



March 31, 2021

VIA ELECTRONIC MAIL

Ake Almgren, Chairman  
Manu Asthana, President & CEO  
The PJM Board of Managers  
2750 Monroe Blvd.  
Audubon, PA 19408

Re: Black Start Unit Testing, Capital Recovery Factors, Involuntary Termination, MTSL, and Substitution Rules

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

The undersigned PJM Members hereby provide their position on proposed revisions to the PJM Tariff regarding Black Start Unit Testing, Capital Recovery Factors ("CRFs"), Involuntary Termination, Minimum Tank Suction Level Recovery ("MTSL"), and Substitution.

As the Board knows, on March 29, 2021, the Members Committee voted to reject a proposal to modify certain PJM Tariff provisions applicable to the provision of Black Start Service. Old Dominion Electric Cooperative ("ODEC") and American Municipal Power, Inc. ("AMP") voted against the proposal. ODEC and AMP recognize the critical role of Black Start Units in providing for reliable restoration of the PJM transmission system. ODEC and AMP support aspects of the proposal that would provide reliability improvements, and we would have preferred to see those provisions approved. However, ODEC and AMP voted in opposition to the proposal because the proposed treatment of Capital Recovery Factors ("CRFs") is unduly discriminatory.

CRFs are a component of PJM's formula rate for Black Start Service. Specifically, CRFs are used to determine the generator's annual revenue requirement. PJM Tariff Schedule 6A contains a CRF table that provides Levelized CRFs corresponding to the age of the Black Start Unit. The proposal voted on at the March 29, 2021 Members Committee meeting included a prospective change in the CRFs that would apply only to new Black Start Unit commitments. Under the proposal, the CRFs used in calculating the annual revenue requirement for existing Black Start Unit commitments would be based on the existing CRF table, without any adjustment to account for reduction of the marginal federal corporate income tax rate.

ODEC and AMP oppose continued application of the existing CRFs to some Black Start Units, while reducing the CRFs applicable to others. There is no substantive or legal basis for such discriminatory treatment. Moreover, PJM's determination that the CRFs should be reduced to reflect a lower tax burden means that continued application of the existing CRFs to a subset of Black Start Units would subject transmission customers to unreasonably high rates for Black Start Service.

ODEC and AMP have considered claims that revisions to the CRFs for existing commitments are subject to a higher legal standard—the *Mobile-Sierra* public interest standard—and therefore cannot be changed. Parties have contended that their Black Start Unit commitments are contracts

subject to special protection from revisions by FERC. ODEC and AMP respectfully disagree. To the contrary, compensation due all Black Start Units under the PJM Tariff is the filed rate that must be followed, and may be prospectively changed by FERC order.

Under PJM Tariff Schedule 6A, compensation is not fixed but instead is based on revenue requirements that are calculated annually. Schedule 6A provides that Black Start Units may seek a case-specific FERC-filed rate instead of the Schedule 6A formula rate. Black Start Units that do not seek such a case-specific filed rate are compensated based on the formula rate set forth in the PJM Tariff. ODEC and AMP's understanding is that the notification letters from PJM to Black Start Units provide the opportunity to recover new or additional Black Start Capital Costs, as set forth in PJM Tariff Schedule 6A. Thus, existing Black Start Unit commitments are subject to the Schedule 6A formula and CRFs, which may be changed by FERC order.

Further, there is no public interest standard protection for the notification letters provided to Black Start Units. FERC regulations require specific language where parties to a contract intend to prevent unilateral rate changes and there has been no indication that the existing Black Start Unit notification letters include such language. Moreover, to ODEC and AMP's knowledge, no PJM Black Start Unit has on file with FERC any contract or agreement with PJM related to Black Start Service. Accordingly, there can be no argument that existing Black Start Unit commitments are subject to rates that cannot be changed by FERC order under Federal Power Act section 205, or that such changes are subject to a higher public interest standard.

For these reasons, ODEC and AMP urge the Board to submit to FERC revisions to the CRFs that would reduce the annual revenue requirement of all Black Start Units to account for the reduced tax burden, on a prospective basis, and to implement the reliability enhancements previously endorsed by PJM staff.

Respectfully,

D. Richard Beam  
Senior Vice President of Power Supply and COO  
Old Dominion Electric Cooperative

Pamala M. Sullivan  
Chief Operating Officer  
American Municipal Power, Inc.