

)	
LS Power Development, LLC and)	Docket No. EL21-72-000
Doswell Limited Partnership)	
)	
)	
v.)	
)	
PJM Interconnection, L.L.C.)	
)	

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission’s (“Commission”),¹ PJM Interconnection, L.L.C. (“PJM”) submits this Answer in response to the May 7, 2021 complaint (“Complaint”) of LS Power Development, LLC and Dowell Limited Partnership (“Complainants”). The gist of the Complaint is that PJM erroneously approved a Fixed Resource Requirement (“FRR”)² Capacity Plan that covered one Delivery Year of a FRR election in alleged contravention of the rules contained in the Reliability Assurance Agreement (“RAA”).³

As more fully explained below, the Commission should deny the Complaint on the grounds that (1) PJM's approval of one-year FRR Capacity Plans is consistent with both the language and intent of PJM's RAA and Manual and (2) it would not be practical or reasonable to require a five-

² For the purpose of this filing, capitalized terms not defined herein shall have the meaning as contained in the PJM Open Access Transmission Tariff, Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., or the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region.

³ *Id.*

year FRR Capacity Plan given the timing with which certain parameters are determined that define a FRR Entity's obligations.

I. ANSWER

Consistent with the RAA requirements, on January 11, 2021, Dominion Energy Virginia ("Dominion") provided PJM its notice of intent to pursue the FRR Alternative starting with the 2022/2023 Delivery Year.⁴ Thereafter, Dominion submitted, through PJM's capacity exchange system, a list of resources sufficient to meet its FRR capacity obligations prior to April 19, 2021. Ultimately, the FRR Capacity Plan that was submitted is deemed a one-year capacity plan because the list of resources specify a start and stop date of June 1, 2022 and May 31, 2023, respectively.

A. PJM's Tariff and Manual Language Support Approval of FRR Capacity Plans On A Delivery Year Basis.

Contrary to the Complainants' unfounded assertion, PJM is not "bending the rules" by accepting one-year FRR Capacity Plans. As an initial matter, it is undisputed that any entity seeking to elect the FRR Alternative is required to remain in the FRR Alternative for a minimum term of five consecutive Delivery Years.⁵ That is, absent an express request by an FRR Entity for a waiver from the Commission and an order granting such waiver, any entity that utilizes the FRR Alternative is committed to remain a FRR Entity for a minimum of five consecutive Delivery Years before it may return to participation in the Reliability Pricing Model Auctions.⁶ Thus, the Complainants' references to the long term nature of FRR overlooks the fact that the RAA requires

⁴ While Dominion did not cite the reason for the FRR election in the notice to PJM, Dominion has subsequently stated that it believes FRR is a cost-effective choice for its customers in light of the recently expanded Minimum Offer Price Rule. Rich Heidhorn Jr., *Dominion Opts out of PJM Capacity Auction*, RTO Insider (May 6, 2021), <https://rtoinsider.com/rto/dominion-opts-out-of-pjm-capacity-auction-199773/>.

⁵ RAA, Schedule 8.1, section C.1.

⁶ *See id.* at section C.2. A FRR Entity may also terminate the FRR election prior to the initial five-year term without penalty in the event PJM is required to establish a separate Variable Resource Requirement Curve. RAA, schedule 8.1, section D.5.

any FRR Entity that elects the FRR Alternative to remain in FRR for a minimum of five consecutive Delivery Years irrespective of whether it submits an initial one or five year FRR Capacity Plan.

The sole disagreement in the underlying Complaint is whether PJM's governing documents allow FRR Entities to submit one-year FRR Capacity Plans for a minimum of five consecutive years or whether the rules require an initial submission of a five-year FRR Plan. PJM submits that the express and implied language in both the RAA and PJM Manuals⁷ permits FRR Entities to submit one-year FRR Capacity Plans and such FRR Entity is required to submit an updated FRR Capacity Plan each subsequent Delivery Year.

The Complainants primarily focus on the provision in RAA, Schedule 8.1, section C.1 to support their contention that an entity that first elects the FRR Alternative must provide a five-year FRR Capacity Plan. Specifically, the pertinent language in that section states:

No less than four months before the conduct of the Base Residual Auction for the first Delivery Year for which such election is to be effective, any Party seeking to elect the FRR Alternative shall notify the Office of the Interconnection in writing of such election. Such election shall be for a minimum term of five consecutive Delivery Years. No later than one month before such Base Residual Auction, such Party shall submit its FRR Capacity Plan demonstrating its commitment of Capacity Resources for the term of such election sufficient to meet such Party's Daily Unforced Capacity Obligation (and all other applicable obligations under this Schedule) for the load identified in such plan. No later than one month before such Base Residual Auction, such Party shall submit its FRR Capacity Plan demonstrating its commitment of Capacity Resources for the term of such election sufficient to meet such Party's Daily Unforced Capacity Obligation (and all other applicable obligations under this Schedule) for the load identified in such plan.⁸

The Complainants argue that the phrase "for the term of such election" necessarily requires an initial five-year FRR Capacity Plan. However, this phrase simply requires the FRR entity to

⁷ See PJM Manual 18: PJM Capacity Market, Section 11, at 218, available at: <https://www.pjm.com/~media/documents/manuals/m18.ashx>.

⁸ RAA, Schedule 8.1, section C.1.

submit FRR Capacity Plans for the term of the initial FRR election. Specifically, the plain language of this sentence simply states that (1) no later than one month prior to the start of each Base Residual Auction (“BRA”), (2) a party must submit its FRR Capacity Plan demonstrating its commitment of Capacity Resources is sufficient to meet its capacity obligations, and (3) such party must do so (*i.e.*, submit a FRR Capacity Plan) for the term of the FRR election. Thus, this provision permits a FRR Entity to submit one-year FRR Capacity Plans. Nothing in this language explicitly requires that a FRR Entity must first submit a five-year FRR Capacity Plan when it elects the FRR Alternative. Rather, the rules simply state that an initial election of the FRR Alternative “shall be for a minimum term of five consecutive Delivery Years.”⁹

This reading and interpretation of the above provision is buttressed by the language in RAA, Schedule 8.1, section D, which expressly states that a FRR Entity “*shall annually* extend and update such plan by no later than one month prior to the Base Residual Auction for each succeeding Delivery Year in such plan.”¹⁰ It would be superfluous to include language that *requires* a FRR Entity to *annually* extend and update such plan if the rules also require a FRR Entity to submit a five-year FRR Capacity Plan. Thus, the RAA language permits FRR Entities to submit, and for PJM to approve, one-year FRR Capacity Plans on an annual basis. Such FRR Entities, however, are required to submit FRR Capacity Plans for at least five consecutive Delivery Years and such plans must be submitted no later than one month prior to the conduct of the BRA of each Delivery Year. As a result, PJM appropriately and lawfully approved the one-year FRR Capacity Plan for initial elections of the FRR Capacity Plan consistent with the plain language of the RAA.

⁹ *Id.*

¹⁰ (Emphasis added) RAA, Schedule 8.1, section D.1.

Even assuming, *arguendo*, that the RAA provisions are unclear, PJM’s Manual language unambiguously states:

An LSE must submit an initial FRR Capacity Plan at least one month prior to the conduct of the Base Residual Auction *for the first Delivery Year* by demonstrating that it has sufficient capacity resources in its FRR resource portfolio An LSE must annually demonstrate through the Capacity Exchange system no later than one month prior to the Base Residual Auction for each succeeding Delivery Year that it has extended the commitment of sufficient capacity resources”¹¹

This section of PJM’s Manual, which was endorsed by stakeholders and has not been substantively revised since the inception of the rules relating to the FRR Alternative, explicitly and clearly states that the initial FRR Capacity Plan must simply demonstrate that the FRR Entity has sufficient capacity resources in its FRR resource portfolio *for the first Delivery Year* – not for all five Delivery Years. There is simply no other reasonable interpretation for the inclusion of the statement “for the first Delivery Year” if an initial election of the FRR Alternative must include a five-year FRR Capacity Plan. Therefore, this Manual language eliminates any potential ambiguity contained in the RAA provisions and makes clear that the FRR Capacity Plan can be submitted on a Delivery Year to Delivery Year basis. This is precisely what Manual language is supposed to do. It does not contradict the RAA language, but instead provides additional guidance to Market Participants as to what steps they must take to invoke the rights provided to them under the RAA.¹²

Besides the language described above, there are other provisions of the RAA that further support the position that FRR Capacity Plans do not need to cover all five years of the election. Specifically, RAA, Schedule 8.1, section D.7 explicitly provides a provision for a FRR Commitment Insufficiency Charge that would be assessed to a previously approved FRR Entity

¹¹ (Emphasis added) PJM Manual 18: PJM Capacity Market, section 11.3, at 223, available at: <https://www.pjm.com/~media/documents/manuals/m18.ashx>.

¹² See generally *Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,271, at P 16 (2008); see also *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231, at P 95 (2014).

that does not provide a FRR Capacity Plan that satisfies the FRR Entity's capacity obligations. In other words, a FRR Entity that fails to provide a FRR Capacity Plan or provides a FRR Capacity Plan that does not satisfy its capacity obligations after the first Delivery Year in which it elected the FRR Alternative "shall be assessed an FRR Commitment Insufficiency Charge, in an amount equal to two times the Cost of New Entry for the relevant location, in \$/MW-day, times the shortfall of Capacity Resources below the FRR Entity's capacity obligation (including any Threshold Quantity requirement) in such FRR Capacity Plan, for the remaining term of such plan."¹³

This FRR Commitment Insufficiency Charge is orders of magnitude greater than the Daily Deficiency Rate¹⁴ that is assessed to any Capacity Market Seller that commits a Capacity Resource but is then unable or unavailable to deliver Unforced Capacity for all or any part of such Delivery Year. Thus, this FRR Commitment Insufficient Charge specifically ensures that a FRR Entity electing the FRR Alternative would be required to submit an adequate FRR Capacity Plan that satisfies its capacity obligations for each subsequent Delivery Year through the term of the initial election. Otherwise, the FRR Entity would face stiff and severe financial consequences. The existence of this provision specifically contemplates and provides an explicit penalty for any FRR Entity that fails to provide an adequate FRR Capacity Plan after the first Delivery Year that it elected the FRR Alternative.

¹³ RAA, Schedule 8.1, section D.7.

¹⁴ Tariff; Attachment DD, section 7.1(b) ("The Daily Deficiency Rate shall equal the Capacity Resource Clearing Price (weighted as necessary to reflect the clearing prices in all RPM Auctions that resulted in installed capacity commitments from such resource), in \$/MW-day, applicable to the Generation Capacity Resource (for purposes of replacement capacity, including Locational UCAP transactions, the applicable Capacity Resource Clearing Price shall be the clearing price for the Locational Deliverability Area in which such resource is located) plus the greater of (iii) 0.20 times such weighted average Capacity Resource Clearing Price; or (iv) \$20/MW-Day . . .").

B. Requiring FRR Entities to Submit a Five-Year FRR Capacity Plan as Part of the Initial FRR Election is Unreasonable.

Aside from the fact that the Tariff and Manual provisions all support PJM's approval of one-year FRR Capacity Plans, there is also no justifiable policy argument for requiring an initial five-year FRR Capacity Plan. As explained, *supra*, a FRR Entity is required to remain in the FRR Alternative for a minimum of five years and there are significant insufficiency charges for not submitting adequate FRR Capacity Plans for each of the minimum five-year commitment.

Moreover, it would not be practical or reasonable to require a five-year FRR Capacity Plan given the timing with which certain parameters are determined that define a FRR Entity's obligations. Specifically, the RAA requires a FRR Entity to "designate Capacity Resources in a megawatt quantity no less than the Forecast Pool Requirement for each applicable Delivery Year times the FRR Entity's allocated share of the Preliminary Zonal Peak Load Forecast for such Delivery Year."¹⁵ Consistent with the RAA, PJM establishes the Forecast Pool Requirement and the Installed Reserve Margin on an *annual* basis no later than three months in advance of each BRA.¹⁶ As a result, there would be no Forecast Pool Requirement for subsequent Delivery Years beyond the one that is established prior to the most recent BRA.

Likewise, the Preliminary Forecast Peak Load is equal to "the FRR Entity's Obligation Peak Load last determined prior to the Base Residual Auction for such Delivery Year, times the Base Zonal FRR Scaling Factor" where the FRR Entity is not responsible for all load within a Zone.¹⁷ In turn, the Base Zonal FRR Scaling Factor is equal to the Preliminary Zonal Forecast Peak Load divided by the Zonal Weather-Normalized Summer Peak Load.¹⁸ Again, however, the

¹⁵ RAA, Schedule 8.1, section D.2.

¹⁶ RAA, Schedule 4, section B.

¹⁷ RAA, Schedule 8.1, section D.2.

¹⁸ RAA, Schedule 8.1, section D.3

Zonal Weather-Normalized Summer Peak Load is based on peak load data “for the summer concluding four years *prior to the commencement of such Delivery Year.*”¹⁹ In other words, the Weather-Normalized Summer Peak Load is based on annual peak load data and updated for each subsequent Delivery Year using the most recent summer peak load data.

To illustrate this point, an entity making a first-time election of FRR for the 2022/2023 Delivery Year under a normal auction schedule would have been required to submit an initial FRR plan by April 2019. If the initial FRR Plan was required to satisfy capacity obligations for all five years, a preliminary capacity obligation would need to be determined for year five at that time (*i.e.* for the 2026/2027 Delivery Year). However, the preliminary capacity obligation for a FRR Entity that is not responsible for all load within a Zone (such as Dominion) depends on the peak load data from “the summer concluding four years prior to the commencement of such Delivery Year.”²⁰ Under this example, the peak load data associated with the fifth year of the FRR Capacity Plan would be from the summer of 2022 - a summer that has yet to occur. Consequently, both the Forecast Pool Requirement and the Base Zonal FRR Scaling Factor are simply unknown until the time of the relevant BRA for the subsequent Delivery Years.

Moreover, additional assumptions and analysis would also be needed to determine the obligations and requirements of a FRR Entity beyond the first year. For instance, PJM also calculates Capacity Emergency Transfer Objective and Capacity Emergency Transfer Limits on an annual basis, which may impact a FRR Entity’s minimum internal resource requirement for future Delivery Years. Based on the foregoing, it would simply be unreasonable to require FRR Entities to provide five-year FRR Capacity Plans for each of the subsequent Delivery Years (*i.e.*,

¹⁹ (Emphasis added.) *Id.*

²⁰ *Id.*

years 2-5), because a FRR Entity's capacity obligations would not be known until a few months prior to the corresponding BRAs for such Delivery Years.

II. ADMISSIONS AND DENIALS

Pursuant to Rule 213(c)(2) of the Commission's Rules,²¹ except as stated in this Answer, PJM admits to no facts in the form and manner stated in the Complaint. Any fact or allegation in the Complaint is not explicitly admitted in this answer is denied.

III. NOTICES AND COMMUNICATIONS

All correspondence and other communications regarding this proceeding should be directed to:

Craig Glazer
Vice President–Federal Government Policy
PJM Interconnection, L.L.C.
1200 G Street, N.W., Suite 600
Washington, D.C. 20005
(202) 423-4743 (phone)
(202) 393-7741 (fax)
Craig.Glazer@pjm.com

Chenchao Lu
Senior Counsel
PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
(610) 666-2255 (phone)
(610) 666-8211 (fax)
Chenchao.Lu@pjm.com

²¹ 18 C.F.R. § 385.213(c)(2).

IV. CONCLUSION

For the reasons provided herein, the Complaint should be denied because PJM appropriately approved a one-year FRR Capacity Plan. In the absence of a Commission order by May 17, 2021, PJM will proceed with its acceptance of Dominion's FRR Capacity Plan in the upcoming BRA.

Respectfully submitted,

/s/ Chenchao Lu

Craig Glazer
Vice President – Federal Government Policy
PJM Interconnection, L.L.C.
1200 G Street, N.W.
Suite 600
Washington, D.C. 20005
(202) 202-423-4743
Craig.Glazer@pjm.com

Chenchao Lu
Senior Counsel
PJM Interconnection, L.L.C.
2750 Monroe Boulevard
Audubon, PA 19403
(610) 666-2255
Chenchao.Lu@pjm.com

*On behalf of
PJM Interconnection, L.L.C.*

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Audubon, PA this 12th day of May 2021.

/s/ *Chenchao Lu*
Chenchao Lu