

**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

PJM Interconnection, L.L.C. : Docket No. ER15-739-000

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**COMMENTS OF THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**I. INTRODUCTION**

On December 24, 2014, PJM Interconnection L.L.C. (PJM) filed, pursuant to Section 205 of the Federal Power Act, 16 U.S.C. Section 824d, a tariff revision to Attachment DD, Section 5.14 of PJM's Open Access Transmission Tariff (OATT) to permit it to enter into and recover the costs of capacity agreements secured outside the Reliability Pricing Model (RPM) Auction. The Pennsylvania Public Utility Commission herein files Comments to that filing as further explained below.

**II. BACKGROUND**

On December 23, 2014, PJM Interconnection L.L.C. (PJM) filed, pursuant to Section 205 of the Federal Power Act, 16 U.S.C. Section 824d, a tariff revision to Attachment DD, Section 5.14 of PJM's Open Access Transmission Tariff (OATT) to permit it to enter into and recover the costs of capacity agreements secured outside the Reliability Pricing Model (RPM) Auction. The purpose of this tariff revision is to allow PJM to alleviate reliability concerns associated with the 2015/2016 Delivery Year (DY). PJM is seeking an approval date of February 23, 2015 and the tariff change is limited to the 2015/2016 DY.

This filing is related to the parallel filing made at FERC Docket No. ER15-738 addressing concerns about the potential loss of Demand Resources associated with the ongoing uncertainties created by the *EPSA* decision<sup>1</sup> and the FirstEnergy Solutions Complaint at FERC Docket No. EL14-55. Based on its analysis, PJM estimates a cumulative net loss in generation of 8,359 megawatts.<sup>2</sup> PJM's tariff revision is also predicated by concerns over last winter's poor capacity performance and expected retirements of over 14,000 MW of generation in the 2015/2016 DY.<sup>3</sup>

PJM has initiated discussions with sellers of generation resources that are not presently available for the 2015/2016 Delivery Year, to investigate the feasibility of making those resources available. This category includes existing generation resources that have previously announced their retirement for the 2015/2016 DY and planned generation resources that are scheduled to enter service for the 2016/2017 DY. PJM's intent is to find those uncommitted resources that can be deployed on a timely and cost-effective basis to meet the periods of greatest potential need during the 2015/2016 DY.

PJM will then file the agreements with the FERC for acceptance and approval. PJM states that the costs of any payments made pursuant to such agreements shall be collected pro-rata from all load serving entities (LSEs) based on such LSE's Daily Unforced Capacity obligations that is consistent with cost allocation principles for other "out-of-market" resources.<sup>4</sup>

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<sup>1</sup> 753 F.3d 216 (D.C. Cir. 2014)

<sup>2</sup> See Affidavit of Micheal J. Kormos of PJM at 3.

<sup>3</sup> See Filing in *PJM Interconnection, L.L.C.* (December 23, 2014) at 9-10.

<sup>4</sup> *Id.* at 11-12.

PJM has ruled out the possibility of a limited auction because of the difficulty of matching PJM's needs during the 2015/2016 DY with the time periods of availability that potential resources could offer. Additionally, PJM has determined there are few uncommitted resources available that could participate as supply in a special auction. That relatively thin potential supply might therefore produce little competitive pressure, even if PJM employed a "market" mechanism.<sup>5</sup>

PJM's waiver request is coupled with a parallel filing at ER15-738-000 wherein approval is sought from FERC to permit PJM to waive the requirement that it sell 2000MW of capacity as part of the Third Incremental Auction for the 2015/2016 DY.

### **III. COMMENTS**

The PAPUC is supportive of PJM's efforts to minimize performance risk generally and in the upcoming 2015/2016 DY specifically. The PAPUC is filing Comments that support PJM's parallel request for a one-time waiver of a tariff provision that requires PJM to offer to release 2,000 MW of capacity previously committed to the PJM region.<sup>6</sup> The PAPUC is also supportive of PJM's recent Capacity Performance filing which is designed to prevent a recurrence of the capacity performance failures of the 2014/2015 Winter.<sup>7</sup>

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<sup>5</sup> *Id.* at 11.

<sup>6</sup> FERC Docket ER15-738-000.

<sup>7</sup> FERC Docket No. ER15-623

The PAPUC does have a concern about the necessity for this procurement to go forward in the following circumstances: (1) The U.S. Supreme Court both decides to review the EPSA decision and reverses the D.C. Circuit effectively upholding PJM's existing tariffs governing treatment of DR resources; or (2) PJM determines that existing measures it has taken have successfully addressed winter deliverability issues. In the event either circumstance occurs, PJM should consider modifying its planned procurement to minimize cost to customers.

The PAPUC is additionally concerned that PJM's filing does not address what penalties for non-performance will apply in the event these out-of-market resources do not perform as planned. Given PJM's detailed provisions in its Capacity Performance filing to address non-performance, it is only reasonable that generation resources procured for the 2015/2016 DY be held to similar performance standards and meaningful non-performance penalties so that customers are protected. The PAPUC contends that PJM's request should contain adequate incentives for performance to ensure the type of reliability that this filing is intended to address.

Finally, the PAPUC is concerned about the pricing that may apply under these "out-of-market" agreements to the extent the negotiated prices exceed prevailing market prices at the time of the contract execution. PJM contends these agreements will be filed with the FERC. The PAPUC urges the FERC to fully and thoroughly examine the terms of these contracts including examination of relevant underlying documentation to ensure these agreements satisfy applicable reliability standards for resource adequacy as required under PJM Tariff Section 5.14(b-1).

#### **IV. CONCLUSION**

For all the foregoing reasons, the Pa PUC respectfully requests its comments be considered in this proceeding.

Respectfully submitted,

/s/ James P. Melia  
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Dated: January 14, 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 14th day of January, 2015.

Respectfully submitted,

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