

more information about DER participation in wholesale markets, and it ultimately issued Order 2222 on September 17, 2020, after concluding its investigation. Through Order 2222 FERC requires the regional transmission organization PJM Interconnection, L.L.C., (PJM) to allow aggregations of distribution-interconnected resources to participate in PJM wholesale markets so that they may provide all services they are technically capable of providing.³

PJM, in its compliance filing, addresses the implementation requirements of Order 2222. In particular, PJM proposes methods by which DER resources can participate in the competitive wholesale markets through DER aggregation. PJM proposes to prohibit DER Aggregation Resource participation in the wholesale markets if that resource is already being compensated for the same service in a retail program, as directed by FERC in Order 2222. To accomplish this, PJM proposes three screens to identify and disallow such resources. PJM also recognizes the important role state and local authorities have with respect to DERs and DER aggregators as they relate to retail rates, distribution system planning, operations and reliability, the siting of DER and their interconnection with the distribution systems. Furthermore, PJM establishes the metering and telemetry requirements for DER Aggregators and their resources. PJM also establishes an opt-in requirement for utilities that distribute only 4 million megawatt-hours or less in a fiscal year. Finally, PJM has proposed effective dates for its implementation, including capacity market and energy market participation.

³ Order 2222 ¶ 130.

II. SUMMARY OF COMMENTS

The PAPUC generally supports PJM’s Compliance Filing and appreciates the effort PJM and stakeholders have put in to ensure the Compliance Filing comports with state policies and jurisdictional responsibilities. While the PAPUC does not address every component of PJM’s compliance filing herein, the absence of discussion in these comments on a particular topic should not be read to indicate how the PAPUC views their relative importance. That being said, the PAPUC wishes to highlight certain aspects of the filing, namely that PJM properly recognizes the States’ roles over interconnection to electric utility distribution systems and resolving any disputes related thereto; that PJM sets appropriate restrictions on double compensation; that PJM appropriately provides for small utility opt-in; and that while PJM sets satisfactory metering and telemetry provisions at this early stage of implementation, the metering rules must be monitored as participation of DERs potentially increases.⁴

While the PAPUC supports the above-referenced provisions of PJM’s filing, the PAPUC protests PJM’s proposed effective date for its capacity market participation provisions. In particular, the PAPUC is concerned that DER Aggregators will not be able

⁴ These Comments use PJM’s terminology related to Distributed Energy Resources (DERs) as used in its Compliance Filing. PJM proposes a modified definition in its Tariff as compared to Order 2222, using the term “Component DER” to refer to individual resources. The Compliance Filing defines Component DER as “any resource, within the PJM Region, that is located on a distribution system, any subsystem thereof, or behind a customer meter, and is used in a DER Aggregation Resource by a DER Aggregator.” A DER Aggregation Resource is the total accumulation of Component DERs which are operated together, and the DER Aggregator is the entity that manages a DER Aggregation Resource to participate in one or more PJM market. PJM also defines a DER Capacity Aggregation Resource, which is any DER Aggregation Resource which clears the capacity market. *See* Appendix A, Definitions C-D, Tariff, PJM Compliance Filing.

to accurately bid into the capacity market under the proposed July 1, 2023 effective date without state and EDC policy guidance, which may not be set by that date.

III. COMMENTS

The PAPUC and the Pennsylvania General Assembly have long supported using markets to their fullest potential. Pennsylvania’s Electricity Generation Customer Choice and Competition Act, Act 138 of 1996,⁵ recognized the power of competition to reduce the cost of generating electricity while also recognizing that advances in electric generation technology enable strong competition.⁶

Order 2222 reflects the goals of Pennsylvania to support the participation of new technologies in markets, advancing the benefits of competition. In response to Order 841, the PAPUC agreed, “removing barriers to distributed energy resource aggregations in the RTO/ISO markets is important.”⁷ Likewise, the PAPUC has argued that the participation of demand response serves as a “valuable component” of wholesale markets and benefits Pennsylvania’s own energy efficiency and conservation programs.⁸

The participation of DERs in wholesale markets presents an opportunity for the engagement of traditional electricity consumers to supplement the capabilities of the generation fleet. New technologies such as storage have the potential to support

⁵ 66 Pa.C.S. §§ 2801-2815, as amended.

⁶ 66 Pa.C.S. § 2802.

⁷ Comments of the Pennsylvania Public Utility Commission, *PJM Interconnection, L.L.C.*, Docket No. ER19-511 (Filed January 3, 2019).

⁸ Comments of the Pennsylvania Public Utility Commission, *Centralized Capacity Markets in Regional Transmission Organizations and Independent System Operators*, Docket No. AD13-7 (Filed January 8, 2014).

individual customer storm restoration efforts, industrial customer demand management practices, as well as many other customer needs. In addition, the country is also exploring the potential for vehicle to grid integration opportunities. The possibilities of aggregating these and other DER provided by Order 2222 implementation is likely to provide further value propositions for these new technologies to support affordable, reliable, and safe electric service. Allowing DER Aggregators to pool Component DERs to participate in wholesale markets may facilitate deployment of capital by Electric Distribution Company (EDC) customers that might not otherwise be deployed to support a more affordable, reliable, resilient and safe electric grid. So long as resources are not compensated twice for the same service and do not endanger the reliable and safe operation of EDC distribution facilities at just and reasonable rates, the PAPUC supports the goal of greater opportunity for diverse DER participation in the wholesale markets.

A. Prevention Of Double Compensation For The Same Service Is Paramount

Order 2222 recognizes the importance of preventing double compensation for resources providing and being compensated for the same service in both the retail and wholesale markets, or providing the same product, either individually or as part of multiple DER aggregations in the wholesale markets.⁹ Further, FERC was concerned that if a resource was able to participate in wholesale markets, but the retail load which

⁹ See Order 2222 ¶¶ 160-161.

was formerly subtracted from the demand side was not added back, then the resource would be double counted as both a load reduction and a supply resource.

As it relates to Pennsylvania, the Alternative Energy Portfolio Standards Act,¹⁰ provides that customer-generators in Pennsylvania shall receive “full retail value” for energy produced as part of a net metering program.¹¹ Interpreting this Act, the PAPUC determined that “full retail value” is the fully bundled retail rate, which includes generation, transmission, capacity, ancillary services and distribution components as compensation for the electric the customer-generator sends to the distribution grid.¹² This compensation is accounted for as a month-to-month kilowatt-hour credit against the customer’s retail bill until the end of the year, when any unused excess generation is compensated for at the EDC’s price-to-compare, which is the EDC’s retail default service generation and transmission charge that includes generation, capacity, ancillary services, transmission, and other charges.¹³ As a result, participants in the Pennsylvania retail net metering program already receive revenues for all aspects of PJM’s wholesale markets, and more, for the energy they send to the distribution grid. Accordingly, if they were permitted to participate in the wholesale markets as part of a DER Aggregation Resource, that resource would be again receiving payments for the same wholesale component the resource already received compensation from the retail net metering program, resulting in double compensation, which FERC and PJM appropriately prohibits.

¹⁰ 73 P.S. § 1648.1 *et seq.*

¹¹ 73 P.S. § 1648.5.

¹² 52 Pa. Code § 75.13(d).

¹³ 52 Pa. Code § 75.13(d)-(g).

PJM takes a prudent three-screen approach to avoiding double compensation between retail and wholesale markets. First, for a DER Aggregator to complete the pre-registration process, the aggregator must be able to identify whether each Component DER participates in an “electric distribution company program that recognizes grid withdrawals and/or injections, including but not limited to a net energy metering program.”¹⁴ This facilitates the second screen, where, during the distribution utility review process, an EDC may review a DER Aggregation Resource registration and object if a Component DER does not qualify for participation in PJM wholesale markets because of simultaneous participation in retail programs.¹⁵ EDCs may exercise discretion during this process in determining whether participation in a particular retail program raises double compensation concerns, but ultimately this determination is up to the State. Third, even if a Component DER somehow bypasses these two screens, PJM’s Compliance Filing contains a catch-all to avoid double compensation. PJM’s “Office of the Interconnection shall only credit a DER Aggregator for the sale of a product in the PJM energy, capacity, and/or ancillary services markets if that same product is not also credited as part of a retail program.”¹⁶

The first two screens center on participation of a resource in state retail programs. The catch-all, on the other hand, is defined by avoiding double crediting of payments. This is an important and necessary addition. PJM’s catchall prevents double

¹⁴ Appendix C, PJM Compliance Filing, Section 1.4B(b), Tariff and Operating Agreement.

¹⁵ Appendix C, PJM Compliance Filing, Section 1.4B(b), Tariff and Operating Agreement,

¹⁶ Appendix C, PJM Compliance Filing, Section 1.4B(h), Tariff and Operating Agreement.

compensation for distribution-interconnected resources which may not apply and participate as part of a retail program, but nevertheless affect that program in a way that results in double compensation for the same service.

To avoid this type of double compensation, PJM has also said, “Capacity market participation for DER Aggregation Resources via DER Capacity Aggregation Resources would need to fulfill energy participation requirements, and because Component DER in a net energy metering retail program are unable to provide energy in PJM, they would not be able to meet the capacity requirements, resulting in their inability to participate.”¹⁷ Restated, PJM has concluded that if you participate and clear the capacity market, then under PJM’s Tariff there is an energy market must offer obligation.¹⁸ Like other capacity resources, the way a DER Capacity Aggregation Resource will perform when called on is to inject energy or reduce demand by the amount called on. So even if a resource has some capacity value beyond what is compensated for in a retail net metering tariff, the performance of the resource should be prohibited because the completion of the capacity obligation by participating in the energy market would be prohibited as such a resource is already receiving compensation through the retail net metering program for the energy it provides to the grid, as discussed above. Thus, PJM explains, it cannot permit the participation of a DER as a capacity resource if its participation in the energy market would be prohibited downstream. Furthermore, if there is a dispute over the application of PJM’s policy to retail programs, PJM rightly recognizes that responsibility for

¹⁷ PJM Compliance Filing at 41.

¹⁸ Appendix C, PJM Compliance Filing, Section 1.4B(i), Tariff and Operating Agreement.

resolving these disputes, that arise under tariffs, agreements, and operating procedures of an EDC, or the rules and regulations of any Relevant Electric Retail Regulatory Authority (RERRA) is the RERRA.¹⁹ This preserves ultimate state authority over retail rates.

For now, the PAPUC supports PJM's conclusion about the energy market must offer obligation and the consequence it has on DER participation in retail net metering programs and the wholesale capacity market through DER aggregation. While PJM's approach follows FERC's directive to allow DERs to participate in wholesale markets to the greatest degree possible, it also takes a conservative view of double compensation which the PAPUC finds is appropriate. Over time, wholesale markets and retail programs may evolve to dovetail more precisely to allow new participation mechanisms which do not risk double compensation, but the PAPUC finds that a conservative approach is appropriate for now.

B. PJM's Compliance Filing Appropriately Recognizes Deference To States

Order 2222 recognized the important role and the authority that state and local authorities exercise with respect DERs and DER aggregations. FERC specifically recognized state and local regulation of "retail rates; distribution system planning, distribution system operations, or distribution system reliability; distributed energy resource facility siting; and interconnection of resources to the distribution system" were not subject to FERC jurisdiction.²⁰

¹⁹ Appendix C, PJM Compliance Filing, Section 1.4B(b), Tariff and Operating Agreement.

²⁰ Order 2222 ¶ 61.

PJM's Compliance Filing harmonizes with Order 2222's deference to state jurisdiction while retaining simplicity of administration. In the DER Aggregator Participation Model in Section 1.4B of PJM's proposed Tariff amendments, PJM refers to the areas where state dispute resolution will be needed.

- 1.4B(b) provides that disputes over PJM's proposed pre-registration procedure come before the RERRA, which is appropriate because that relates to non-FERC jurisdictional EDC behavior.
- 1.4B(b) provides that although the EDC or another entity will presumptively be able to serve as the dispatch agent for a DERA, the RERRA will ultimately be able to decide who will be able to serve as a dispatch agent, an EDC, another entity, or either.
- 1.4B(f) provides that disputes over a distribution utility's override would come before the PAPUC, or otherwise would proceed in accordance with state or local law.
- 1.4B(o) provides that state law will exclusively govern the interconnection of Component DERs to distribution facilities.

Noted above, PJM has created a new role in real time markets for DER participation: a dispatch agent is the entity responsible for carrying out dispatch instructions sent by PJM. The market agent on the other hand is responsible for bidding into a market and market settlement. Presumptively, PJM's participation model will allow EDCs to receive dispatch instructions from PJM and coordinate Component DER activity directly. While PJM's Compliance Filing allows EDCs to act as a DER

Aggregator, PJM's Compliance Filing properly allows states to override this initial presumption to regulate the roles that EDCs may play with respect to DER aggregation. State regulators will need time to formulate the appropriate policies, guidelines, procedures, processes, and regulations to not only address dispute resolution processes but also the roles EDCs are allowed to take on, the interconnection of DER, the EDC facility requirements to support DER participation in the wholesale markets and appropriate cost recovery. Any process the State regulator will use to establish these appropriate policies, guidelines, procedures, processes, and regulations will need to be consistent with state law, provide notice and input from stakeholders in a transparent manner for market participants, EDCs, EDC customers and potential Component DER owners and aggregators. Once the policies, guidelines, and regulations are established, it will take time for the EDCs to implement these policies, guidelines, and regulations by putting tariffs, business practices and operational controls in place, train personnel, and install any new facilities and equipment to support those business practices and operational controls. While PJM's proposal appropriately defers to state regulators, as discussed below, state regulators will need time to fulfill their role in a transparent manner consistent with controlling law.

1. The Necessary Metering And Telemetry Requirements Must Be Monitored Closely

The PAPUC generally supports PJM's approach to telemetry and metering requirements. For telemetry, the information allowing participation in dispatch and real-time markets, PJM proposes that the values provided by the DER Aggregator for the

DER Aggregation Resource may be an aggregate of individually metered Component DERs, but also may be a calculated value provided by the DER Aggregator. PJM does not, however, require a single level of granularity for all markets.²¹

A Component DER will still have to be separately metered for settlement purposes, but only to provide hourly kWh values.²² In Pennsylvania, Act 129 of 2008 requires that large Pennsylvania EDCs²³ deploy smart meters with bidirectional communication capabilities which record usage data on at least an hourly basis. The meters are also required to support the automatic control of the customer's electricity consumption by a third party.²⁴ Pennsylvania's smart meter deployment should already satisfy PJM's requirement for hourly interval data. While smart meters deployed by PAPUC regulated EDCs may have the appropriate interval to satisfy PJM's settlement requirements, the PAPUC will still monitor whether ordinary smart meters are able to be used to support DER participation in the PJM markets without harming retail programs or endangering the distribution system, or whether greater functionality or additional metering will be required. As experience grows among PJM, DER participants, EDCs, and the PAPUC, a determination as to whether PJM's current metering and telemetry proposals are satisfactory will have to be monitored.

²¹ PJM Compliance Filing at 59-60.

²² PJM Compliance Filing at 60-61.

²³ Act 129 of 2008 applies to EDCs with more than 100,000 customers. *See* 66 Pa.C.S. § 2807(f)(6).

²⁴ 66 Pa.C.S. § 2807(g).

2. PJM's Proposed Small Utility Opt-In Satisfies Order 2222's Directive To Protect The Distribution Systems Of Small Utilities

The PAPUC supports FERC's inclusion of a small utility opt-in as part of Order 2222 and FERC's regulations. FERC in Order 2222 directed that RTOs/ISOs could not accept bids from DER Aggregators which contained Component DERs interconnected to small utilities. FERC defined a small utility as a utility that distributed 4 million megawatt-hours or less in the previous fiscal year.²⁵ FERC recognized in Order 2222 that there is a potential greater burden on smaller utility systems to administer Component DERs on their grids.²⁶

The small utility opt-in requires PAPUC approval before customers of small EDCs can participate as part of a DER Aggregation Resource. This rule preserves appropriate state authority over the EDCs who may have the most difficulty managing complex flows created by DER Aggregation participation. As the local regulator is the most familiar with the operations and abilities of EDCs, RERRAs who have familiarity with distribution system operations are far better able to determine whether the burdens on these utilities are outweighed by the benefits of DER participation in wholesale markets. In addition, as only large EDCs in Pennsylvania had to deploy smart meters with hourly interval data, a FERC mandate to require small EDCs to allow DER Aggregation operations would frustrate the determination of the Pennsylvania General Assembly that even the deployment of this type of metering infrastructure would be too burdensome on

²⁵ 18 C.F.R. § 35.28(g)(12)(iv).

²⁶ Order 2222 ¶ 63.

small EDCs. The PAPUC agrees that FERC acted appropriately in creating the opt-in requirement in Order 2222, and is satisfied with PJM's implementation of this restriction.

IV. PROTEST

A. PJM's Proposed Effective Date For The Participation Of DER Capacity Aggregation Resources In PJM's Capacity Market Is Premature As It Could Create A Flawed Capacity Market

While the bulk of PJM's proposed amendments become effective February 2, 2026,²⁷ as to participation of DER Aggregation Resources in the capacity market, PJM's changes become effective July 1, 2023. The PAPUC files a protest to this aspect of PJM's Compliance Filing because EDCs and States, including Pennsylvania, are unlikely to be able to make changes to their policies, guidelines, procedures, processes, regulations, tariffs and service agreements that enable coherent participation of DER Aggregation Resources in PJM's markets. Without State and EDC policies, guidelines, procedures, processes, regulations, tariffs and service agreements in place, DER Aggregators will not have the needed information to produce accurate bids about their resource mix, capabilities, and costs in the relevant delivery year. In turn, allowing inaccurate bids in the capacity market could produce unjust and unreasonable rates.

Under the amendments to PJM's governing documents effective July 1, 2023, PJM will allow the participation of DER Capacity Aggregation Resources in its capacity

²⁷ The provisions which become effective in 2026 include the DER Aggregation Participation Model, which itself includes processes for registration of DER Aggregation Resources and their Component DER, energy market participation, and ancillary services market participation. *See* Section 1.4B of PJM's proposed Tariff.

market. To allow such participation, PJM's Tariff and RAA amendments require a DER Capacity Aggregation Resource to provide the following:²⁸

- A complete DER Capacity Aggregation Resource Sell Offer Plan showing that the megawatt quantity being offered is reasonably expected to be physically delivered for the relevant delivery year.
- The nominated megawatt quantities and methods of achieving generation or load reductions to meet megawatt quantities.
- The equipment and technology to be installed or controlled.
- A plan and ability to acquire generating resources or load reductions at customer sites and assumptions about regulatory approval of programs.
- A schedule of an approximate timeline for procuring Component DERs.

As described above, DER Capacity Aggregation Resource Sell Offer Plans will require many items which depend on coordination with both state regulators and distribution companies. No part of PJM's compliance filing for the registration of Component DERs as part of a DER Aggregation Resource will become effective at the same time as PJM's capacity market participation amendments. As a result, DER Capacity Aggregation Resource will not likely know what Component DERs will be able to register and satisfy a capacity market obligation. It is thus particularly important that distribution system policies be in place which will allow DER Capacity Aggregation

²⁸ Schedule 6.2, Reliability Assurance Agreement, Appendix A, PJM Compliance Filing.

Resources to accurately determine what Component DERs will make up the aggregation resource when those Component DERs may register in 2026.

As FERC noted in Order 2222,²⁹ the state role in participation of DERs in wholesale markets will be significant. The PAPUC is currently exploring many of the needed regulatory activities before DER Aggregators will be able to usefully engage in Pennsylvania. But before a State may resolve the issues involved in developing the appropriate policies, guidelines, procedures, processes, and regulations, it will need to investigate and determine what the issues are, give notice to all stakeholders and allow for meaningful stakeholder input, all before a policy, guideline, procedure, process, or regulation may be promulgated. Once the policies, guidelines procedures, processes, and regulations are established, it will take time for the EDCs to implement these policies, guidelines procedures, processes, and regulations by putting tariffs, business practices and operational controls in place, train personnel, and install any new facilities and equipment needed to support those business practices and operational controls.

Traditional access to utility customers has treated them as consumers, rather than as distributed potential electric market suppliers. Because of this, state laws are typically focused around regulating the sale of electric energy to end-users, flowing from the transmission grid, down through the distribution grid to retail electric customers. For example, the PAPUC licenses Electric Generation Suppliers (EGS) that, among other things, “purchases, brokers, arranges or markets electricity or related services for sale to

²⁹ Order 2222 ¶ 61.

end-use customers utilizing the jurisdictional transmission and distribution facilities of an electric distribution company.”³⁰ In October 2021, the PAPUC issued an order finding that a demand-side energy management company that had sought an EGS license to gain access to customer meter data could not be licensed as an EGS under Pennsylvania Law.³¹ In this same order, the PAPUC opened an investigation into the data sharing methods needed for non-EGS third parties to gain access to customer meter data in a secure manner. As part of this investigation, in February 2022, the PAPUC published a secretarial letter to determine how access to customer meter data could be set up.³² The scope of this secretarial letter explicitly included non-EGS third parties who may seek to participate in wholesale markets as DER Aggregators.

While the PAPUC is making progress on creating the state regulatory structure needed to allow for smooth participation of DERs in wholesale markets, customer meter data access is only one small part of the process. Other issues States may need to address will include jurisdictional determinations over how to regulate the behavior of DER Aggregators; dispute resolution procedures between DER Aggregators and EDCs, between DER Aggregators and their own Component DER owners, and between Component DERs and EDCs; potential revisions to interconnection regulations; as well as determinations on whether retail programs raise double counting concerns. PJM

³⁰ 66 Pa.C.S. § 2803 (definition of Electric Generation Supplier).

³¹ License Application of Enerwise Global Technologies, LLC d/b/a CPower for Approval to Offer, Render, Furnish, or Supply Electricity or Electric Generation Services, Docket No. A-2019-3009271 (Order entered October 7, 2021).

³² Investigation into Conservation Service Provider and Other Third Party Access to Electric Distribution Company Customer Data, Docket No. M-2021-3029018 (Sec. Letter issued February 8, 2022).

consists of 14 independent jurisdictions consisting of as many state laws, regulations and ordinances. States will need a reasonable opportunity to interpret their own laws and regulations, and potentially create new laws or regulations relating to DER Aggregator and resource interaction with retail customers and jurisdictional distribution companies. This State review cannot begin in earnest until after PJM's tariff is approved in its final form and will take a significant amount of time to complete in a transparent manner that allows for full participation of all stakeholders.

B. FERC Should Direct PJM To Delay Implementation Of Its Capacity Market Participation Provisions

PJM's capacity market participation provisions are currently effective July 1, 2023.³³ The PJM 2026/2027 Base Residual Auction is currently scheduled for November 2023. PJM's proposed implementation date would allow for Planned DER Capacity Aggregation Resources to participate in the 2026/2027 Base Residual Auction, including pre-auction activities.

While PJM's proposed DER Aggregation Resource capacity market participation effective date is logical because it aligns the capacity market must offer obligations with the first possible energy market participation, it shortens the time by which regulators and distribution utilities will have to address the issues discussed above. PJM recognizes:

there is a larger coordination effort remaining for business practice changes before implementation, included but not limited to RERRA readiness, utility readiness, and PJM readiness. There are a number of activities that will need to be

³³ PJM Compliance Filing at 90.

reviewed and business process developed or modified in support of DER Aggregation Resource market participation. RERRAs and utilities will have work activities to evaluate for Component DER and support wholesale participation, including by not limited to processes, resources, costs for interconnection, dispute resolution, utility reviews, and metering and settlements.³⁴

Moving the capacity market participation effective date from July 1, 2023, to an effective date which would become effective for the 2028/2029 Base Residual Auction (BRA) at the earliest, will allow States and their jurisdictional distribution companies to be far more prepared in these areas and will provide DER Capacity Aggregation Resources the needed information to accurately predict their resource mix and deliverability.

Aside from the aesthetic symmetry of allowing energy market participation to coincide with the delivery year that capacity market participants will have to deliver energy, PJM does not provide any reason to support a July 2023 effective date. Moving the effective date of these provisions from July 1, 2023, to instead allow participation in the 2028/2029 BRA or later will not impair PJM markets, as DER Aggregation Resources will be able to participate in the energy market before their capacity market participation becomes due, and poses no harm.

We appreciate PJM's attempt to implement this new capacity market participation model promptly, but a July 1, 2023 effective date may harm state and EDC readiness with little benefit. As a result, we protest PJM's July 1, 2023 effective date for the

³⁴ PJM Compliance Filing at 90.

capacity market participation provisions in its Compliance Filing³⁵ and request that FERC issue an Order directing PJM to modify this effective date to allow for participation in the 2028/2029 BRA at the earliest.

C. FERC Should Direct PJM To Clarify That DER Aggregators Who Participate In The Capacity Market May Not Use Resources That Will Be Compensated Under A Retail Program

As described above, the PAPUC agrees with PJM’s initial conservative approach described in its Compliance Filing that “Capacity market participation for DER Aggregation Resources via DER Capacity Aggregation Resources would need to fulfill energy participation requirements, and because Component DER in a net energy metering retail program are unable to provide energy in PJM, they would not be able to meet the capacity requirements, resulting in their inability to participate.”³⁶ However, Appendix A to PJM’s Compliance Filing, describing amendments to capacity market participation that will become effective July 1, 2023, does not appear to have any statement enforcing this policy. Appendix B contains double compensation protections which would fulfill PJM’s stated policy, but these provisions do not become effective until 2026. Because DER Aggregators will be able to participate in the capacity market prior to the 2026 amendments coming into effect, it is essential that PJM’s governing documents include independent provisions that would prevent a DER Aggregator from offering a resource into the capacity market that would be double compensated when the resource ultimately

³⁵ PJM Compliance Filing, Attachment A.

³⁶ PJM Compliance Filing at 41.

participates in the capacity or energy markets. For this reason, FERC should direct PJM to amend its Tariff to include explicit prohibitions against offering a resource into the capacity market that would receive double compensation in both the wholesale markets and retail programs for the same product. As a corollary matter, PJM should be directed to add dispute resolution provisions preserving state authority over retail programs along with these double compensation protections.

V. CONCLUSION

For these reasons, the PAPUC requests that its Comments and Limited Protest be considered by FERC in this proceeding. We urge the Commission to accept our protest and direct PJM to implement the modifications contained therein.

Respectfully submitted,

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Dated: March 31, 2022

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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