

**BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

PJM Interconnection, L.L.C.)	ER22-962-000
)	

**MOTION FOR LEAVE OF THE PENNSYLVANIA PUBLIC UTILITY
COMMISSION TO PJM’S COMPLIANCE FILING CONCERNING FERC
ORDER 2222**

The Pennsylvania Public Utility Commission (PAPUC), pursuant to the Federal Energy Regulatory Commission’s (FERC) Rules of Practice and Procedure 212 and 213, submits this Motion for Leave to Answer and Answer in response to the Protest of Advanced Energy Management Alliance (AEMA),¹ and the Comments and Limited Protest of the Joint Consumer Advocates (JCAs).² This Answer is limited to clarifying the compensation structure of Pennsylvania’s net metering programs and the jurisdiction of the PAPUC. While the PAPUC responds to certain flawed contentions made by commenters in this proceeding, this Answer should not be read to endorse or reject arguments to which the PAPUC does not respond.

¹ Protest of Advanced Energy Management Alliance, Docket No. ER22-962 (April 1, 2022) (“AEMA Protest”).

² Comments and Limited Protest of the Joint Consumer Advocates, Docket No. ER22-962 (April 1, 2022) (“JCA Comments”).

I. Motion for Leave to Answer

Although FERC's rules do not generally permit answers to comments or protests in response to a tariff filing, FERC permits answers for good cause shown and when an answer will aid in FERC's decision-making process.³ Order 2222⁴ and PJM's Compliance Filing relate deeply to activities within the jurisdiction of the PAPUC, and the PAPUC's expertise will therefore be of particular aid to FERC. As this answer is limited and responds to specific aspects of comments made in the record, the answer will assist in FERC's decision-making process.

The PAPUC respectfully requests that FERC grant its Motion because the Answer will help clarify the record and contribute to an understanding of the issues.

II. Answer

A. Pennsylvania Net Metering Customers Receive Compensation For Capacity.

AEMA claims that net metering programs do not compensate for capacity because "compensation for net metering programs is typically based on kWh" rather than based on the reduction in peak load contribution denominated in kW.⁵

³ See, e.g., *N.Y. State Pub. Serv. Comm'n v. N.Y. Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,137, at P 29 (2017) ("We will accept the Companies' and the Complainants' answers because they have provided information that assisted us in our decision-making process."); *Colonial Pipeline Co.*, 157 FERC ¶ 61,173, at P 23 (2016) ("In the instant case, the Commission will accept the Protestors' Answers and Colonial's Answer because they have provided information that assisted us in our decision-making process."); *Minonk Stewardship Wind*, 176 FERC ¶ 61,135, at P 40 (2021).

⁴ *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators*, 172 FERC ¶ 61,247 (September 17, 2020) (Order 2222).

⁵ AMEA Protest at 21.

This argument ignores that compensation for capacity need not be structured the same way in state net metering programs as in wholesale markets. In Pennsylvania, for example, it is true that customers who net meter receive compensation on a kWh basis, but that compensation includes capacity in a typical case. For example, Pennsylvania Electric Distribution Companies (EDCs) provide default service for residential customers who choose not to select a competitive Electric Generation Supplier in Pennsylvania's retail electric markets. EDCs acquire the electricity to provide this service through default service plans that are filed with the Commission. These plans use full requirements contracts which require a supplier to provide energy, capacity, and ancillary services products as well as alternative energy credits.⁶ The costs for these contracts are passed on to customers through retail rates. The costs of these full requirements contracts are included in the EDC's price to compare, which is a kWh line item on a customer's bill that is equal to the unbundled generation and transmission related charges.⁷ When customer-generators participate in net metering, they then receive back the full retail value for the energy they send to the EDC distribution system.⁸ The full retail value includes a credit or reimbursement for the price to compare rate and the kWh distribution charges from EDCs,⁹ and therefore residential net metered customers receive full

⁶ See, e.g., *PECO Default Service Plan V Petition*, P-2020-3019290, ¶15 (Petition filed March 13, 2020).

⁷ See 52 Pa. Code § 54.182 (definition of PTC—Price-to-compare). See also 52 Pa. Code § 54.187 (relating to default service rate design and the recovery of reasonable costs).

⁸ 73 P.S. § 1648.5.

⁹ See 52 Pa. Code § 75.13.

compensation for the capacity costs incurred by EDCs and initially passed through to the customer on a per-kWh basis.

For these reasons, it is irrelevant that net metering participants are compensated on a kWh basis instead of a kW basis based on reduction in RTO/ISO demand charges. It is ultimately up to Relevant Electric Retail Regulatory Authority (RERRA) to determine if a retail program compensates for capacity, and therefore whether a customer's participation in a retail program prevents wholesale market participation.

B. PJM's Proposed Process for Allowing Participation of Net Metering Customers in Wholesale Markets is Appropriate.

PJM's proposed Tariff allows EDCs to certify "to the Office of the Interconnection that participation of the Component DER in a net energy metering retail program or tariff approved by the RERRA will not violate the restrictions on duplicative compensation."¹⁰ AEMA claims RERRAs should have the sole authority "to identify when a customer is already receiving capacity compensation."¹¹

The PAPUC disagrees with AEMA's contention that PJM's proposed EDC certification will be insufficient. RERRAs have the ultimate authority to determine if a customer is receiving capacity compensation, but EDCs will already be involved in the registration of Component DERs as part of a DER Aggregation Resource and should be able to identify whether a Component DER is participating in a net metering program. To also require the RERRA to make an individual determination would

¹⁰ PJM proposed Tariff, Section 1.4B(b).

¹¹ AEMA Protest at 21.

introduce needless additional process to the registration. EDCs will be familiar with state determinations about whether participation in a particular retail program results in double compensation. If there is a dispute, then PJM properly recognizes that the dispute would be decided by the RERRA.¹² The authority and dispute resolution processes of the RERRA need not be invoked for every registration.

C. Dispute Resolution Related to Distribution System Override

Instructions Should Be Brought Before the RERRA.

The Joint Consumer Advocates argue that PJM's proposed Tariff is unreasonable in part because there is no dispute resolution process whereby PJM or PJM's Independent Market Monitor are able to determine whether an EDC override instruction was reasonable and appropriate.¹³ The Joint Consumer Advocates are mistaken. Order 2222 required PJM to revise its tariff to create processes that allow distribution utilities to override PJM dispatch of a DER Aggregation Resource when needed to maintain the reliable and safe operation of the distribution system.¹⁴

Under this rule, an override would be proper if it was needed to maintain the safe and reliable operation of the distribution system. An override would be improper if it was not needed for that purpose. Contrary to the assertions of the Joint Consumer Advocates, PJM and its Independent Market Monitor have no role in adjudicating what actions of an EDC are needed for the safe and reliable operation of the distribution

¹² PJM proposed Tariff, Section 1.4B(b).

¹³ JCA Comments at 21.

¹⁴ Order 2222 at ¶ 310.

system. FERC has no jurisdiction over facilities used in local distribution, 16 U.S.C. § 824, and neither does PJM or its Independent Market Monitor. RERRAs have plenary jurisdiction to determine whether the actions of their EDCs, including overrides, are reasonable and consistent with the safe and reliable operation of the distribution system.¹⁵

III. CONCLUSION

The PAPUC requests the FERC grant its Motion for Leave to Answer and consider its Answer in this proceeding.

Respectfully submitted,

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¹⁵ See, for example, 66 Pa.C.S. § 1501.

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.

Respectfully submitted,

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