BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C. : Docket No. EL15-31

PROTEST OF THE PENNSYLVANIA PUBLIC UTLITY COMMISSION

Pursuant to Rule 385.211 of the Federal Energy Regulatory Commission's ("FERC") Rules of Practice and Procedure, 18 C.F.R. § 385.211, the Pennsylvania Public Utility Commission (PAPUC) hereby submits the following Protest in response to PJM Interconnection L.L.C.'s ("PJM") filing of several proposed revisions to multiple sections of Attachment K-Appendix of the PJM Open Access Transmission Tariff ("Tariff") and the identical provisions of Schedule 1 of the Amended and Restated Operating Agreement to allow for short term relief during the winter of 2014/2015 from the $1000/MWh energy offer cap ("offer cap"). The PAPUC further states in support of its Protest as follows:

A. Summary of PJM's Filing

1. PJM justifies this request for relief from the current energy offer cap of $1000/MWh on the basis of the potential for increase in fuel costs over the 2014/2015 winter period or other conditions that may cause generation resource marginal costs to exceed the offer cap. PJM contends that, under these circumstances, maintenance of the $1000/MWh cost-based offer cap is unjust and unreasonable under Section 206 of the Federal Power Act ("FPA").

2. The proposed Tariff revisions will allow cost-based offers to be submitted and to set Locational Marginal Price ("LMP") up to $1,800/MWh and will allow generators to recover actual incurred costs above that cap through uplift payments, with such costs being subject to an after-the-fact review by PJM and the Independent Market Monitor for PJM ("IMM"). PJM proposes that these caps will now apply to all generation resources, not just committed generation capacity resources. The proposed Tariff revisions change the applicability of the 10% Cost-Based Adder and the awarding of credits to operating reserves. Currently, PJM allows all Market Sellers of generation resources to include in their cost-based offers a 10% adder to the resource's costs that are calculated pursuant to the Cost Development Guidelines. This adder allows generation resources to account for uncertainty in the values of the costs utilized in computing cost-based offers and thus ensures that a resource's cost-based offer covers all costs incurred by the Market Seller of a generation resource. PJM is proposing to revise its Tariff so that the adder will be the lessor of 10% or $100/MWh up to the $1800/MWh cap. PJM proposes that cost-based offers above $1,800/MWh will not be eligible for any adder.

3. PJM notes that, in the winter of 2013/2014, extreme weather conditions caused spikes in fuel prices that required PJM to request FERC to waive the $1000/MWh price cap. These waivers took two forms. PJM's first waiver request permitted Market Sellers of Generation Capacity Resources, with cost-based offers above the energy cost cap of $1000/MWh (and documented in accordance with PJM's Cost Development Guidelines), to receive make-whole payments covering the difference between their

actual costs and the market clearing price.[1] The second PJM waiver allowed Market Sellers to base their cost-based offers on their marginal costs, even if that caused their offer price to exceed the $1,000/MWh offer cap and for such offers to set market clearing prices if applicable.[2]

4. PJM further justifies its proposed revisions as a first step in "holistic" reforms to FERC policy on market-based and cost-based offer caps which are currently being considered in the ongoing FERC proceeding addressing price formation in energy and ancillary markets at Dkt. AD14-14.

B. Basis for the PAPUC Protest

5. The PAPUC generally supports the concept that generators should not be unreasonably exposed to the risk of losing money in the energy markets when extreme weather conditions or other events precipitate above average increases in fuel costs due to pipeline disruptions, fuel supply interruptions and/or mechanical failures at facilities. An inability to recover actual reasonable fuel costs can, over the long run, threaten reliability. However, the PAPUC does not support changing the energy offer cap, as proposed by PJM, as the appropriate means for minimizing risk of not recovering marginal costs when other equally effective mechanisms exist to address the issue of unexpected spikes in fuel costs or other weather-related events. However, the facts of this case do support a timely extension of high energy cap costs recovery consistent with PJM's first waiver consistent with its filing in docket ER14-1144-000.

[1] *See PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,041(2014).
[2] *See PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,078(2014).

6. While last winter's polar vortex events did cause relatively unprecedented outages due to coal pile freeze-ups, pipeline compressor breakdowns and mechanical failures at generation facilities, those generators that experienced fuel price increases requiring cost-based offers above $1000/MWh were able to recover those costs in a timely fashion by virtue of the FERC-approved waivers and requests for recovery of uplift costs. [3]

7. More specifically, the PAPUC does not support PJM's request for the following reasons:

(a) Market power exists during peak winter demand periods. Allowing energy prices above the $1000/MWh energy offer cap confers additional opportunity on dominant generators to further leverage the market to enhance existing market power advantages.

(b) PJM experienced serious deficiencies in generator performance during the 2013/2014 winter. These issues are currently being addressed in a recent PJM filing at FERC at Docket No. ER15-623 wherein PJM is proposing changes to how capacity is offered into the auction process. Among other changes, PJM's proposal would impose additional performance obligations and penalties on generation resources. PJM's revision to the energy offer cap serves to only lessen incentives for multiple unit PJM generators to perform on peak since non-performance could be leveraged across other operating units to enhance energy market revenues.

(c) PJM's proposal could result in unwarranted volatility in prices experienced by retail customers that participate in Pennsylvania's electric generation choice program as was the case in the winter of 2013/2014. Volatility creates stress for PJM's load serving entities and could increase potential credit requirements that can contribute to higher costs to consumers and weaken competition – particularly for non-integrated market participants.

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[3] *See Old Dominion Electric Cooperative*, Dkt. No. ER14-2242

(d) Generator resource concerns over cost recovery can be addressed effectively and fairly through recovery of all legitimate bids above $1000 through out-of-market make-whole payments consistent with PJM's first waiver filing, which was approved by FERC in ER14-1144-000. The MMU report covered the period January 24 to February 11, 2014. In that Report, the IMM concluded that, for January 28, 2014, there were only seven units belonging to three different market participants in three PJM control zones which had cost-based offers at the $ 1,000 per MWh cap that initially requested payment in this docket, of which three units withdrew their requests prior to the date of this report. The requested waivers were for an additional $583,774 in compensation. Based on the IMM's calculation of actual cost-based offers using actual fuel costs, observed heat rates, and removal of the 10 percent adder, the IMM recommended that the total additional make whole payments that should be paid to these units is $9,118.43.[4]

(e) During the second waiver period, the Independent Market Monitor's own review of the 49 day period from February 11, 2014 through March 31, 2014 indicated there were no energy offers submitted with incremental curve components above $1000/MWh nor were there any Locational Marginal Prices (LMP) above $1000/MWh as a direct result of the waiver granted at FERC Dkt. 14-1145-000. Further, the IMM determined that none of the units with offers identified with operating rates greater than $1000/MWh ran during the period of the second waiver, none of the offers directly affected energy market prices and none of the offers resulted in uplift payments.[5]

(f) Actual experience has demonstrated the need to review all such bids for validity above $1000. The MMU Report of March 26, 2014 clearly demonstrated the need to carefully review these very high energy bids. Specifically, the report documented efforts by generators to overstate actual

[4] *See Informational Filing re Waiver to Permit Make-Whole Payments Docket No. ER14-1144-000 Period Analyzed: January 28, 2014* of the Independent Market Monitor issued March 26, 2014 at Dkt. No. ER14-1144-000 at 3.

[5] *See Report on PJM Energy Market Offers, February 11 to March 31, 2014* of the Independent Market Monitor issued April 30, 2014 at Docket No. ER14-1145-000 at 1.

natural gas costs and overstate actual heat rates. All seven of the units requesting waivers for January 28, 2014 purchased gas for less than the estimated price on which their cost-based offers were based and five of the seven had better heat rates than submitted, with the result that the actual cost per MWh of producing power was less than reflected in their original offers.[6] Furthermore, the April 30, 2014 report noted that the IMM is investigating the offer behavior of several units and would take appropriate actions consistent with Attachment M of the PJM tariff. [7] This further emphasizes the need for IMM review of all offer caps above $1000 before permitting recovery of these costs in uplift.

(g) PJM only cites to one cost-based offer (at $1,724/MWh) as justification for the request to increase the energy offer cap. Selection of a single data point representing an offer price over a few hours should not justify the relief requested. An offer cap of $1000/MWh is an extremely high offer.[8] An offer cap of $1800/MWh is even more extreme. PJM should provide more detailed support to justify its requested relief. As already cited above, actual experience, even during the extreme 2014 winter period, did not demonstrate any substantive need to fundamentally change the existing $1000 offer cap. Additionally, the veracity of this $1,724 bid has not been verified.

(h) Given its opposition to the increase in the energy offer cap, the PAPUC takes no position on PJM's proposals regarding limiting the application of the 10% price adder and payment of credits to operating reserves.

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[6] *See Informational Filing re Waiver to Permit Make-Whole Payments Docket No. ER14-1144-000 Period Analyzed: January 28, 2014* of the Independent Market Monitor issued March 26, 2014 at Dkt. No. ER14-1144-000 at 4.

[7] *See Report on PJM Energy Market Offers, February 11 to March 31, 2014* of the Independent Market Monitor issued April 30, 2014 at Docket No. ER14-1145-000 at 3.

[8] $1,000/MWH energy bid is 25.7 times higher than the average, load weighted, day-ahead LMP in 2013 of $38.93/MWH, as reported under the IMM's 2013 State of the Market Report for PJM, dated March 13, 2014, p. 106.

C. Conclusion

The PAPUC concludes that the relief requested by PJM is not justified at this time and that existing waiver mechanisms consistent with ER14-1144-000 should be employed for any energy cost cap relief for the winter of 2014/2015. For the foregoing reasons, the PAPUC respectfully requests that its Protest be granted in the matter.

Respectfully submitted,

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Dated: December 23, 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am on this date serving a copy of the foregoing document upon each person designated on the official service list compiled by the Federal Energy Regulatory Commission in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Newark, Delaware this 23th day of December, 2014

Respectfully submitted,

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