

Mr. Andrew L. Ott, President and CEO  
PJM Interconnection  
2750 Monroe Boulevard  
Audubon, PA 19403

April 9, 2019

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

**Re: Upcoming 2022/23 Base Residual Auction**

Dear Mr. Ott, Dr. Almgren and the PJM Board of Managers,

As indicated by PJM staff at the Markets and Reliability Committee on March 21, 2019, it is the understanding of Competitive Power Ventures (CPV) that PJM is currently considering several different options to address the vast uncertainty surrounding the upcoming 2022/2023 Base Residual Auction (BRA). CPV is sympathetic to the precarious position that PJM finds itself in as a result of FERC's June 2018 Order in consolidated Docket No. EL18-178 which found that the current PJM Tariff is unjust and unreasonable because it permits subsidized resources to freely participate in capacity auctions and distort market prices. As FERC has yet to render a decision in the subsequent Section 206 proceeding, PJM must now determine how best to proceed.

While PJM staff indicated that a wide range of potential options exist, a careful review of the facts that led to the present circumstances demonstrates the options are rather limited. FERC's Order was unambiguous in identifying the fundamental flaw with the current market design that results in the Tariff being deemed unjust, unreasonable and unduly discriminatory. Specifically, the flaw identified by FERC is the absence of market rules to prevent both new and existing subsidized resources from participating in the capacity market without mitigation, which results in market prices that are influenced by uneconomic offers.

We find, based on the evidence in Docket Nos. EL16-49-000 and ER18-1314-000, *et al.*, that PJM's existing Tariff is unjust and unreasonable and unduly discriminatory. It fails to protect the integrity of competition in the wholesale capacity market against unreasonable price distortions and cost shifts caused by out-of-market support to keep existing uneconomic resources in operation, or to support the uneconomic entry of new resources, regardless of the generation type or quantity of the resources supported by such out-of-market support. The resulting price distortions compromise the capacity market's integrity. In addition, these price distortions create significant uncertainty, which may further compromise the market, because investors cannot predict whether their capital will be competing against resources that are offering into

the market based on actual costs or on state subsidies. Ultimately, these problems with PJM's existing Tariff result in unjust and unreasonable rates, terms, and conditions of service.<sup>1</sup>

Whether or not an option under consideration will address and remedy this fundamental flaw in PJM's capacity market design should serve as a litmus test as to whether it is a viable path forward.

As a result, the option previously identified by PJM staff that would allow for the BRA to be run under the current Tariff rules, and thus result in the setting of an unjust and unreasonable rate, should be automatically disregarded. This option would only serve to perpetuate the very result that FERC specifically ruled against. While we wait for a decision in the Section 206 proceeding, moving forward with auction rules that are contrary to the intent of FERC's Order would be counterproductive and will only produce a substandard auction that allows state-subsidized resources the continued ability to influence wholesale market prices in direct contradiction with PJM's stated mission to "create and operate robust, competitive and non-discriminatory electric power markets"<sup>2</sup>.

In recognition of the important role that the BRA plays in sending market signals to investors and market participants far enough in advance for informed business decisions to be made, the most prudent option is to endeavor to hold the next BRA using an interim set of rules that specifically address FERC's primary concern regarding subsidized resource capacity market participation. This outcome could be achieved through a prompt Section 205 filing that implements an expansion of MOPR to all subsidized resources seeking to participate in the next BRA in a manner consistent with FERC's Order. Importantly, FERC did not find the absence of a mechanism to accommodate state public policy, such as the Extended Resource Carve Out mechanism, to be the cause of unjust and unreasonable rates. Such a mechanism could be implemented for subsequent BRAs if and when it is approved by FERC. Regardless, PJM should not allow for non-competitive auctions to continue to be run while waiting for a FERC decision on a long-term solution.

Alternatively, if PJM cannot commit to implementing interim rules that will address this fundamental flaw with current market design, it is imperative that the auction be delayed until such time as FERC issues a decision in the Section 206 proceeding. This outcome could be achieved either through the filing of an additional waiver request, or through a Section 205 filing effectively changing the schedule for the next BRA. Any waiver request or Section 205 filing should also require that the BRA be held as soon as reasonably possible following a FERC decision in the Section 206 proceeding.

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<sup>1</sup> Order Rejecting Proposed Tariff Revisions, Granting in Part and Denying in Part Complaint, and Instituting Proceeding Under Section 206 of the Federal Power Act, Docket No. EL18-187, Pages 64-65

<sup>2</sup> PJM's Mission and Vision, <https://pjm.com/about-pjm/who-we-are/mission-vision.aspx>

The options presented herein, either implementing interim rules to address subsidized resource capacity market participation or delaying the BRA until FERC issues a decision in the Section 206 proceeding, are the only options that will adequately address the fundamental flaw that led to FERC's determination that PJM's Tariff is currently unjust and unreasonable. As a result, CPV urges PJM to proceed with one of these two options to ensure that the next BRA produces a competitive outcome.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sh Knight".

Sherman Knight  
President & Chief Commercial Officer, CPV