

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

PJM Interconnection, L.L.C.)	Docket No. ER24-98-000
)	
PJM Interconnection, L.L.C.)	Docket No. ER24-99-000

(NOT CONSOLIDATED)

**OFFICE OF THE OHIO CONSUMERS' COUNSEL'S COMMENTS IN SUPPORT OF
PJM INDEPENDENT MARKET MONITOR'S MOTION FOR EXTENSION OF TIME**

Preserving competition in PJM Interconnection, L.L.C.'s ("PJM's") capacity auctions is essential for maintaining fair and reasonable pricing for electricity for Ohio consumers.

Competition fosters innovation and encourages quality of service for consumers. PJM is requesting significant changes in its capacity auction rules, all detailed in its 1,300 page filings in these cases. Despite the length of the filings, PJM has provided no information regarding the cost of the proposed changes for consumers. Nor has PJM sufficiently explained the effect that decreasing the cap on penalty charges will have on electric generating capacity adequacy in the region.

The Office of the Ohio Consumers' Counsel ("OCC")¹ is concerned that the proposed changes in PJM's capacity auction rules will harm consumers. The changes could lower the level of resource adequacy in the region by decreasing the penalties suppliers of capacity must pay for non-performance. At the same time, the PJM proposal could increase prices for

¹ OCC filed a doc-less motion to intervene in these dockets on October 19, 2023, available on FERC's eLibrary website in Docket No. ER24-98-000 at Accession Document # 20231019-5153 and Docket No. ER24-99-000 at Accession Document # 20231019-5156.

consumers by allowing generators to include hard-to-quantify risks of non-performance in their supply offers.

Consumers and FERC need sufficient time to thoroughly review the changes proposed in PJM's 1,300 plus page filings. FERC should grant the motion by the Independent Market Monitor for PJM ("IMM") for additional time to undertake that review. FERC should extend the deadline to submit protests and comments on the filings to November 17, 2023 as requested by the IMM.

A. COMMENTS IN SUPPORT OF MOTION FOR ADDITIONAL TIME

Once again, PJM seeks a significant overhaul in the rules governing its capacity auctions. In response to the Polar Vortex of 2014, PJM implemented significant changes in its capacity auction rules.² PJM called its resulting market design its "Capacity Performance" proposal. FERC described PJM's proposal as an effort to encourage generators to invest in weatherization and firm fuel supplies for their facilities "to ensure that PJM's capacity market provides adequate incentives for resource performance."³ These reforms, accepted by FERC in December 2015, resulted in increased prices for consumers and increased penalties for generators.

Notwithstanding these "improvements" in PJM's resource adequacy rules, during Winter Storm Elliott in December 2022, almost 25% of PJM's generating capacity (47,000 MW) failed to perform.⁴ Almost 70% of these generating resources were the gas-fired generating units intended as the target of PJM's Capacity Performance proposal.⁵ These outages led to higher

² *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208 (2015) (order accepting Capacity Performance proposal).

³ *Id.* at P 1.

⁴ *PJM Interconnection, L.L.C., Winter Storm Elliott, Event Analysis and Recommendation Report* at 2 (Jul. 17, 2023), available on PJM's website at <https://www.pjm.com/-/media/library/reports-notices/special-reports/2023/20230717-winter-storm-elliott-event-analysis-and-recommendation-report.ashx>.

⁵ *Id.*

energy prices in PJM’s energy markets during that storm, and almost \$2 billion in penalty charges to underperforming generators.⁶ These higher energy prices translated into increased charges to consumers.

PJM now seeks further comprehensive reforms to its Capacity Performance proposal that would allow generators to include “the cost of risk associated with capacity performance in their capacity market offers.”⁷ However, it also seeks to lower the cap on penalties charged to underperforming generators.⁸ These proposals could mean even higher charges to consumers.

Both consumers and FERC need adequate time to review these filings, and the effects they could have on capacity prices and resource performance in PJM. The two filings together total more than 1,300 pages. Moreover, the proposed changes in these two cases seem to be inconsistent. Consumers will likely have to pay more for capacity because PJM proposes to allow generators to include the cost of the risk of capacity performance in their offers. Yet at the same time, PJM’s proposal to decrease the non-performance risk for generators by lowering the cap on non-performance penalties could reduce the incentive for generators to make the needed investments in their generating plants to ensure capacity performance.

Stakeholders in PJM have been discussing proposed changes to the Capacity Performance rules in a critical-issue, fast-path stakeholder process for the past six months. PJM stakeholders reviewed more than 20 different proposals during this period. The filings PJM submitted in these dockets do not reflect many of the recommended consumer stakeholder

⁶ *Id.*; See also *Essential Power OPP, LLC, et al., v. PJM Interconnection, L.L.C.*, Docket Nos. EL23-53-0000, *et al.* Generators in PJM filed more than a dozen complaints seeking to be excused from all or some portion of these penalties.

⁷ PJM Interconnection, L.L.C., Docket No. ER24-98-000, Transmittal Letter at 1-2 (Oct. 13, 2023), available on FERC’s e-Library website at Accession Docket # 20231013-5141.

⁸ PJM Interconnection, L.L.C., Docket No. ER24-99-000, Transmittal Letter at 1 (Oct. 13, 2023), available on FERC’s e-Library website at Accession Docket # 20231013-5157.

changes to PJM's proposals, nor do they reflect a number of the PJM IMM's proposed changes to the filing. FERC should not be rushing to approve such significant, if not conflicting, proposed changes to the rules.

OCC agrees with the IMM that stakeholders will not have sufficient time to fully review the "important, complex and intricate issues about the design of the PJM capacity markets." Consumers need more than three weeks to review and prepare comments on a proposal that took more than six months to develop.

The two additional weeks requested by the IMM would guarantee that FERC has before it all of the key information need to thoroughly consider the effect the proposed changes could have on PJM's capacity auction design. The additional time is especially important given that PJM's proposals would appear to increase capacity prices for consumers while potentially weakening capacity performance in the region.

B. CONCLUSION

WHEREFORE, OCC respectfully requests that FERC grant the two-week extension sought by the PJM IMM for the submission of comments and protests to PJM's complicated filings to revise its already-complicated capacity auction rules submitted in these cases.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have on this date served a copy of the foregoing document via electronic mail upon all parties of record on the Commission's official service list in this proceeding. Dated in Columbus, Ohio this 24th day of October, 2023.

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