September 27, 2019

Susan J. Riley
Interim President and CEO
PJM Interconnection, L.L.C.
2750 Monroe Boulevard
Audubon, PA 19403

PJM Board of Managers
c/o Ake Almgren, Ph.D., Chairman
2750 Monroe Boulevard
Audubon, PA 19403

Ms. Riley, Dr. Almgren, and the Board:

The undersigned cross-section of Members and stakeholders request that, upon receipt of FERC's anticipated order regarding possible expansion of the Minimum Offer Price Rule ("MOPR"), PJM establish a schedule for its capacity auctions that gives states sufficient time to adopt and implement capacity procurement mechanisms as necessary in response to FERC's order. We appreciate your recent commitment[1] to conduct outreach regarding auction timing, and write at this time to inform PJM's consideration of potential auction schedules as it awaits FERC action. In short, we strongly agree that PJM must "offer a meaningful opportunity for states to consider and pursue alternatives depending on the substance of the FERC order and their policy objectives."[2]

The PJM resource adequacy construct is at a crossroads. The changes to the Reliability Pricing Model ("RPM") under consideration by FERC have the potential to fundamentally alter the ability of load serving entities to rely on PJM's capacity market to ensure resource adequacy while also complying with state laws and policy. Indeed, the very purpose of the resource carve-out proposal[3] is to remove load and associated resources from the capacity market, effectively returning compensation decisions for that capacity to the state. While the undersigned entities are not of one mind on whether this is a good outcome, we do agree that, if FERC adopts an expanded MOPR, states will have to evaluate any resource carve-out options provided by FERC and consider whether new state programs are needed to address the compensation decisions no longer being made by PJM through the capacity market.

The challenges of adopting and implementing these new programs are significant. Where state action is required, the best-case scenario would involve situations in which existing laws already authorize a public utility commission or other agency to implement a capacity compensation mechanism for a state-

---

[1] Letter from Sue Riley to Mr. Nicholas K. Akins, *et al*., dated Sept. 12, 2019 (available at https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/pjm-interim-pres-and-ceo-susan-riley-re-to-multiple-parties-re-2022-23-2023-24-capacity-auction.ashx?la=en).

[2] *Id*.

[3] The resource carve-out mechanism proposed by PJM was offered in response to FERC seeking comment in June 2018 on the adoption of a resource-specific alternative to the Fixed Resource Requirement ("FRR"). Many of the undersigned entities submitted comments to FERC stressing that any expansion of the MOPR must be paired with adoption of an FRR alternative that is workable for the states.

supported resource. In such situations, it would typically take four to six months for the state to act given the need to take comment on proposals prior to finalizing and implementing procurement programs. This process cannot begin in earnest until FERC has issued its order, PJM has evaluated the perspectives of the Members and stakeholders who now must react to the order, PJM has developed a compliance filing that takes those perspectives into account, and FERC has addressed PJM's compliance filing. The time needed to evaluate the order, conduct that process, and then implement an entirely new state program is likely to extend late into 2020 given FERC's continued delay in issuing its order. As a result, if PJM were to hold its Base Residual Auctions ("BRAs") for the 2022/23 and 2023/24 Delivery Years too soon, states would have no practical ability to utilize the resource carve-out mechanism, if adopted.

But this best-case scenario may not apply in many of the states. In some states with resources subject to an expanded MOPR, legislation will be required before the state can initiate the agency process to adopt a capacity compensation program. This means that a minimum of another four to eight months likely would be required for legislation to be drafted, considered, enacted, and signed, bringing the total time needed by the state to over one year. As a result, holding the next capacity auctions before the end of2020 will be unworkable for these states even under the most favorable timeframe. Given that annual customer capacity costs across PJM are more than $9 billion, holding even a single auction before these processes are complete could be very costly for customers.

This timing problem is not isolated to one or two states in the PJM region – quite the opposite. All but three states with load served by PJM have clean or renewable energy programs that may need adjustment in order to avoid the procurement of duplicate capacity by PJM as a result of MOPR expansion. The remaining three states represent less than 10 percent of PJM load, and even these states would be impacted should FERC extend the MOPR to vertically integrated utilities self-supplying generation, as some have argued. It is therefore incumbent on PJM to appreciate the implications of FERC's order for each individual state before scheduling its capacity auctions so that the states' timing needs can be accommodated.

How this accommodation should be provided is not yet clear given that FERC has not issued its order. Regardless of how FERC acts, however, PJM will need to consider the order's impact on multiple capacity auctions. The BRA for the 2022/23 Delivery Year is currently suspended pending direction from FERC and its scheduling undoubtedly will impact the 2023/24 BRA. Depending on the timing of the 2023/24 BRA, subsequent BRAs also may need to be adjusted. And given the substantial amount of pre-auction activity leading up to each BRA, the schedules for each of these auctions will need to be coordinated with state activity to allow for orderly management while providing states with a meaningful opportunity to take action in response to FERC's MOPR order, and for resource owners to understand the implications of those actions.

Some may argue, as they have before FERC, that any delay in the auction schedules would be inconsistent with the intent to provide three-year forward price signals through the capacity market. There is, however, no immediate reliability need demanding that the capacity auctions be held quickly. Any thermal resource intending to come online in 2022/23 is already under construction and is clearly willing to take the risk of proceeding with development in the face of a changing capacity market construct. Other resources are deferring investments until they fully understand the rules and know how states will use the resource carve-out option, if adopted, or re-assert responsibility for all resource adequacy through the existing FRR construct. If PJM rushes forward with its capacity auctions, the resources seeking to defer investment will be forced to bid prior to the resource carve-out or FRR mechanism being established and, as a result, respond to one-year price signals that do not reflect the longer-term implementation of the new RPM rules. The same is true for resource owners considering retirement, which must make similar investment decisions based on the results of each auction. In either case, developers moving forward with investments are choosing to do so, and those choosing otherwise should not be pressured to do so. A rushed auction process would lead to skewed price signals that undermine economically rational behavior while reinforcing the high level of perceived (if not real) conflict that currently exists between PJM and the states.

We therefore request that, to the extent its discretion regarding auction scheduling is not limited in some way by FERC's order, PJM establish a schedule for its capacity auctions that gives states enough time to adopt and implement resource carve-out or FRR programs in reaction to FERC's order. In making this request, we emphasize that we are not asking PJM to put one resource owner's interest over another. The issue here is not one of conflict between resource owners – it is a conflict between the structure of RPM and the energy policies adopted by PJM states, with the latter taking into account resource attributes that the former does not. Because the states are unable to rely on PJM's capacity market to achieve their goals, they must be given a meaningful opportunity to do so outside of that market.

Thank you for your attention to this important and pressing issue. We look forward to working with PJM's leadership and staff with respect to how to schedule the capacity auctions in a way that accommodates states seeking to respond to FERC's MOPR order.

American Electric Power Service Corporation
Avangrid Renewables
Illinois Citizens Utility Board
Division of the Public Advocate of the State of Delaware
Dominion Energy
EDP Renewables
Exelon Corporation
FirstEnergy Utilities
Natural Resources Defense Council
Nuclear Energy Institute
Office of the People's Counsel of the District of Columbia
Public Service Enterprise Group
Sierra Club