

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.

Docket Nos. ER18-1314-003
EL18-1314-004
(consolidated)

**COMMENTS OF THE JOINT CONSUMER ADVOCATES REGARDING PJM
INTERCONNECTION, L.L.C.’S MARCH COMPLIANCE FILING
CONCERNING THE MINIMUM OFFER PRICE RULE**

Pursuant to Rule 211 of the Federal Energy Regulatory Commission (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R § 385.211, and the Commission’s March 31, 2020 Notice of Extension of Time,¹ the New Jersey Division of Rate Counsel, the Office of the People’s Counsel for the District of Columbia, the Maryland Office of People’s Counsel, the Delaware Division of the Public Advocate, Citizens Utility Board, and the Pennsylvania Office of Consumer Advocate (together the “Joint Consumer Advocates” or “JCA”) provide the following comments regarding PJM Interconnection L.L.C.’s (“PJM”) March 18, 2020 Compliance Filing Concerning the Minimum Offer Price Rule (“MOPR”).² The Joint Consumer Advocates focus their comments on two issues: (i) ensuring an updated load forecast ahead of each of the next four Base Residual Auctions (“BRA”); and (ii) the time frame for the resumption of BRAs. The JCA’s comments are necessarily limited in scope and focused on the content of the

¹ Notice of Extension of Time, eLibrary No. 20200331-3092 (March 31, 2020).

² PJM Interconnection, L.L.C., Compliance Filing Concerning the Minimum Offer Price Rule, Request for Waiver of RPM Auction Deadlines, and Request for an Extended Comment Period of at Least 35 Days, eLibrary No. 20200318-5149 (March 18, 2020) (“March Compliance Filing”).

March Compliance Filing. Neither the comments herein, nor the absence of comments, should be interpreted as acceptance or approval of the underlying order,³ or the remainder of PJM’s March Compliance Filing. Several of the Joint Consumer Advocates sought rehearing of the December Order at the Commission,⁴ and a subset of them have filed petitions for review of both the December Order and the Commission’s subsequent denial of rehearing.⁵ Those petitions are before the United States Court of Appeals for the 7th Circuit and, as of now, the D.C. Circuit.⁶ Without waiving our previously stated objections, the Joint Consumer Advocates endeavor to provide both the Commission and PJM with comments on select issues raised in the March Compliance Filing.

I. PJM SHOULD UPDATE OR REVISE ITS LOAD FORECAST PRIOR TO EACH BRA.

Traditionally, PJM posts the planning parameters for an upcoming BRA on February 1, or approximately three months ahead of a May auction timeline. Under PJM’s proposed schedule for the 2022/2023 delivery year BRA, as well as the three following BRAs (delivery years 2023/2024, 2024/2025, and 2025/2026), PJM will post the planning parameters 100 days prior to the auction date.⁷ While this is an important provision that the JCA support, it is not enough. The

³ *Calpine Corp. v. PJM Interconnection, L.L.C.*, 169 FERC ¶ 61,239 (2019) (“December Order”).

⁴ Petition for Rehearing of the New Jersey Division of Rate Counsel, the Office of the People's Counsel for the District of Columbia, and the Maryland Office of People's Counsel, eLibrary No. 20200121-5310 (Jan. 21, 2020); Request for Rehearing of Delaware Division of the Public Advocate, eLibrary No. 20200121-5278 (Jan. 21 2020).

⁵ *Calpine Corp. v. PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,035 (2020) (“Rehearing Order”).

⁶ *New Jersey Division of Rate Counsel, et al. v. Federal Energy Regulatory Commission*, Case No. 20-1762. This petition had originally been filed in the U.S. Court of Appeals for the District of Columbia and has been subsequently transferred to the U.S. Court of Appels for the 7th Circuit. A separate appeal, similarly styled as *New Jersey Division of Rate Counsel, et al. v. Federal Energy Regulatory Commission*, was filed with the D.C. Circuit following the Commission’s issuance of a tolling order concerning applications for rehearing of the December Order. That petition, Case No. 20-1059, has not yet been transferred to the 7th Circuit, and remains pending before the D.C. Circuit.

⁷ March Compliance Filing, Attachment A, pp. 2.

planning parameters are based on PJM’s Load Forecast Report (“Load Forecast”), typically published each January, and the Reliability Pricing Model Update, published in March ahead of a typical May BRA. Because the Load Forecast provides the foundation upon which not only the reliability of the planning parameters, but the efficacy of the entire BRA is based, it is vital that it be as accurate as possible.

PJM Manual 18 requires the Load Forecast to be posted prior to February 1 with updates posted no later than one month prior to the First and Second Incremental Auctions (“IAs”). Final RTO and Zonal Peak Load Forecasts are posted no later than one month prior to the Third IA.⁸ With the 2022/2023 delivery year BRA likely to take place in the first quarter of 2021, the schedule for the following three BRAs necessarily compressed, and the cancellation of several of the IAs, it is incumbent on PJM to ensure that Load Forecasts continue to occur and be posted at regular intervals in relation to each auction. For example, PJM should provide a complete Load Forecast similar in scope and depth to the one it would provide by February 1 at least 150 days prior to both the 2022/2023 and 2024/2025 delivery year BRAs. Updated forecasts, similar in scope and depth to the updates that would be provided prior to the First and Second IAs, should also be completed 130 days prior to both the 2023/2024 and 2025/2026 delivery year BRAs. The time frames suggested here would still allow PJM to conduct the next four BRAs at six-month intervals, while also allowing a period for stakeholder feedback between the posting of the Load Forecast and the posting of the planning parameters.

⁸ PJM Manual 18, Sec. 2.1.2.

Accurate load forecasting is always important, but the ongoing COVID-19 pandemic and attendant reduction in economic activity only highlight the need for regular updates over the coming BRAs. As discussed at the May 12, 2020 Planning Committee meeting, PJM has seen an average 7.9% load reduction, with a peak weekday impact as high as 15.2%.⁹ These significant reductions in demand will be all the more impactful because the time between the next four BRAs and the actual delivery year will be reduced from three years to as little as one year. In other words, updated Load Forecasts will reflect not just the long-term outlook, but short and medium-term operating conditions.

By continuing to update its Load Forecast, PJM will help ensure that the planning parameters for each BRA, even if conducted in relatively quick succession, will be based on the most current and accurate models available. Including a schedule for Load Forecasts in PJM's compliance requirements not only guarantees that those forecasts will occur in regular order, but also provides a similar level of confidence and planning predictability to market participants, state commissions, and other stakeholders that the requirements and timing proscribed in PJM Manual 18 offer.

II. PJM SHOULD FOLLOW OPSI'S RECOMMENDATION AND CONDUCT THE 2022/2023 DELIVERY YEAR BRA IN MAY OF 2021.

Under the auction schedule laid out in the March Compliance Filing, the 2022/2023 delivery year BRA would be conducted approximately six and a half months after the issuance of an order on PJM's compliance filing.¹⁰ PJM also indicated that it would extend the auction

⁹ Update of COVID-19 Load Impacts, Planning Committee, PJM Interconnection, L.L.C. (May 12, 2020) <https://www.pjm.com/-/media/committees-groups/committees/pc/2020/20200512/20200512-item-16-covid-19-load-impact-update.ashx>.

¹⁰ March Compliance Filing, pp. 84-85. In the Rehearing Order the Commission required a second compliance filing

timeframe to March 31, 2021 “in the event that legislation directly applicable to new elections of the [Fixed Resource Requirement (“FRR”)] alternative is enacted before June 1, 2020 and upon request of a state public utility commission acting in its official capacity.”¹¹ As the Commission is aware, the Organization of PJM States, Inc. (“OPSI”) has requested that the 2022/2023 delivery year BRA not take place until May of 2021.¹² The Joint Consumer Advocates support OPSI’s recommendation and believe that issues raised both in the March Compliance Filing and the Rehearing Order offer good cause for the approximately two month delay in PJM’s proposed schedule.

For example, as previously noted, PJM traditionally releases its Load Forecast at the beginning of the calendar year. By moving the 2022/2023 delivery year BRA auction to May, PJM would be able to retain this schedule while still releasing the Load Forecast far enough in advance to meet the time frame discussed above. This approach would ensure consistency among Load Forecasts, eliminate overlapping forecasts, be easily adaptable for the 2024/2025 delivery year BRA (which would then be run in May of 2022), and allow for a smooth transition once PJM returns to a traditional auction schedule in May of 2023.

The Commission’s determination in the Rehearing Order that state default service auctions may be subject to the MOPR also increases the imperative to allow time for states “to develop,

from PJM, due June 1, 2020. PJM has indicated that the six and a half month clock would run after Commission approval of this second compliance filing.

¹¹ *Id.*, pp. 86.

¹² Letter from Dr. Talina R. Mathews, President, Organization of PJM States, Inc. (OPSI), to Ake Almgren, PH.D., Chairman, The PJM Board of Managers, PJM Interconnection, L.L.C. (Feb.13, 2020), <https://www.pjm.com/-/media/about-pjm/who-we-are/publicdisclosures/20200219-opsi-letter-re-scheduling-next-base-case-residual-auction.ashx?la=en>.

adopt, and implement new legislation and/or administrative rules to reform their approach to resource planning, capacity procurement, state resource compensation or other related processes.”¹³ Even states that are not looking to adopt the FRR alternative may need to make legislative or regulatory changes to their default service auction process to accommodate the Commission’s Rehearing Order and any subsequent orders. As the Commission is well aware, significant legislative and regulatory changes are difficult in the best of times; however, the COVID-19 pandemic has halted or significantly limited the work of many state legislatures and public utility commissions. Moreover, there is little downside to OPSI’s request, which amounts to only a two-month delay. PJM will still, in all likelihood, be able to conduct two BRAs in both calendar years 2021 and 2022 and remain on target to return to a traditional BRA schedule in May of 2023.

III. CONCLUSION

The Joint Consumer Advocates respectfully request that the Commission consider the comments herein regarding regular updates to the PJM Load Forecast and the timing of the 2022/2023 delivery year BRA.

¹³ *Id.*

Respectfully submitted,

/s/ Brian O. Lipman

Stefanie A. Brand, Esq.
Brian O. Lipman, Esq.
Felicia Thomas-Friel, Esq.
Henry Ogden, Esq.
NEW JERSEY DIVISION OF RATE
COUNSEL
140 East Front Street, 4th Floor P.O. Box 003
Trenton, NJ 08625
Telephone: (609) 984-1460
Facsimile: (609) 292-2923
sbrand@rpa.nj.gov
blipman@rpa.nj.gov
fthomas@rpa.nj.gov
hogden@rpa.nj.gov

/s/ Sandra Mattavous-Frye

Sandra Mattavous-Frye
People's Counsel for the District of Columbia
Karen R. Sistrunk
Deputy People's Counsel
Anjali G. Patel
Frederick (Erik) Heinle III
Assistant People's Counsel
Office of the People's Counsel for the District
of Columbia
1133 15th Street, N.W., Suite 500
Washington, DC 20005-2710
202-261-1182
fheinle@opc-dc.gov

/s/ William F. Fields

William F. Fields
Deputy People's Counsel
Maryland Office of People's Counsel
6 Saint Paul Street, Suite 2102
Baltimore, Maryland 21202
(410)767-8150
(410)333-3616 (facsimile)
william.fields@maryland.gov

/s/ Regina A. Iorii

Regina A. Iorii (De. Bar No. 2600)
Deputy Attorney General
Delaware Department of Justice
820 N. French Street, 4th Floor
Wilmington, DE 19801
(302) 577-8159
regina.iorii@delaware.gov

In the Capacity as Counsel for the Delaware
Division of the Public Advocate Only

/s/ Julie L. Soderna

Julie L. Soderna
General Counsel
Eric DeBellis
Regulatory Counsel
Citizens Utility Board
309 W. Washington, Ste. 800
Chicago, IL 60606
(312) 263-4282 x112
(312) 263-4329 fax
jsoderna@citizensutilityboard.org
edebellis@citizensutilityboard.org

/s/ David T. Evrard

Assistant Consumer Advocate
PA Office of Consumer Advocate
555 Walnut St. 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048
devrard@paoca.org

CERTIFICATE OF SERVICE

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

Dated on this 15th day of May, 2020.

/s/ Frederick (Erik) Heinle III
Frederick (Erik) Heinle III
Assistant People's Counsel
Office of the People's Counsel for the District of Columbia
1133 15th Street, N.W., Suite 500
Washington, DC 20005-2710
202-261-1182
fheinle@opc-dc.gov