection, L.L.C.,* 143 FERC ¶ 61,090 at P 21(2013).

MOPR provisions for planned resources already require difficult regulatory policy trade-offs. The Commission has recognized, for example, that MOPR provisions could exempt renewable generation and should accommodate traditional procurement practices by public power entities. Neither of these accommodations derive from economic first principles; both are judgment calls that balance competing policy interests. PJM is concerned, too, that applying a new MOPR screen to Existing Generation Capacity Resources without the benefit of further discussion, may heighten concerns, whether well-founded or not, that the scope of the reformed rules could unintentionally cover resources owned by regulated utilities and public power entities. Many more such judgment calls will be required before the MOPR screen is expanded to sweep in numerous existing resources.

The Commission previously denied a complaint under very similar circumstances where the Independent Power Producers of New York, Inc. ("IPPNY") raised a legitimate concern seeking application of the NYISO MOPR-like rules to repowered resources that would be uneconomic absent out-of-market payments. In denying the complaint, the Commission agreed there were changed circumstances that could support modification to the MOPR rules, but found the rules would need to be developed through a stakeholder process rather than applied to the situation directly before them:

> [W]e would still need to develop criteria for evaluating repowered resources before applying mitigation, such as the process for calculating legitimate costs and a process for evaluating, before a resource incurs repowering costs, whether a mitigation exemption is warranted. These considerations prevent the Commission from applying mitigation as requested, and we therefore deny the Complaint. . . However, while we find that IPPNY has not satisfied its burden under section 206, we recognize that IPPNY's Amendment raises concerns regarding whether changed circumstances in the rest-of-state may necessitate the prospective adoption of market power mitigation rules for the rest-of-state. Consistent

> with NYISO's statement that mitigation proposals must have the support of a fully developed factual record and a stakeholder process, we direct NYISO to establish a stakeholder process to consider (1) whether there are circumstances that warrant the adoption of buyer-side mitigation rules in the rest-of-state; and (2) whether resources under repowering agreements similar to Dunkirk's have the characteristics of new rather than existing resources, triggering a buyer-side market power evaluation because of their potential to suppress prices in the capacity market and what mitigation measures need to be in place to address such concerns. We will require NYISO to submit a report to the Commission within 90 days of the date of this order regarding NYISO's analysis of these issues and the outcome of such stakeholder discussion.[22]

Just as the Commission was concerned about the lack of criteria and the practicality of applying new rules without proper vetting in the NYISO case, PJM asks the Commission to so rule in this case.

C. If the Commission determines it must take action now, the Commission should not apply new MOPR provisions, as proposed; rather PJM would offer more narrowly drawn alternatives which could be implemented in short order.

Should the Commission not accept PJM's recommendation and decide immediate reform to PJM's existing MOPR is warranted, PJM asks the Commission to reject the relief proposed in the Complaint and instead grant a more narrow form of relief, designed to address the immediate defined harm. PJM again notes that the complications attendant to any immediate MOPR revision could seemingly be avoided if the Commission grants the Affiliate Waiver Complaints. But, in addition, PJM offers the following avenues of relief for implementation for the May 2016 BRA should the Commission find immediate relief justified.

[22] *IPPNY v. NYISO* at PP 70-71 (footnotes omitted).

Alternative 1: PJM could reject a Sell Offer PJM believes would result in an unjust and unreasonable auction outcome.

The Tariff provides PJM with final authority to determine whether a Sell Offer is submitted in accordance with the terms of the Tariff or Manuals and accordingly to accept or reject such offer.[23] The Commission affirmed PJM's authority to reject a Sell Offer in the context of the Capacity Performance proceeding.[24] In the largest sense, lawful market transactions under the Tariff must result in just and reasonable rates. Based on this principle, PJM believes the Commission could clarify and confirm that PJM can exercise this authority to reject a Sell Offer in this limited case to address any immediate harm that might result from a BRA Sell Offer that would result in an uneconomic auction price.[25] PJM would exercise this authority after consultation with the IMM, giving close consideration to the economic and market power expertise of that group.

PJM recognizes it has not previously exercised its Tariff authority to reject a Sell Offer in the manner contemplated by this alternative relief; no similar circumstances have existed giving rise to PJM exercising authority in this manner. Therefore, before taking such action, PJM would first require confirmation from the Commission that such application of the existing rules is proper. A Commission ruling on this point would guard against later disputes on whether the Tariff indeed provides PJM this authority.

[23] Tariff, Attachment DD, section 5.8(i).

[24] *See PJM Interconnection, L.L.C.,* 151 FERC ¶ 61,208 at P 92 (2015) ("PJM's existing tariff gives PJM the authority to reject a seller offer, as applicable to a capacity resource.").

[25] Should the Commission believe PJM is interpreting this authority incorrectly for the circumstance contemplated by this alternative relief, PJM asks the Commission to affirmatively make that ruling here to settle any later disputes after the May 2016 BRA is completed

As part of this alternative relief, PJM would notify the Capacity Market Seller within one business day after the auction window closes to give the seller opportunity to revise any rejected Sell Offer to a minimum floor price within one business day. PJM proposes this minimum floor price to be the net Avoidable Cost Rate ("ACR") for the resource. RPM's existing ACR offer cap for existing resources is a reasonable measure of going-forward costs. And RPM's existing Energy and Ancillary Services Revenue Offset ("EAS Offset") – to arrive at the net ACR – is a reasonable measure of non-capacity revenues expected from a competitive market. In this way, PJM can clear the auction with the reformed offer within the Tariff deadline.[26] PJM has a similar rule for mitigating Sell Offers from Planned Generation Capacity Resources that are not subject to the Market Seller Offer Cap Rules but could be subject to mitigation nonetheless, if the Sell Offer is determined to be too high.[27]

Alternative 2: The Commission could order PJM to require a price floor for the PPA-related resources for the May 2016 BRA

If the Commission finds circumstances exist that would cause immediate unjust and unreasonable BRA results if the PPA-related resources are left unmitigated, PJM offers another alternate approach that would directly address the particular resources ahead of the May 2016 BRA by requiring a MOPR-like floor price be established for each resource equal to their net ACR.[28] That is, in effect, what the Complaint proposes, but rather than address it through a round-about way that requires PJM to implement new MOPR provisions – which requires a screening process, as well as certifications and

[26] Tariff, Attachment DD, section 5.4(a) and http://pjm.com/markets-and-operations/rpm.aspx.

[27] *See* Tariff, Attachment DD, section 6.5(a)(ii)(C).

[28] The formula for determining the ACR is contained in Tariff, Attachment DD, section 6.8(a), and the determination of the net Projected PJM Market Revenues is in section 6.8(d).

demonstrations by the Capacity Market Seller, and determinations to be made by the IMM and PJM as to each subject resource prior to finalization – PJM believes a more straightforward remedy could be put in place. After all, if the Commission makes a determination that something needs to be done "now," in so doing, it will have effectively found problems with the particular PPA-related resources.[29]

For such purposes, the net ACR would be the appropriate floor price. Complainants' proposal to set the offer floor price at the same level as the offer ceiling price, i.e., the Net CONE times the balancing ratio ("Net CONE * B")[30] is not appropriate. The Net CONE * B offer cap appropriately includes the opportunity cost of foregoing possible Bonus Performance payments under PJM's recently approved Capacity Performance rules. Because some Capacity Market Sellers may reasonably expect their resources to over-perform, that opportunity cost is reasonable for an offer cap. But not all Capacity Market Sellers expect their resources to over-perform. Consequently, it is not appropriate to require all Capacity Market Sellers to include in their offers an expectation of Bonus Performance payments is inappropriate. Requiring all offers to include an expectation of Bonus Performance payments is also inappropriate. A generic offer floor for existing generation resources, therefore, should not include Bonus Performance payments.

Instead, the Avoidable Cost Rate, net of the EAS Offset, is already established in the PJM Tariff as a proper measure of an Existing Generation Capacity Resource's going

[29] Such relief will be criticized as discriminatory. And indeed the relief would apply by its own terms just to the resources identified as problematic. It would not seem, however, that addressing an immediate and identified problem, even in the face of claims that other resources or arrangements might be out there warranting review, is unduly discriminatory. *See, e.g., DC Energy v. PJM,* 144 F.E.R.C. ¶ 61,024, at P 89 (2013).

[30] Complaint at 34-36.

forward costs, and is the appropriate value for identifying an uneconomically low Sell Offer. Any offer between and a competitive going forward cost – i.e., net ACR, and what has been determined as a competitive offer cap – i.e., Net CONE * B, should be found to be just and reasonable under the Tariff.

II. ADMISSIONS AND DENIALS

In accordance with Rule 213(c)(2) of the Commission's Rules of Practice and Procedure,[31] except as stated in this answer, PJM does not admit any facts in the form and manner stated in the Complaint. To the extent that any fact or allegation in the Complaint is not specifically admitted in this answer, it is denied.

III. NOTICES AND COMMUNICATIONS

All correspondence and other communications regarding this proceeding should be directed to:

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[31] 18 C.F.R. § 385.213(c)(2).

IV. CONCLUSION

For the foregoing reasons, the Commission should (1) require PJM to initiate an accelerated stakeholder process to address modifications to the MOPR that would apply to Existing Generation Capacity Resources under certain circumstances; (2) deny the Complaint at to application in the May 2016 BRA; and (3) if it does not deny the Complaint, order one of the alternative forms of relief as described herein.

Respectfully submitted,

/s/ Jennifer Tribulski

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April 11, 2016

CERTIFICATE OF SERVICE

I certify I have, on this 11th day of April, 2016, served the foregoing document upon each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

/s/ Jennifer H. Tribulski
PJM Interconnection, L.L.C.

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