

**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,)	Docket No. EL16-49-000
Lakewood Cogeneration, L.P., GDF SUEZ)	
Energy Marketing NA, Inc., Oregon Clean)	
Energy, LLC and Panda Power Generation)	
Infrastructure Fund, LLC,))	
Complainants,)	
)	
v.)	
)	
PJM Interconnection, L.L.C.,)	
Respondent.)	

ANSWER OF PJM INTERCONNECTION, L.L.C.

PJM Interconnection, L.L.C. (“PJM”), under Rule 213 of the rules of the Federal Energy Regulatory Commission (“Commission”),¹ submits this brief answer² to recent pleadings concerning dismissal of the instant Complaint.³

¹ 18 C.F.R. § 385.213.

² PJM seeks leave to answer to assist the Commission’s decision-making process and clarify the issues. The Commission regularly allows answers in such cases. *See, e.g., PJM Interconnection, L.L.C.*, 139 FERC ¶ 61,165, at P 24 (2012) (accepting answers to a protest because “they have provided information that assisted [the Commission] in [its] decision-making process”); *PJM Interconnection, L.L.C.*, 104 FERC ¶ 61,031, at P 10 (2003) (accepting answer because “it will not delay the proceeding, will assist the Commission in understanding the issues raised, and will [e]nsure a complete record upon which the Commission may act”); *Ne. Utils. Serv. Co.*, 86 FERC ¶ 61,161, at 61,568 (1999) (accepting an answer to a pleading that sought affirmative relief and because the response aided in the Commission’s analysis and disposition).

³ *Calpine, et al. v. PJM Interconnection, L.L.C.*, Motion to Dismiss of Dominion Resources Services, Inc., American Municipal Power, Inc., American Public Power Association, Old Dominion Electric Cooperative, Inc., PJM Industrial Customer Coalition, and Public Power Association of New Jersey, Docket No. EL16-49-000 (May 6, 2016) (“Load Group Motion to Dismiss”); *Calpine, et al. v. PJM Interconnection, L.L.C.*, Answer in Opposition of Motion to Dismiss, Docket No. EL16-49-000 (May 23, 2016) (“Complainants Answer”).

I. ANSWER

This Complaint raises fundamental issues concerning the appropriate market response to state actions targeting specific subsidies to retain particular resources irrespective of market outcomes. All parties, including affected Independent System Operators (“ISOs”), Regional Transmission Organizations (“RTOs”) and potentially the Commission, may be struggling with this issue in defining the appropriate role for the Commission and the markets in general, in response to these state actions. Moreover, in prior pleadings, PJM has acknowledged its current Open Access Transmission Tariff (“Tariff”) may be unjust and unreasonable in satisfactorily addressing these issues.⁴

For these reasons, PJM believes it would be most appropriate for the Commission not to simply dismiss this Complaint⁵ but instead require PJM to report to the Commission on the scope of the problem and potential solutions to address these issues. The report could come in the form of a compliance filing should the Commission, based on the present record, find the existing Tariff is unjust and unreasonable under Section 206. In the alternative, the Commission could hold this case in abeyance and task PJM to address the scope of the issues raised in this Complaint and address potential solutions, all of which can be record evidence by the Commission in making its final determination in this case. In either case, PJM would work with its stakeholders in developing this

⁴ *Calpine Corporation, et al.*, Answer of PJM Interconnection, L.L.C., Docket No. EL16-49-000, (filed Apr. 11, 2016) (“PJM Answer”).

⁵ The Complaint should be denied to the extent it seeks to establish and apply new MOPR provisions as proposed by Complainants without discussion and review of the appropriate scope and details of any new rules. Further, as to timing, and given the Commission’s rulings in the Affiliate Waiver Complaints (*See EPSA et al. v. FirstEnergy Solutions et al.*, 156 FERC ¶ 61,101 (2016). *See also EPSA et al. v. AEP Generation Resources, Inc. et al.*, 155 FERC ¶ 61,102 (2016)), this Complaint should be denied insofar as the Complaint sought to apply new rules for the May, 2016 Reliability Pricing Model (“RPM”) Base Residual Auction (“BRA”).

submittal to the Commission.⁶ To ensure this stakeholder process produces a timely analysis for the Commission's consideration, PJM proposes making this submittal to the Commission by May 1, 2017 with any resulting changes to PJM's rules to be implemented in the May, 2018 BRA.⁷

PJM believes such a tasked assignment to PJM would enhance the record, providing the Commission with a more complete record to make the ultimate determination as to (a) whether, in fact, the existing Tariff is unjust and unreasonable and (b) if so, potential solutions to address the shortcomings in the existing Tariff. PJM also believes providing the Commission with a detailed analysis of the issue will enhance any additional action the Commission might take on this matter. "Staging" the proceeding in this manner, with the directive that PJM work with its stakeholders and report back to the Commission while the Complaint is held in abeyance, would help to bring all parties to the table for a full and open discussion of these difficult issues and potential solutions in a way which cannot be done merely through more traditional Commission processes such as the existing Technical Conference format.⁸

⁶ PJM recognizes there may be similar issues in other ISOs/RTOs each of whom should have the opportunity to comment on the report.

⁷ It is true, as the Load Group points (Load Group Motion to Dismiss at 8), PJM - or any stakeholder for that matter - can introduce a problem statement to initiate a stakeholder process without a directive from the Commission. However, without a Commission directive, stakeholders seeking to avoid such a process could vote down the problem statement pursuant to PJM Manual 34, and thwart the process before it starts. Also, PJM believes that even if the Commission were to find the current tariff is unjust and unreasonable it is acceptable that any proposal would not apply until the May, 2018 BRA because the price suppression from existing Generation Capacity Resources likely is more muted than price suppression from new Generation Capacity Resources. The competitive price for existing resources is already lower given the likelihood that most costs are sunk, and thus adverse impacts to the RPM Auctions are more cumulative than sudden.

⁸ Various parties indicated these issues should be addressed in a stakeholder process. *See, e.g., Calpine, et al., Protest of American Electric Power Service Corporation at 13-15, Docket No. EL16-49-000 (filed Apr. 11, 2016); Calpine, et al., Protest of FirstEnergy Service Company at 32, Docket No. EL16-49-000 (filed Apr. 11, 2016).*

PJM believes that, under certain circumstances and given the existing PJM Minimum Offer Price Rule (“MOPR”), Sell Offers in RPM Auctions submitted by existing Capacity Resources could result in unjust and unreasonable rates when such resources are subsidized by state-approved out-of-market payments. As PJM’s MOPR currently apply to Capacity Market Sellers of new Generation Capacity Resources, there is a potential gap in the effectiveness of the mitigation rules designed to ensure PJM’s RPM capacity market remains competitive and sends the proper price signals. The Ohio power purchase agreements (“Ohio PPAs”) that were the focus of the Complaint⁹ shed light on this gap.

Whether the specific Ohio PPAs still pose this concern is an issue contested in this proceeding. Nevertheless, the Complaint properly focuses on the shortcomings in the existing PJM Tariff irrespective of how a given state packages its particular actions. Although the Complaint proposes changes to the MOPR, PJM believes that any report to the Commission by May 1, 2017 should consider alternative potential remedies, not limited to the specifics of the MOPR. In short, although PJM believes its existing MOPR provisions may be unjust and unreasonable in addressing the particular harms raised in the Complaint, PJM believes that, consistent with the section 206 standard, the breadth of remedies should not be limited to this provision. A stakeholder process with a deadline would allow for development of an analysis that considers alternative remedies to address the scope of the issue.

⁹ The Ohio PPAs are more fully described in the 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-ELRDR and 14-1694-EL-AAM (March 31, 2016). *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).

II. CONCLUSION

This Complaint alleges that PJM's existing Tariff MOPR is unjust and unreasonable to the extent it does not address state actions affecting existing resources. PJM concurs its Tariff did not contemplate this situation and may be unjust and unreasonable as a result. The Commission could either: (a) make an immediate finding and direct PJM to bring a solution to the Commission in the form of compliance filing (which solution would be vetted in the stakeholder process); or (b) hold the Complaint in abeyance but require PJM, working with its stakeholders, to provide a report to the Commission to both analyze the scope of potential state actions which may need to be addressed (and those which should not be addressed) and potential solutions. The Commission could then utilize such report in its final consideration of the Complaint. To the extent the Commission sees parallels in other regions, the other affected ISOs/RTOs should would be afforded the opportunity to provide their own views to the Commission.

Under either of these two avenues, PJM believes that a directed, time-bounded task, to work with its stakeholders would help to crystallize and scope this issue (as well as develop solutions) in a manner far more targeted than a more generic Commission process on this admittedly challenging issue. PJM stands ready to work with stakeholders and the Commission, posing these potential procedural paths to ensure a timely and focused process moving forward to address these issues.

Respectfully submitted,



Craig Glazer
Vice President–Federal Government Policy
PJM Interconnection, L.L.C.
1200 G Street, N.W., Suite 600
Washington, D.C. 20005
(202) 423-4743 (phone)
(202) 393-7741 (fax)
Craig.Glazer@pjm.com

Jennifer Tribulski
Assistant General Counsel
PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
(610) 666-4363 (phone)
(610) 666-8211 (fax)
Jennifer.Tribulski@pjm.com

Dated June 6, 2016.

CERTIFICATE OF SERVICE

I certify I have, on this 6th day of June, 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.



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

Document Content(s)

PJMAAnswerMOPR complaint.PDF.....1