

State of New Jersey
Before the Board of Public Utilities

In the Matter of the Board’s Investigation)
Of Capacity Procurement and Transmission) **Docket No. EO 11050309**
Planning)

Comments of Glen Thomas on Behalf of
the PJM Power Providers Group (P3)¹

As regulators entrusted with ensuring a reliable supply of power to New Jersey homes and businesses at just and reasonable prices, the BPU is rightly concerned about the availability of an adequate supply of electricity to meet the state’s needs. Responsible regulation demands constant vigilance – especially in important matters such as reliability of electricity generation supply where direct regulatory authority is minimal. While P3 applauds the BPU for conducting this hearing and is very pleased to participate in it, we feel compelled to challenge several of the assumptions that serve as the backdrop for this proceeding. Once these assumptions are placed in appropriate context, a more coherent vision emerges for the development of new capacity to meet New Jersey’s future needs.

P3 respectfully raises the following points for the Board’s consideration as more fully described herein:

¹ P3 is a non-profit organization dedicated to advancing federal, state and regional policies that promote properly designed and well-functioning electricity markets in the PJM region. Combined, P3’s twelve member companies own over 87,000 megawatts of power and over 51,000 miles of transmission lines in the PJM region, serve nearly 12.2 million customers and employ over 55,000 people in the 13-state and District of Columbia PJM region. The views expressed in this filing represent the position of P3 as an organization, but not necessarily the views of any particular member with respect to any issue. For more information on P3, please visit www.p3powergroup.com.

- 1) There is no generation shortfall problem in New Jersey;
- 2) Consequences from the delay in the Susquehanna-Roseland transmission line are temporary and not due to a lack of adequate generation supply;
- 3) The \$1.8 billion in benefits attributed to the LCAPP contracts is highly speculative and not likely to be realized;
- 4) LCAPP was a mistake that should not be compounded;
- 5) The BPU should let markets work as they were intended; and
- 6) The Board should focus on New Jersey-specific barriers to generation development.

1. There is no generation shortfall problem in New Jersey.

The notion that the lights are going to go out in New Jersey in the near future due to a lack of adequate generation is simply false. As a result of the most recent PJM Base Residual Auction, PJM has secured sufficient resources to meet the projected needs of New Jersey through May of 2015. Those resources are committed to New Jersey and surrounding areas and face severe financial penalties if they do not perform. Moreover, the approximately 20% reserve margin that will exist between now and 2015 provides an appropriate measure of insurance against unforeseen events.

Beyond 2015, the potential projects in the PJM queue as well as additional transmission enhancements suggest that reliability will continue. Of note, 1,965 MW of generation resources offered into the Eastern Mid-Atlantic area (New Jersey, southeast Pennsylvania and the Delmarva Peninsula) in the last capacity auction did not clear, and 348 MW of demand response resources offered in New Jersey did not clear, confirming that additional generation and demand response resources may become available as needed to meet reliability requirements.² Moreover, the prices reflected in this most recent capacity auction are well below the cost of new entry, further suggesting that the near term reliability needs of New Jersey can be met through means less expensive than construction of new power plants.

2. Consequences from the delay in Susquehanna-Roseland are temporary and not due to a lack of adequate generation supply.

The hearing notice seems to suggest that new generation needs to be built because of a delay in the Susquehanna-Roseland transmission line. P3 respectfully suggests that this is a red herring. A two year delay in a transmission project does not justify a 15 year commitment to new power plants, and certainly not for plants scheduled for service after the Susquehanna-Roseland line even with the delay. Doing so would simply create stranded assets requiring New Jersey consumers to pay billions of dollars more for generation than they would otherwise.

P3 suggests that the Susquehanna-Roseland delay be seen for what it is – a transmission issue that appears best addressed by transmission solutions. Instead of looking for high-cost

² <http://www.pjm.com/markets-and-operations/rpm/~//media/markets-ops/rpm/rpm-auction-info/20110513-2014-15-base-residual-auction-report.ashx>, pages 6 and 12.

generation solutions to a transmission problem, the BPU should focus its efforts on bringing the transmission line in service as soon as possible.

3. The \$1.8 billion in benefits purported to the LCAPP contracts is highly speculative and not likely to be realized.

P3 believes that the \$1.8 billion in purported benefits from the LCAPP contracts are significantly overstated. While a thorough analysis of the \$1.8 billion figure is impossible due to the confidential treatment of SOCA bids and the lack of data provided in the LCAPP report, in order to get to that level of benefits assumptions about the PJM energy and capacity markets need to be made that stretch the imagination. Most notably, the \$1.8 billion figure assumes that capacity prices in PJM will fluctuate between \$275 and \$400 for the next twenty years.³ However, as the Commission knows, the price of capacity has been well below those numbers to date.

The \$1.8 billion claimed benefit also is wholly dependent upon a “black box” forecast of energy prices. Among other things, the LCAPP report:

- Failed to provide the energy prices that it forecasted to allow any evaluation of whether the results are consistent, logical, or reasonably accurate.

³ This forecast also seems at odds with the assumptions regarding the basis of the clearing prices. The LCAPP report indicates that in all but two years, capacity prices for New Jersey are expected to clear based on the RTO clearing price. Yet, as shown in Figure 10 of the LCAPP report, the RTO price has never been in excess of even \$200/MW-day. No valid indication as to why prices will increase dramatically over an interval of a few years has been provided.

- Did not explain how it believes the selected LCAPP bidders will comply with the SOCA's requirement that they bid at the "lowest commercially reasonable price."
- Failed to explain whether its model accounted for system constraints or how it did so.
- Did not identify its assumptions regarding potential entry of combined cycle generation that did not participate in LCAPP, potentially excluding consideration of equally efficient units built without SOCA's at some point in the future and thereby providing equivalent benefits without forcing consumers into 15-year obligations.
- Failed to provide any information regarding natural gas costs—historically the driving factor in determining PJM energy prices.
- Failed to disclose how it considered financial transmission rights that offset a significant portion of gross congestion costs.

The Energy Master Plan indicates that the Christie Administration supports "the rigorous testing of economic benefits for New Jersey"⁴ when evaluating new supply and demand resources. P3 respectfully submits that this standard is appropriate and should be applied to the \$1.8 billion in purported benefits from the LCAPP program. The BPU should invite a "rigorous testing" of this number to determine if the \$1.8 billion figure is accurate. Stakeholders, including the Ratepayer Advocate, PJM and others, should be allowed to examine the model used by the Board's agent.⁵

⁴ Draft New Jersey Energy Master Plan at page 3.

⁵ Any concern with confidentiality of the modeling and the data could be addressed through an appropriate confidentiality agreement.

Right now, the BPU is mandating that the homes and businesses of New Jersey spend billions of dollars trusting that the analysis of the LCAPP agent is correct. The consumers of New Jersey deserve adherence to the Governor's commitment to "rigorous testing of economic benefits for New Jersey."

4. LCAPP was a mistake that should not be compounded.

P3 has consistently opposed the LCAPP Act as fundamentally flawed public policy. The law represents a costly and unnecessary interference with the competitive electricity market. The law as implemented will benefit chosen energy companies at the expense of New Jersey's families and businesses by saddling all classes of electricity customers with electricity prices that are virtually guaranteed to be higher than prices they would have otherwise paid. The law purports to address a need for new generation that has not been established by any verifiable data and then requires that this unproven need be fixed by a solution that will have lasting negative impacts on the competitive electricity markets and cost New Jersey consumers billions.

Perhaps most troubling, the LCAPP Act has left New Jersey in a state of flux that makes it difficult for any generator, with or without a LCAPP contract, to consider investing in the state. Presently three contracts have been signed and are binding on the utilities and the generators. It is unclear and still to be determined whether any of these generators can clear an auction at 90% of the cost of new entry or their actual costs as required by the PJM tariff. Given that the

most recent BRA cleared at 56% of the Mid-Atlantic region cost of new entry,⁶ the ability to clear as required by the LCAPP law must be seriously questioned. Moreover, any developer that would potentially add new capacity to New Jersey would have to be cognizant of the fact that nearly 2,000 megawatts of subsidized generation could threaten the market at any point and materially raise the risks associated with unsubsidized investment in generation.

Unfortunately, such a dynamic is likely to further deter any investment in New Jersey through at least 2016 unless something changes.

P3 believes that LCAPP is a flawed public policy that is likely to hurt New Jersey's consumers rather than help them. Ideally, the implementation of the law would be suspended in favor of reestablishing a viable marketplace in New Jersey. Certainly, P3 would urge the Board not to compound the LCAPP mistake by adding more megawatts to a program that should be abandoned.

5. The BPU should let markets work as they were intended.

Overall, P3 is concerned that the assumptions that serve as a backdrop to this proceeding are so off target that it is difficult to define a solution when the problem is not properly defined. That said, P3 has consistently maintained that the electricity markets should be allowed to work as they were intended to work. The risks associated with development should be borne by market participants and not captive consumers. Service providers who can provide quality, reliable service at the most efficient price should be rewarded, while inefficient and uneconomic business propositions should not. The market works best when consumers,

⁶ The Mid-Atlantic area cleared at \$136.50/MW-day relative to a Net Cost of New Entry of \$241.91/MW-day. The PS-North area cleared at 82% (\$225/\$275.02/MW-day) of the Net Cost of New Entry.

and not regulators, determine winners and losers. Regulators can set the rules of the game and enforce them; however, it is ultimately the job of the market, and the consumers in the market, to determine the best outcome.

6. The Board should focus on New Jersey specific barriers to generation development.

If the Board is concerned about the development of new generation in New Jersey, it should focus its attention on creating a climate in the state that is more conducive to development. Labor rates, tax rates, environmental regulations and other business restrictions all have an enormous impact on the ability to build new power plants. In many of these areas, New Jersey is more restrictive and more costly than other states. An open examination of these factors could help reveal areas where the climate for new generation can be improved.

The Board should also work with PJM to ensure that wholesale market rules continue to support the development of new capacity in the region. PJM's capacity market has attracted and retained significant amounts of new capacity to the region. PJM reports that: "... the minimum estimated net impact of the RPM implementation on the availability of capacity in the 2014/2015 [Base Residual Auction] compared to what would have happened absent this implementation is 42,173.3 MW."⁷

Prior to RPM, PJM's capacity construct was not achieving even basic objectives: reserve margins were declining throughout New Jersey and the entire PJM footprint, generators were

⁷ <http://www.pjm.com/markets-and-operations/rpm/~media/markets-ops/rpm/rpm-auction-info/20110513-2014-15-base-residual-auction-report.ashx>, pages 23-24.

not recovering their fixed costs, demand response was not being compensated for its contributions to reliability, and reliability was jeopardized throughout the region, notably in New Jersey

Before RPM there was no assurance, or even expectation, that generation and demand response resources needed in the future would be committed in the places necessary to assure reliability. In fact, before RPM, existing capacity resources had no obligation to offer forward capacity commitments at all, and PJM had little comfort that adequate supply would be available on a day-to-day basis. Without a forward commitment from capacity resources, consumers bore a substantially higher risk of capacity shortages. As FERC would eventually determine, the prior capacity construct was unjust and unreasonable.

However, since the institution of RPM, the reliability prognosis for New Jersey and the entire PJM footprint has improved dramatically. Committed capacity has been in excess of mandatory minimum levels in all areas at all times. Under RPM, regulators, legislators and tens of millions of consumers have an advance assurance of adequate resources, in the right places, to meet their need for electricity for the next three years, with every expectation of additional resources being developed as needed in the longer term.

The Board should recognize the tremendous improvements and benefits that have accrued to consumers in the PJM region as a result of these changes to the wholesale capacity markets. While incremental improvements are always desirable, sweeping changes to a market construct that has significantly improved the reliability prognosis in New Jersey should be approached with trepidation.

Furthermore, rather than taking consumers away from the marketplace with administrative charges that will burden bills for decades, the BPU should explore options to bring consumers closer to the market. With advances in technology, consumers have the increasing ability to avail themselves of opportunities presented by the wholesale market. Consumers can manage their energy decisions to their economic advantage. Empowered consumers can and will drive the marketplace. The BPU should be exploring means to connect consumers to the market, not drive them further from it.

Finally, the Board should call a “do over” on LCAPP. The legislation is contrary to the best long term interests of New Jersey’s consumers and will do more harm than good. Fortunately, the law provides the Board the ability to suspend implementation of the law under certain circumstances which have been met. The Board should do so and put New Jersey on a meaningful path to a sound energy policy to guide New Jersey through the 21st Century.