UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C. : Docket No. ER15-623-000

MOTION FOR LEAVE TO ANSWER AND ANSWER OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

I. INTRODUCTION

On May 13, 2015, PJM Interconnection, L.L.C. (PJM), pursuant to Rule 213 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, filed its Answer to certain Protests and Comments to PJM's April 10, 2015, response to the Commission's March 31, 2015, information request in this proceeding. Pursuant to Rule 213 of the Commission's Rules, the Pennsylvania Public Utility Commission (PAPUC) files a Motion for Leave to Answer and Answer to PJM's May 13, 2015, filing.

II. MOTION FOR LEAVE TO ANSWER

Although Rule 213(a) of the Commission's Rules of Practice and Procedure generally prohibits the filing of answers to answers, the Commission has made exceptions to this prohibition in cases where the answer will assist in clarifying or explaining the dispute or will provide the Commission with a more complete record upon which to dispose of the matter.[1] In this case, the PAPUC's Answer will assist the Commission in its deliberative process and provide a more complete record upon which to make a decision. The PAPUC's Answer addresses PJM's May 15, 2015, Response to the 2014 State of the Market Report (SOM Report),[2] issued by Monitoring Analytics, PJM's Independent Market Monitor.[3] The PAPUC's discussion of this document is helpful because certain of PJM's statements in the May 13 Answer contradict information contained in PJM's May 15, 2015 Response to the 2014 SOM. The PAPUC limits its Answer to topics where the PAPUC believes the Commission should be aware of additional information that will assist it in gaining a better understanding of the complex issues presented by the Capacity Performance (CP) proposal and the changes highlighted in PJM's Response to the FERC Deficiency Letter. As such, it is appropriate for the Commission to make an exception to its rules and consider the PAPUC's Answer.

III. ANSWER

The PAPUC continues to believe that PJM's original proposal to set the default market seller offer cap for CP resources at Net CONE, as well as PJM's revised proposal to set the cap at Net CONE*B, are both unjust and unreasonable. PJM's explanation in its May 13 Answer supporting this approach represent circular logic and is inconsistent with statements made by PJM in other documents. Net CONE does not reflect true

[1] The Commission has accepted responses to answers/protests when doing so will ensure a more accurate and complete record or will assist it in its deliberative processes. *See Midwest Indep. Transmission System Operator, Inc.*, 126 FERC ¶ 61,144 at 8 (2009); *Maine Public Utilities Commission v. ISO New England, Inc*., 126 FERC ¶61,009 at 37 (2009).

[2] *PJM's Response to the 2014 State of the Market Report*, May 15, 2015 http://www.pjm.com/documents/reports.aspx

[3] *State of the Market Report for PJM*, Monitoring Analytics, March 12, 2015 (http://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2014.shtml).

market prices for marginal resources cleared in the Base Residual Auction (BRA) and therefore should not be the basis for establishing any such market mitigation cap.[4]

Under PJM's December 12, 2014, CP filing, PJM proposed that capacity market bids up to the Net CONE price of the reference Combustion Turbine (CT) Unit for any unit, regardless of actual technology, would not be reviewed or mitigated under its capacity market power review screens. PJM subsequently modified this proposal slightly to include a minor reduction in this screening value by multiplying Net CONE by "B," where "B" refers to the balancing ratio, which apportions among all Generation and Storage Capacity Resources the total energy and reserves needed by PJM from those resources during a capacity emergency. However, despite this revision, the PAPUC continues to disagree with the basic premise of relying on Net CONE to set the market cap, regardless of whether it is multiplied by B.

PJM, in its May 13th Answer, justifies using Net CONE instead of the actual going forward costs of the generation unit by arguing: "If the seller has relatively low avoidable capital and operating costs (and thus relatively little need for a fixed monthly capacity payments) and expects that its resource will perform very well compared to all other resources, then it may justifiably put in a relatively high bid. If the seller's bid is too high to clear the capacity auction, then it will not serve as capacity for that year, and its expectations about resource performance will be tested, because it will forego fixed

[4] *See, Comments of the Pennsylvania Public Utility Commission* at Docket ER15-623-000 (filed January 20, 2015) at 23.

capacity payments and instead will be dependent on bonus payments in the 'second settlement' of the capacity market."[5]

The PAPUC contends that PJM's arguments are contradicted by their May 13 Answer, and their modeling assumptions only reinforce the need for the current market power mitigation tariff requirements. In order for PJM's arguments to make sense, the unit must first be able to exert market power by exercising economic withholding. This reaffirms the requirement, as identified by the Maryland Public Service Commission[6] and confirmed by PJM, for generators to offer into PJM capacity markets at the generators' going forward costs.[7]

In a different section of the May 13 Answer, PJM takes the opposite position required under its modeling assumptions, and argues that generators will not exert market power, because of competitive pressures that are likely to result in offers below the offer cap (just as many sellers today offer below the current offer cap,).[8] In support of this contrary position, PJM first asserts that resources may have expectations of Net Energy and Ancillary Service Market revenues that are in excess of those used to define the offer cap, which should result in a lower expected marginal cost than Net CONE * B and therefore lower offer prices.[9] Second, PJM asserts that resources may have different expectations regarding the number of Performance Assessment Hours (PAHs) and the

[5] *PJM May 13 Answer* at 16.
[6] *Comments of the Public Service Commission of Maryland* at 6.
[7] Sellers of existing Generation Capacity Resources are required to offer all of the resource's Unforced Capacity into the RPM Auctions, subject to strict rules limiting how they can translate the resource's Installed Capacity into Unforced Capacity. *PJM May 13 Answer* at 32.
[8] *PJM May 13 Answer* at 24.
[9] *Id.*.

overall average resource performance, which will lead some sellers toward lower expectations of opportunity costs, and therefore offers below Net CONE * B.[10] But this assertion assumes that there will be enough resources that believe they will meet the CP requirements to regulate bidding behavior, as PJM posits, for if most of the resources bid as the represented seller above bids, the single clearing price will be at or near the cap.

PJM's first argument undermines its support for using Net CONE of the reference CT unit as a proxy for avoided cost and instead supports the position that the PAPUC asserted in its January 20, 2015 Comments. In those comments, The PAPUC argued that PJM's Net CONE value does not reflect true market prices for marginal resources cleared in the Base Residual Auction (BRA) and therefore should not be the basis for establishing any such market mitigation cap.[11] The PAPUC holds this position instead of the position that PJM advocates because the referenced CT unit often is not the resource establishing the marginal capacity price in the BRA.

In addition, PJM's second argument undermines the formulaic assumptions regarding using Net CONE*B of the reference technology as the basis for the avoided cost, in terms of penalty risk, since the number of Performance Assessment Hours (PAHs) used to establish the penalty rate can vary substantially from the actual number of PAHs, or the generators expectation of PAHs.[12]

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[10] *Id.*

[11] *See, Comments of the Pennsylvania Public Utility Commission* at Docket ER15-623-000 (filed January 20, 2015) at 23.

[12] The PJM/IMM agreed analysis simply assumes that the seller's projection of Performance Hours will match the Tariff-prescribed projection of Performance Assessment Hours that is used to set the Non-Performance Charge rate. *PJM May 13 Answer* at 20.

Moreover, PJM assumes that the changes it proposes to CP will not alter current bidding strategies. The PAPUC disagrees with this assumption and believes that participants will certainly modify their behavior in response to the changing market. At a minimum, the PAPUC expects that fewer resources may be CP compliant, which will further enhance economic withholding opportunities.

Another erroneous assumption that PJM makes in support of using Net CONE*B is that the underperforming resources will pay a Net CONE Non-Performance Charge and over-performing resources will receive a Net CONE Bonus Payment. In support of this assumption that such value will reflect Net CONE, PJM merely offers "it is reasonable."[13] The PAPUC disagrees with this because of the stop loss provisions and expectations of PAHs. PJM admits that "in practice, the stop-loss provisions will limit the amounts collected as Non-Performance Charges and distributed as Bonus Payments."[14] Furthermore, PJM, as noted above, already admits that a generator's assumptions regarding PAHs may vary from the tariff -based PAHs used to calculate the charge.

The PAPUC also disagrees with PJM's proposal to use Net CONE of the reference CT unit, as calculated by PJM, as the basis of an appropriate market mitigation cap (regardless of whether Net CONE is multiplied by B). In support of this assertion, the PAPUC highlights *PJM's Response to the 2014 State of the Market Report* (dated May 15, 2015). In this document, PJM confirms that recent marginal resources in PJM's

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[13] *PJM May 13 Answer* at 21.
[14] *Id.*

markets have been Demand Resources and Combined Cycle Natural Gas units (CCNGs).[15] PJM also admits that certain financing arrangements have driven lower offer prices.[16] Taking all of this into consideration, the PAPUC argues that using the Net CONE of a CT unit is unjust and unreasonable.

The PAPUC also disagreed with PJM with regard to the level of penalty risk exposure. On this issue, PJM asserts that a Non-Performance Charge that merely exposes a Capacity Market Seller with a poorly performing generator to no more than the loss of its capacity revenues fails to provide an incentive to offer a resource that will deliver energy and reserves during capacity emergency conditions. PJM offers no technical or empirical support for this assertion. However, contrary to PJM's assertions, actual operational performance this past winter improved from 22 percent to 13.4 percent, demonstrating that measures like winter testing, mandatory generator winter preparation check lists, and various other enhancements to operational procedures can have a positive impact on performance. While the PAPUC agrees that peak day non-performance

[15] "More than 26 GW of retirements from 2009-2016 (nearly 15 percent of the installed capacity) have easily been absorbed by new entry combined cycle gas and Demand Resources while still maintaining reserve margins above the target reserve margin, and with very few Reliability-Must-Run arrangements." *PJM Response to SOM Report* at 4, Table 1 of the PJM Response to the SOM Report shows the amount of new generation resources clearing, and the cleared reserve margin, for the last four BRAs. Almost all of the new generation resources are CCNG facilities that are benefiting from the technology and efficiency improvements along with low cost fuel and environmental regulations. PJM acknowledged this in its Response to the SOM Report, where it said, "Demand Resources are often a lower-cost alternative that provides an option value to some market participants to wait for better information on whether the current economic trends will continue." *PJM Response to the State of the Market Report* (PJM Response to SOM Report) at 4-5. The 2017/2018 auction procured 5,927 megawatts of capacity from new generation; the highest amount of new generation in an auction since the start of RPM in 2007. The shift to increased amounts of new natural gas-fired generation was evident, with about 4,800 megawatts of new combined-cycle gas generation clearing for the first time in the auction. *PJM Response to SOM Report* at 8.

[16] In the past two years there has also been a change in how new resources are being financed. Given the historically low interest rates and generally lower returns, new entry is benefitting from financing terms and conditions where banks are competing to lend money that results in a lower cost of debt. Additionally, there are equity investors willing to accept lower returns than has historically been the case. *PJM Response to SOM Report* at 6.

penalties could be better designed, the revisions that PJM proposes in this proceeding are too severe.

As such, PAPUC respectfully urges the Commission, in its deliberations on PJM's CP Proposal, to ensure that generators that fail to perform during peak events are required to pay penalties that put their existing capacity revenues at risk for the upcoming BRA. Such penalties, however, should not be so burdensome that the penalties themselves introduce excessive investment risk and thus become a key driver of future capacity prices. RPM market prices should be determined based on the costs necessary to support the level of investment required to ensure the reliable delivery of electricity by generators.

The PAPUC continues to believe that PJM's proposal to base market offer caps on Net CONE is unjust and unreasonable. PJM's May 13th Answer does not provide the necessary support for changes to the market mitigation mechanisms that have effectively established reasonable capacity prices and have led to new generation and demand response resources. Moreover, PJM has failed to present an internally consistent argument for the need for many of its proposed changes, except the need to address the peak hour non-performance charges and associated performance requirements of its tariff.

IV. CONCLUSION

For all the foregoing reasons, the PAPUC respectfully requests its Motion for Leave to Answer be granted and its Answer be considered in this proceeding.

Respectfully submitted,

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Dated: May 26, 2015

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 Harrisburg, PA this 26th day of May, 2015.

Respectfully submitted,

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