COMMENTS OF THE INDEPENDENT ENERGY PRODUCERS OF NEW JERSEY IN RESPONSE TO THE BOARD'S ORDER AND PUBLIC NOTICE SETTING FORTH A HEARING IN BPU DOCKET NO. EO011050309

October 14, 2011

The Independent Energy Producers of New Jersey (IEPNJ) is a not-for-profit trade association that represents the generators of electricity in New Jersey.

Members include companies that provide electricity for on-site use at New Jersey industrial and commercial facilities, as well as local and national corporations that sell electricity into the wholesale market for consumption by the state's utilities. Since 1992, IEPNJ has been actively engaged in the policy deliberations.

We look forward to working with you to resolve these issues in both the PJM process and in New Jersey.

The IEPNJ appreciates this opportunity to provide comments in response to the ten detailed questions posed by the Board.

1) Testimony presented at the June Hearing points at the existence of barriers to new entry resulting from PJM's interconnection rules and practices. What actions can PJM take that will alleviate bottlenecks in the current transmission interconnection process? What can the Board do to facilitate such PJM actions? Are incumbent generators submitting projects for the purpose of taking up positions in the PJM interconnection queue to the detriment of new entrants?

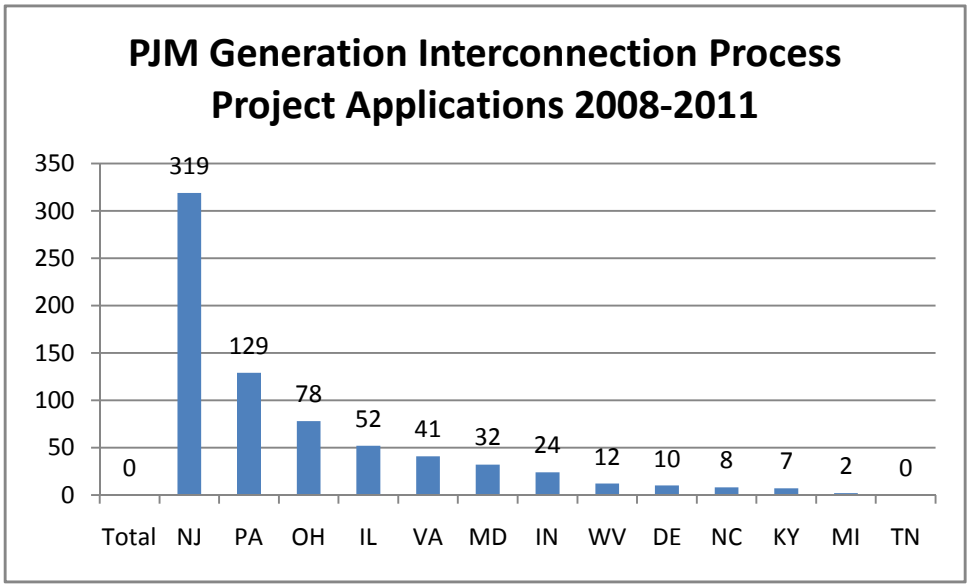
Response: PJM is currently working with its members in the Interconnection Process Senior Task Force to make improvements to PJM's interconnection rules and practices. A range of issues are being addressed including those listed in the BPU list of questions for this hearing.

PJM has not stated and we are not aware of any incumbent generator that has submitted projects in the PJM queue purposefully to block other new entrants.

2) Is it inappropriate to have PJM transmission-owning entities ("TOs") perform interconnection studies given that some of the TOs are part of holding companies that own generation through other affiliates or subsidiaries that participate in the PJM markets? Are such TOs causing intentional delays in the interconnection process to benefit incumbent generation affiliates?

Response: TOs have knowledge of their system and are an important part of the process. However, it would be appropriate to outsource certain parts of the studies so that timing can be expedited. This analysis should require input and approval from PJM and the affected TO.

The primary reasons for delays appear to be the volume of requests and the nature of the current PJM process. The large number of requests from New Jersey based projects, primarily solar projects, is illustrated below.



3) Should responsibility for the performance of engineering interconnection studies and the identification of necessary transmission upgrades and attendant costs be transferred from the TOs to PJM, or to a third party entity (e.g., an independent engineering consultant)? What would be the most expeditious means for achieving such a transfer of responsibility to PJM or other independent entity? Should an interconnection applicant be given the choice to use a third party consultant to carry the interconnection studies as an alternative to the current process?

Response: As discussed above outsourcing of analysis makes sense to quicken the process with continuing involvement by TOs and PJM. This can be established as an option for an applicant if it believes it can help move its project along the development path.

Additionally another area where the BPU could help assure the timeliness of reviews is to ensure that New Jersey's transmission owners devote adequate resources to process requests.

4) Are there any inconsistencies between the transmission assumptions made in the PJM Regional Transmission Expansion Planning ("RTEP") process and the transmission assumptions made in calculating the Capacity Emergency Transfer Limits ("CETL") for the Locational Deliverability Areas ("LDAs") modeled in RPM (e.g., double-circuit tower line criteria violations)? If so, describe them, indicate whether they can be resolved and what the effects of their incorporation into RPM would be.

Response: PJM is best positioned to answer this question.

5) Since implementation of the RPM in 2007, why has the market responded with disproportionately greater amounts of new generation capacity built outside of LDAs with

higher capacity prices such as those that comprise New Jersey? If higher Base Residual Auction ("BRA") clearing prices serve as the incentive for new generation capacity, why have we witnessed relatively minimal new generation in New Jersey; conversely, what factors are leading generators to build new generation capacity in lower-priced regions of PJM rather than in the constrained LDAs where their expected revenue stream is higher over time? What accounts for the high percentage of total new capacity resources coming from withdrawn or cancelled retirements in New Jersey relative to the experience in other LDAs under RPM to date? (See Comments of PJM Interconnection, L.L.C., Docket No. EO 11050309, June 17, 2011, Tables 1 – 2).

Response: New Jersey has seen a high penetration of capacity since the inception of RPM, but not as much new mid-merit/baseload generation. We believe there are several reasons which in combination explain the result. Mid-merit and baseload generators require greater capital commitments, and rely more heavily on energy margins to support their investment. Low off-peak energy prices reduce forecasted run times and capital returns for such projects. This factor, coupled with slowing of the interconnection process, explains the lack of mid-merit/baseload development in New Jersey.

Additionally, permitting issues at the local level and sometimes at the State level can be another barrier.

Competitive power markets have worked successfully in New Jersey to develop capacity resources and maintain competitive wholesale energy prices. Solutions to the BPU's issues of concern should be undertaken in a way that does not distort or harm these markets.

6) Is the RPM construct capable of signaling the need for specific types of generation capacity, in particular mid-merit and baseload capacity? Are other capacity markets outside of PJM able to provide appropriate incentives to develop mid-merit and base-load generation? If so, what aspects of those capacity markets are transferable to PJM? Is it possible to develop non-peaking capacity projects without resorting to long-term contracts outside of the RPM construct? If not, what should be the duration of those contracts? Could a long-term fixed price signal in RPM either through a reformed New Entry Price Adjustment ("NEPA") mechanism or through a voluntary auction for long-term capacity procurement result in more mid-merit base load generation being built in constrained LDAs such as those comprising New Jersey?

Response: RPM, in its current form, does not signal the need for specific types of generation. All capacity is treated equally. Investments that rely more on energy benefits (combined cycle, CHP, or energy efficiency)) must be supported by values other then capacity value.

PJM and its members are currently examining changes to NEPA. However, the topic is complex and stakeholders have a fundamental disagreement which appears to be slowing down progress on NEPA. That is whether RPM should be designed to allow new resources to be financed, whether RPM should have a more consistent price signal for all resources and whether providing new resources with NEPA is unduly discriminatory.

7) Does structural market power play a role in obstructing the development of new capacity in the constrained LDAs that serve New Jersey electric consumers? What are the precise means by which incumbent generators with structural market power obstruct or could potentially obstruct the development of new capacity projects in these markets?

Response: Obstruction of project development by entities with market power would be flagged by the Independent Market Monitor, PJM or by other developers seeking to develop capacity. In addition, the pricing structure of PJM prevents above market pricing, so even if a generator used market power its returns would be constrained to competitive levels. Competitive markets, with price signals promoting market entry, will lead to development of needed capacity.

8) What actions can the Board take to dilute existing structural market power and thwart any abuse of incumbents who exercise it to impede capacity development? Are there other impediments to new capacity development over which the Board has jurisdiction or can bring to the attention of FERC for its resolution?

Response: The BPU and FERC have strong codes of conduct to prevent such behavior, either in general or between affiliates. Enforcement of their respective codes and strong monitoring of compliance can prevent such behavior.

9) How is the persistence of the economic recession affecting PJM load forecasts and reliability requirements for the LDAs serving New Jersey electric consumers? Have the forecasted reliability requirements for the 2012 and subsequent year's BRAs been reduced? If so, what is the forecasted impact on overall resource adequacy for New Jersey?

Response: PJM has amended their load forecasts to account for the economic recession. The reliability requirements have been reduced because of the reduced projected load.

10) If present Board efforts fail to result in modification of the FERC's April 12, 2011 revised PJM Minimum Offer Price Rule ("MOPR"), should the State of New Jersey pursue the Fixed Resource Requirement ("FRR") alternative as a means of developing adequate new generation capacity resources? What changes to current PJM rules on FRR, if any, are needed to facilitate New Jersey pursuing this option? Would existing and new generation entities be amenable to executing long-term contracts to supply capacity to a State-sponsored FRR service area?

Response: Currently, there is adequate supply of capacity resources in the State of New Jersey. The FRR alternative appears to have been designed for vertically integrated utilities. At this time, it is difficult to see how it could work in New Jersey where local distribution companies have been separated from the generation function and LSE's compete to serve end use customers. Based on our review of the FRR procedures in PJM documents, there does not appear to be a direct, attainable path at this time through which FRR can be used by New Jersey to develop new generation resources.