

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notice of Proposed Rulemaking Re: :
Electric Distribution Companies' Obligation : Docket No. L-00040169
To Serve Retail Customers at the :
Conclusion of the Transition Period :

Comments of PJM Interconnection

Introduction

On December 16, 2004, the Pennsylvania Public Utility Commission (Commission) entered an order closing Docket No. M-00041792, Provider of Last Resort Roundtable (POLR Docket), and issuing a Notice of Proposed Rulemaking in Docket No. L-00040169, Rulemaking Re: Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa. CS § 2807(e) (Default Service Docket). On February 26, 2005, notice of the proposed rulemaking (NOPR) in the Default Service Docket was published in the Pennsylvania Bulletin. Parties were asked to provide comments within 60 days, or no later than April 27, 2005. PJM Interconnection, LLC (PJM) respectfully submits the following comments for the Commission's consideration.

On June 21, 2004, PJM filed comments in the POLR Docket. Those comments focused on several issues, including:

- interaction of the PJM Planning Period with retail issues;
- qualifications for POLR providers under PJM market rules;
- default supply obligations under PJM rules;

- the legal relationship between POLR Suppliers and PJM; and
- POLR design considerations, which addressed the timing of the POLR auction and the need to consider the impact that any POLR program may have on the development of demand side response (DSR) in Pennsylvania.

In the NOPR that initiated the Default Service Docket, the Commission responded to most of the comments of PJM and PJM is pleased that its comments were helpful to the Commission. PJM appreciates the opportunity to comment on the NOPR in this proceeding and hopes that its comments will continue to prove valuable to the Commission.

Interaction between PJM Planning Period and POLR Service

In the NOPR, the Commission determined that the electric distribution company (EDC) should serve as the provider of default service, which responded to PJM's comments regarding technical/legal issues as well as the qualification, from a PJM perspective, of the default provider.

The Commission, in § 54.185(f) of the NOPR, indicated that default service contracts should be aligned with the PJM planning year, which responded to PJM's comments concerning the interaction of the retail process and PJM's planning year. Aligning the service term with PJM's planning year facilitates the ability of suppliers to meet their capacity obligations in PJM.¹ Also, suppliers will have the ability to enter into PJM financial transmission rights (FTR) auctions, which is how PJM accommodates load

¹ The ability of a default service provider in Pennsylvania to meet PJM's capacity obligation by aligning the service period with PJM's planning year will remain true regardless of any change to the capacity market that PJM or its stakeholders are currently considering, including the proposed Reliability Pricing Model or any proposal that may result from the Capacity Market Modifications Working Group.

shifting between retail suppliers, rather than simply receiving an allocation of auction revenue rights.

In addition, the Commission's NOPR recognizes that any POLR provider should comply with the requirements of the applicable ISO or RTO (see § 54.185(f)). PJM understands this phrase to include any credit requirements for companies participating in the PJM markets. However, to make this clear, PJM respectfully requests that the Commission consider adding language to § 54.185 (f). PJM proposes that § 54.185 (f) be modified to read as follows:

(f) A default service provider shall document that its proposal is consistent with the legal, *credit* and technical requirements pertaining to the generation, sale and transmission of electricity of the RTO or ISO in whose control area it is providing service. The default service plan's terms of service and generation supply adequacy acquisition process must align with the planning period of that RTO or ISO. (PJM proposed additional language in italics).

By making the proposed change, the Commission will make it clear that companies serving as the POLR will need to comply with all legal requirements of an RTO or ISO.

Qualifications for POLR providers under PJM market rules

In its comments in the POLR docket, PJM indicated that the Commission should make explicit that wholesale energy buyers, transmission customers, and load serving entities must comply with the requirements set forth in the PJM Operating Agreement, Open Access Transmission Tariff, and Reliability Assurance Agreement. PJM believes

that the language in § 54.185(f), both as it appears in the NOPR and with the suggested modification above, meets this request. By explicitly requiring that POLR service plans must comply with legal requirements of the appropriate ISO or RTO, PJM believes that the Commission's intent is to require the companies providing default service in the PJM footprint to comply with obligations imposed by PJM's Operating Agreement, Open Access Transmission Tariff and Reliability Assurance agreement.

Default supply obligations under PJM rules

PJM's comments in the POLR docket focused on what would happen in the event of default by a transmission customer under the PJM Open Access Transmission Tariff (Tariff). The Commission has chosen to make the EDC the default provider while requiring that the EDC secure wholesale power through a competitive process. PJM believes that the NOPR responds to this concern and appreciates the Commission's consideration of PJM's comments in the POLR docket.

Legal relationship between POLR Suppliers and PJM

In its NOPR comments, PJM observed that if the obligation for default service were split among different entities, the PJM billing system could not assign the billing determinants for transmission service to more than one entity. By making the EDC the default service provider, the Commission has accommodated this requirement.

POLR design considerations

Timing of obligation to provide default service

Based on its previously filed comments, PJM identified as an issue the timing of any RFP or auction for default load. PJM suggested that any auction should be

coordinated with the timing of auctions in other states within PJM to prevent multiple states' procurements from occurring at the same time. At the time PJM filed its comments in the POLR docket, there were fewer states within the PJM footprint than there are now. While PJM has grown to include more states, including some that have restructured retail electric markets, PJM believes that it is still important to coordinate the assignment of responsibility for Pennsylvania's default service auctions with other states and their POLR or default service proceedings. By requiring that default service plans be filed at least 15 months in advance of the expiration of the default service plan then in effect, PJM believes that the Commission has provided an appropriate mechanism to mitigate against the potential risk premium PJM referenced in its comments in the POLR docket.

Relationship between default service obligation and demand side response

PJM believes that an effective competitive market requires a functioning wholesale market with competition on both the supply and demand side.² While PJM believes that the Commission's NOPR will encourage competition on the supply side, PJM hopes that the Commission's final rule in this proceeding will also encourage demand side response. As PJM observed in its comments in the POLR Docket, "[t]o the extent that the entity that has the tie to the retail end user does not have the obligation to purchase at wholesale the supply to satisfy the retail load, there may be less incentive for

² Currently, PJM is working to more completely integrate demand side response alternatives into its markets, as evidenced by the expanded role of demand side in PJM's proposed Reliability Pricing Model compared with the current ability of demand side response to participate in the existing capacity market. PJM is happy to meet with the Commission, at the Commission's convenience, to discuss other initiatives that it is undertaking to encourage demand side response.

that entity to develop new or encourage expansion of existing demand response programs.”

PJM believes that the Commission’s NOPR will serve to encourage demand response. The Commission’s proposed model for default service places the obligation on the EDCs to serve as the retail interface and to procure power at the wholesale level to supply energy to default service customers. To the extent that the default service provider is responsible for purchasing the wholesale power, there is an incentive for the default service provider to encourage demand side response at the retail level. As PJM understands it, under this Commission’s proposal, the default service provider would be able to resell any energy that retail customers did not consume due to effective demand side response programs back into the market, presumably at rates above what the default provider paid for the power initially. The difference in costs would create a pool of dollars from which payments could be made to retail customers who curtailed their load. In this way, economic signals are sent to retail users to curtail their load, thereby encouraging demand side response. However, to make this link explicit, PJM would encourage the Commission to consider explicitly vesting title to the energy in the retail customer such that the retail customer will receive the benefits of reduction in its usage. PJM respectfully requests that the Commission consider the following proposed language in § 54.187 (f):

(f) The default service implementation plan must include rates that correspond to demand side response and demand side management programs available to retail customers in that EDC service territory. *Any retail customer taking service under a default service program shall be*

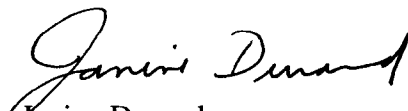
deemed to have firm legal rights to the energy provided to, or otherwise expected to be consumed by, the retail customer. Further, the retail customer shall be entitled to the benefit from any resale of unconsumed expected energy usage due to curtailment of demand by the retail customer. (PJM proposed additional language in italics).

By maintaining the link between the retail customer and the party responsible for procuring the wholesale power, the Commission has kept intact a vital link to encourage demand side response in Pennsylvania. With the inclusion of the language proposed by PJM, the Commission will make explicit the ability of a retail customer taking default service to benefit from reducing its demand. This should ensure that the Commission's NOPR encourages effective demand side response programs.

Conclusion

PJM believes that this NOPR in the Default Service Provider Docket strikes an appropriate balance between the need to encourage competition while also providing reliable, economically efficient power supply to those customers who opt not to purchase power from a competitive energy provider. PJM appreciates all of the work the Commission has done on this issue and looks forward to continuing to work with the Commission to address energy market issues in the future.

Respectfully submitted,


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