

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

Calpine Corporation, Dynegy Inc., Eastern	)	
Generation, LLC, Homer City Generation,	)	
L.P., NRG Power Marketing LLC, GenOn	)	
Energy Management, LLC, Carroll County	)	
Energy LLC, C.P. Crane LLC, Essential	)	
Power, LLC, Essential Power OPP, LLC,	)	
Essential Power Rock Springs, LLC,	)	Docket No. EL16-49-000
Lakewood Cogeneration, L.P., GDF SUEZ	)	
Energy Marketing NA, Inc., Oregon Clean	)	
Energy, LLC and Panda Power Generation	)	
Infrastructure Fund, LLC,)	)	
Complainants,	)	
	)	
v.	)	
	)	
PJM Interconnection, L.L.C.,	)	
Respondent.	)	

**ANSWER TO AMENDED COMPLAINT  
OF PJM INTERCONNECTION, L.L.C.**

PJM Interconnection, L.L.C. (“PJM”), pursuant to Rule 213 of the rules of the Federal Energy Regulatory Commission’s (“Commission”),<sup>1</sup> and the Commission’s January 10, 2017 Notice of Amended Complaint, submits this answer to the January 9, 2017 motion of the Electric Power Supply Association (“EPSA”) and certain Indicated Complainants to amend the Complaint, and the Amended Complaint, in the above-referenced proceeding.<sup>2</sup>

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<sup>1</sup> 18 C.F.R. § 385.213.

<sup>2</sup> *Calpine Corporation, et al. v. PJM Interconnection, L.L.C., Motion To Amend, and Amendment to, Complaint and Request for Expedited Action on Amended Complaint*, Docket No. EL16-49-000 (Jan. 9, 2017) (“Amended Complaint”). Indicated Complainants include: Calpine Corporation, Dynegy Inc., Eastern Generation, LLC, Homer City Generation, L.P., NRG Power Marketing LLC, GenOn Energy Management, LLC, Carroll County Energy LLC, C.P. Crane LLC, Essential Power, LLC, Essential Power OPP, LLC, Essential Power Rock Springs, LLC, Lakewood Cogeneration, L.P., Oregon Clean Energy, LLC and Panda Power Generation Infrastructure Fund, LLC. (“Indicated Complainants”) (together with EPSA, “Movants”).

## I. ANSWER TO AMENDED COMPLAINT

In their Amended Complaint, Movants seek immediate Commission action in the wake of recent legislation passed in Illinois directing the Illinois Power Authority to obtain zero emission credits (“ZECs”) from nuclear facilities in PJM or the Midcontinent Independent System Operator, Inc.<sup>3</sup> Movants ask the Commission to: (1) find PJM’s Tariff is unjust and unreasonable insofar as it does not apply a Minimum Offer Price Rule (“MOPR”)<sup>4</sup> to existing generation resources that receive out-of-market state subsidies;<sup>5</sup> (2) apply interim MOPR rule changes (the same ones proposed in the Complaint) that would cover such existing generation resources in the upcoming Base Residual Auction (“BRA”) commencing on May 10, 2017 (“May 2017 BRA”);<sup>6</sup> and (3) direct PJM to conduct a stakeholder process and to propose a longer-term remedy that can be put in place beginning with the 2021/2022 BRA, with PJM filing Tariff revisions by November 1, 2017.<sup>7</sup>

PJM agrees that under certain circumstances, and given the existing PJM MOPR, Sell Offers in RPM Auctions submitted by Capacity Market Sellers of Existing Generation Capacity Resources could result in unjust and unreasonable rates when such

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<sup>3</sup> Illinois 99th Gen. Assemb., S.B. 2814 (Dec. 7, 2016). A copy of the ZECs Legislation included as Attachment A to the Amended Complaint.

<sup>4</sup> All capitalized terms not otherwise defined herein have the meaning specified in the PJM Open Access Transmission Tariff (“Tariff”), the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., (“Operating Agreement”) or the Reliability Assurance Agreement among Load Serving Entities in the PJM Region (“RAA”).

<sup>5</sup> Amended Complaint at 16.

<sup>6</sup> Movants argue the rule changes proposed in the Complaint would apply to the Quad Cities nuclear facility even though it is unlikely contracts under the ZECs legislation will be awarded until after the May 2017 BRA, given the subsidies are to begin by June 1, 2017. Movants would be amenable to modifying that language, or such other approach as PJM or the Independent Market Monitor for PJM (“IMM”) find appropriate for the May 2017 BRA. *Id.* at 17-18.

<sup>7</sup> *Id.* at 18.

resources are subsidized by state-approved out-of-market payments. PJM fully articulated its position on this issue in its Answer to the Complaint and will not restate it in full here.<sup>8</sup> But, in summary, PJM explained the potential harm from uncompetitive offers by Existing Generation Capacity Resources is implicitly the same as that repeatedly recognized by the Commission as to uncompetitive offers by new Generation Capacity Resources, to wit, below-cost offers will set clearing prices too low for sellers that rely on revenues from a competitive market to enter or remain in the market. As a result, PJM believes that the Complainants have identified an issue which is sufficient for the Commission to consider pursuant to section 206 of the Federal Power Act.

Nevertheless, the relief sought by the Amended Complaint to establish and apply new MOPR provisions prior to the May 2017 BRA should be rejected. Although Movants reiterate the dire need for corrective action, just as Complainants did in the original Complaint,<sup>9</sup> PJM believes material harm to the market is not likely to occur immediately but rather over the longer term. And, PJM believes the long-term harm to the accuracy of the price signal must be balanced with the risk resulting from a hurried effort to revise existing rules to address an exceedingly complex problem. PJM is concerned the potential for creating other unintended harmful consequences in the process is real and militates against making quick and untested changes for the May 2017 BRA.

Designing a market rule that both preserves appropriate price signals to encourage new entry as well as timely exit from the market, while also recognizing valid state action

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<sup>8</sup> *Calpine, et al. v. PJM Interconnection, L.L.C.*, Answer of PJM Interconnection, L.L.C. at 4-7, Docket No. EL16-49-000 (filed Apr. 11, 2016) (“PJM Answer”).

<sup>9</sup> See Complaint at 2-3; Amended Complaint at 2-3.

to promote selected social, political and environmental policy objectives, is a complex task that cannot be completed in haste. As PJM pointed out in its Answer:

Defining the triggers, scope, and extent of a minimum offer price for Existing Generation Capacity Resources presents considerable challenges. In particular, the goal of ensuring clearing prices that attract needed capacity must be balanced against respect for long-standing procurement and contracting practices that are consistent with longstanding business models such as those utilized by public power entities and recognized in today's MOPR.

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MOPR provisions for planned resources already require difficult regulatory policy trade-offs. The Commission has recognized, for example, that MOPR provisions could exempt renewable generation and should accommodate traditional procurement practices by public power entities. Neither of these accommodations derive from economic first principles; both are judgment calls that balance competing policy interests. PJM is concerned, too, that applying a new MOPR screen to Existing Generation Capacity Resources without the benefit of further discussion, may heighten concerns, whether well-founded or not, that the scope of the reformed rules could unintentionally cover resources owned by regulated utilities and public power entities. Many more such judgment calls will be required before the MOPR screen is expanded to sweep in numerous existing resources.<sup>10</sup>

PJM believes the Commission could find the current MOPR provisions, to the extent they distinguish unit specific, state-subsidized new generation from existing generation, are incomplete and not sustainable over time and therefore are unjust and unreasonable. However, because PJM acknowledges the authority that states have to pursue programs that further their legitimate public policy objectives,<sup>11</sup> PJM is seeking a

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<sup>10</sup> PJM Answer at 10; 12

<sup>11</sup> PJM analyzed resource investment in competitive markets and issued a paper in May, 2016, regarding the same. See <http://www.pjm.com/~media/library/reports-notice/special-reports/20160505-resource-investment-in-competitive-markets-paper.ashx>. PJM identified that its markets provided the appropriate price signals for investment in new entry and to signal appropriate exit when a resource is no longer economically efficient. PJM noted that state-sponsored programs are important and serve legitimate goals; but further work is needed to identify and mitigate any harmful impacts on competitive wholesale markets.

remedy that does not impede such programs, but, one that positions its wholesale electricity markets to work in harmony with such programs.

PJM commits to working with its stakeholders and, indeed, PJM opened a dialogue on this issue with its stakeholders and other interested parties in a Grid 20/20 Forum back in August, 2016.<sup>12</sup> Most recently, on January 26, 2017, PJM stakeholders approved a Problem Statement and Issue Charge<sup>13</sup> to “embark on an assessment of RPM to, the extent possible, ensure potential state public policy initiatives and RPM objectives are not at odds. This collaborative effort will allow RPM to be more resilient in the face of this very foreseeable future.”<sup>14</sup> The expectation is this stakeholder work could lead to a Tariff filing by the fourth quarter of 2017 for implementation of any rule changes in the May 2018 BRA.

Thus, PJM asks that the Commission not accept the remedy sought by Movants as it seeks to apply new rules for the May 2017 BRA. Instead, the Commission should direct PJM to submit a Tariff filing<sup>15</sup> no later than December 1, 2017 on this issue. Such filing would be informed by the stakeholder process discussed above and would enable PJM to propose one or more market design solutions to respond to state programs advancing policy preferences which favor particular resources or resource types.

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<sup>12</sup> “Grid 20/20: Focus on Public Policy and Market Efficiency” Materials can be found at the following URL: <http://pjm.com/committees-and-groups/stakeholder-meetings/symposiums-forums/grid-2020-public-policy-goals-mkt-efficiency.aspx>

<sup>13</sup> The Problem Statement and Issue Charge endorsed at the January 26, 2017 Markets and Reliability Committee can be obtained at the following links: <http://pjm.com/~media/committees-groups/committees/mrc/20170126/20170126-item-03-state-actions-problem-statement-updated-main-motion-clean.ashx>; and <http://pjm.com/~media/committees-groups/committees/mrc/20170126/20170126-item-03-state-actions-issue-charge-updated-main-motion-clean.ashx>.

<sup>14</sup> Problem Statement at 1.

<sup>15</sup> To the extent no tariff revisions are ultimately deemed necessary, PJM will submit a status report with the Commission by December 1, 2017.

## II. ADMISSIONS AND DENIALS

In accordance with Rule 213(c)(2) of the Commission's Rules of Practice and Procedure,<sup>16</sup> except as stated in this answer, PJM does not admit any facts in the form and manner stated in the Amended Complaint. To the extent that any fact or allegation in the Amended Complaint is not specifically admitted in this answer, it is denied.

## III. CONCLUSION

For the foregoing reasons, the Commission should not accept the remedy sought by Movants to apply new rules in the May 2017 BRA. PJM commits to continued work with its stakeholders and asks the Commission to direct PJM to submit proposed Tariff revisions (or if no Tariff revisions, then a status report) by no later than December 1, 2017 in time for Commission determination in advance of the May 2018 BRA.

Respectfully submitted,

*/s/ Jennifer Tribulski*  
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January 30, 2017

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<sup>16</sup> 18 C.F.R. § 385.213(c)(2).

## **CERTIFICATE OF SERVICE**

I certify I have, on this 30<sup>th</sup> day of January, 2017, served the foregoing document upon each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

/s/ Jennifer H. Tribulski  
PJM Interconnection, L.L.C.