

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

PJM Interconnection, L.L.C.

)

Docket No. ER24-98-000

**PROTEST AND COMMENTS OF
AMERICAN MUNICIPAL POWER, INC.**

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”),¹ American Municipal Power, Inc. (“AMP”) hereby files its protest and comments relating to the October 13, 2023 filing by PJM Interconnection, L.L.C. (“PJM”) in the above-captioned docket,² in which PJM proposes to revise the PJM Open Access Transmission Tariff (“Tariff”) and Reliability Assurance Agreement Among Load Serving Entities (“RAA”) to implement significant changes to PJM’s administrative capacity construct.

As discussed below, the Commission should reject the PJM Filing (and the companion filing in Docket No. ER24-99-000)³ and encourage PJM to renew its prematurely truncated stakeholder process with the goal of developing a just and reasonable set of reforms to its resource adequacy framework. In the alternative, the Commission could institute a proceeding under section 206 of the Federal Power Act (“FPA”)⁴ to investigate whether PJM’s currently effective Reliability Pricing Model (“RPM”)

¹ 18 C.F.R. § 385.211.

² *PJM Interconnection, L.L.C.*, Docket No. ER24-98-000, *Proposed Enhancements to PJM’s Capacity Market Rules - Market Seller Offer Cap, Performance Payment Eligibility, and Forward Energy and Ancillary Service Revenues* (October 13, 2023) (“PJM Filing”).

³ *PJM Interconnection, L.L.C.*, Docket No. ER24-99-000, *Capacity Market Reforms to Accommodate the Energy Transition While Maintaining Resource Adequacy* (October 13, 2023) (“ER24-99 Filing”).

⁴ 16 U.S.C. § 824e.

rules may be unjust and unreasonable, and, if so, implement procedures to develop and file just and reasonable replacement tariff provisions.

I. INTRODUCTION AND OVERVIEW

AMP agrees that resource adequacy reform is necessary in PJM, however for different reasons than argued by PJM in its companion filings. As PJM found in its February 2023 whitepaper, *Energy Transition in PJM: Resource Retirements, Replacements & Risks* (“4R Report”), the characteristics of the current resource fleet and profiles of consumer demand have changed and will continue changing over the foreseeable future.⁵ These changes present long-term operational and reliability challenges, and the events that occurred during Winter Storm Elliott in December 2022 demonstrate that the current capacity construct requires substantial change to accommodate them. Although RPM has historically over-procured capacity, it needs reform to be an efficient mechanism to ensure long-term grid reliability as the industry navigates the current energy transition, including expected retirements of thermal resources. The Commission has recognized the importance of ensuring that the PJM capacity construct responds to evolving challenges, having recently convened a Commissioner-led forum to discuss reforms with interested stakeholders.⁶

PJM and its stakeholders have attempted to identify solutions to the problems with the existing capacity construct through the Resource Adequacy Senior Task Force

⁵ *Energy Transition in PJM: Resource Retirements, Replacements & Risks* (Feb. 24, 2023), <https://www.pjm.com/-/media/library/reports-notice/special-reports/2023/energy-transition-in-pjm-resource-retirements-replacements-and-risks.ashx>.

⁶ See *PJM Capacity Market Forum*, Second Supplemental Notice of Forum, Docket No. AD23-7-000 (June 9, 2023) (explaining that “[t]he purpose of this forum is to solicit varied perspectives on the current state of the PJM capacity market, potential improvements to the market, and to consider related proposals to address resource adequacy.”).

("RASTF") and the Critical Issue Fast Path process on resource adequacy ("CIFP-RA") initiated by the PJM Board in the wake of Winter Storm Elliott. AMP actively participated in the RASTF and CIFP-RA processes, seeking to develop solutions that best address future reliability challenges by minimizing potential supply shortages and right-sizing the risk exposure associated with RPM participation. As a public power entity, implementing reforms designed to produce the most efficient market outcomes is critically essential to the member communities AMP supports in nine of the thirteen states comprising the PJM region.⁷

AMP, together with J-Power USA, offered a detailed reform proposal in the CIFP-RA process.⁸ In general, AMP and J-Power proposed a phased move away from the flawed Capacity Performance model in favor of a resource adequacy framework based on the Sustainable Capacity Market ("SCM") approach developed by the Independent Market Monitor for PJM ("IMM").⁹ AMP and J-Power emphasized that consensus on resource adequacy reform was most likely to be achieved through holistic discussions, expressing concern that the PJM Board had inappropriately limited the scope of the items open for discussion in the CIFP-RA process. The CIFP-RA stakeholder process is a flawed method to develop holistic solutions, as it allows the PJM Board to delimit the scope and PJM staff to define the problem without stakeholder input; PJM staff then offers

⁷ AMP is a non-profit wholesale power supplier and service provider for 132 member-owned municipal electric systems in the states of Ohio, Pennsylvania, Michigan, Virginia, Kentucky, West Virginia, Indiana, and Maryland, along with the Delaware Municipal Electric Corporation, a joint action agency with nine members in Delaware.

⁸ See AMP and JPower USA Proposal, https://www.pjm.com/-/media/committees-groups/cifp-ra/2023/20230823/20230823-item-01i---cifp-state-4_amp-jpower-executive-summary_final-version.ashx.

⁹ IMM Capacity Market Design Proposal: Sustainable Capacity Market (June 13, 2023), <https://pjm.com/-/media/committees-groups/cifp-ra/2023/20230628/20230628-item-02a---imm-rastf-proposal---part-2---memo.ashx>.

the solution. Only afterward are the PJM stakeholders able to begin considering solutions of their own. But the PJM Board has taken the position that stakeholder solutions are not binding on the PJM Board, citing the FPA section 205 rights PJM has over its Tariff. AMP continues to believe that PJM's capacity construct must evolve toward a simplified and stable market structure that recognizes the intermittent nature of future supply and the dynamic nature of future demand. The PJM Filing is, however, yet another reactive piecemeal revision bolted onto an already complex design that lacks support from the majority of members and fails to address the underlying fundamental flaws of the PJM capacity construct.¹⁰

Notably, a proposed solution cosponsored by AMP and J-Power received the greatest percentage of member support.¹¹ Nevertheless, the PJM Board communicated that the vote was indicative-only, and it sided with PJM staff's overly complicated and flawed proposal despite the lack of member support. Consequently, the PJM Board truncated the CIFP-RA process and directed PJM to file changes with FERC reflecting a limited set of specific issues.¹² PJM now offers a bifurcated package of proposed Tariff and RAA changes in this docket and in Docket No. ER24-99-000 that did not receive

¹⁰ See PJM Members Committee Supplemental Voting Results, Item 3B (August 23, 2023), <https://www.pjm.com/-/media/committees-groups/committees/mc/2023/20230823-special/mc-voting-results---item-3b---pjm---2---annual-proposal.ashx>.

¹¹ See PJM Members Committee Supplemental Voting Results, Item 3C (August 23, 2023), <https://www.pjm.com/-/media/committees-groups/committees/mc/2023/20230823-special/mc-voting-results---item-3c-3f-3i---imm-1-daymark-ekpc-1-and-amp-jpower-1.ashx>. The co-sponsored proposal focused on reforming calculation of Non-Performance Charges and the stop-loss limit.

¹² See PJM Board Letter Substantive Direction (September 27, 2023), <https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20230927-pjm-board-letter-re-its-decision-within-the-cifp-ra.ashx> ("September 27 Board Letter").

stakeholder endorsement and are not just and reasonable, either on a standalone basis or as a complementary set of reforms.¹³

Neither PJM filing can be approved on a standalone basis, as each contains major components that are not just and reasonable. PJM's proposal, for example, to establish a unit-specific Market Seller Offer Cap ("MSOC") methodology for resources that would otherwise continue to participate in PJM's Energy and Ancillary Services ("EAS") markets irrespective of whether they receive a capacity commitment is inconsistent with the "missing money" logic that PJM cites as the fundamental reason for having the capacity construct.¹⁴ Nor has PJM adequately supported its new formulaic option for deriving a unit-specific Capacity Performance Quantifiable Risk ("CPQR") value.¹⁵ While PJM fails to provide any quantitative analysis of the potential cost impact these changes will have on consumers, these proposals would likely overcompensate capacity resources at consumers' expense, as indicated by information developed during the CIFP-RA process.

The Commission should also reject PJM's proposal to diminish the IMM's role of independently reviewing proposed unit-specific offer caps. Far from the "simple revision"¹⁶ that PJM claims it to be, giving PJM the authority to negotiate offer caps with capacity resources would fundamentally and adversely change the current unit-specific offer cap process by reducing the incentive a capacity Seller would have to reach agreement with the IMM on a unit-specific cap.

¹³ See PJM Filing, Transmittal Letter at 2-3.

¹⁴ See PJM Filing, Keech Affidavit at ¶¶ 3-4.

¹⁵ PJM Filing, Transmittal Letter at 17-25.

¹⁶ *Id.* at 32.

PJM's suite of proposed revisions to the Capacity Performance construct is also deficient. In particular, the Commission should reject PJM's proposal to eliminate the eligibility of Demand Resources ("DR"), Price Responsive Demand ("PRD"), and Energy Efficiency Resources ("EER") with capacity commitments to receive Performance Payments by capping credit received for actual performance at the installed capacity commitment for these resources.¹⁷ To the extent that these resources exceed their Capacity Performance commitments during Performance Assessment Intervals ("PAIs"), they should receive bonus payments comparable to those received by other resources.¹⁸ Finally, PJM's proposed PAI Obligation Transfer concept appears unnecessary and could inject additional complexity and potential unintended consequences into the already complex Capacity Performance framework.¹⁹

Although PJM has not shown that its proposed Tariff and RAA revisions are just and reasonable as an overall package, there are several components of PJM's filing that AMP affirmatively supports as appropriate revisions to the PJM capacity construct, should it remain in its current general form: (1) the ability to utilize unit-specific segmented offer caps;²⁰ (2) the proposed changes regarding the treatment of Fixed Resource Requirement ("FRR") Alternative resources;²¹ and (3) the proposal to adopt a forward-looking net EAS offset.²²

¹⁷ *Id.* at 50-54.

¹⁸ Unlike any other proposal in the PJM Filing, PJM consents to severing the proposed Tariff and RAA revisions relating to eligibility for bonus payments from the rest of the proposals in the filing. *Id.* at 4.

¹⁹ *Id.* at 40-43.

²⁰ *Id.* at 32-34.

²¹ *Id.* at 55-57.

²² *Id.* at 58-61.

While these features of PJM's proposal would be sound revisions to the existing capacity construct, AMP nonetheless urges the Commission to reject the PJM Filing and encourage PJM to renew its consensus-based stakeholder process with the goal of developing a just and reasonable set of reforms to its resource adequacy framework. In the alternative, the Commission could institute a proceeding under FPA section 206 to investigate whether the currently effective RPM rules may be unjust and unreasonable, and, if so, implement procedures to develop and file just and reasonable replacement Tariff and RAA provisions. In either case, PJM and its stakeholders should have the ability to consider reforms on a holistic basis, including moving away from the failed Capacity Performance experiment. If the scheduled date for holding the Base Residual Auction for the 2025/2026 Delivery Year is incompatible with developing reforms through the stakeholder process, PJM should run that auction as soon as possible under the existing rules.

II. PROTEST

A. PJM has not demonstrated that its proposed Tariff and RAA revisions are just and reasonable.

PJM has not satisfied its burden under FPA section 205 to show that the complete package of Tariff and RAA revisions proposed in this docket is just and reasonable. As discussed in greater detail below, several key aspects of PJM's filing relating to the MSOC and Capacity Performance reforms are patently unreasonable and must be rejected. Given limitations on the Commission's authority to accept discrete portions of PJM's FPA

section 205 filing,²³ the Commission must reject the entire filing, even though there are certain components of the filing that could improve the current RPM framework.²⁴

PJM's decision to bifurcate its Tariff and RAA changes into two separate filings is an implicit acknowledgment that components of PJM's proposal may not withstand scrutiny by the Commission.²⁵ Moreover, this bifurcation complicates review of the filings and further undercuts PJM's attempt to support its proposals. PJM argues that the two "filings represent a comprehensive set of reforms,"²⁶ yet claims that the Commission can approve each on a standalone basis.²⁷ In fact, a full and fair review of each filing would require consideration of matters that are at issue in the other proceeding. For example, at least some of the Tariff changes proposed in this docket appear to be prompted by Tariff revisions included in Docket No. ER24-99-000. The Performance Assessment Interval PAI Obligation Transfer mechanism included in PJM's filing here appears to have been prompted by a perceived need to provide a hedging mechanism for resources that may face additional non-performance risk under PJM's proposed modeling and Effective Load Carrying Capability accreditation changes in Docket No. ER24-99-000.²⁸ While each filing has deficiencies that prevent its approval, PJM's choice to divide its proposal into distinct silos undermines the ability of the Commission and interested parties to fully

²³ See *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, 114-15 (D.C. Cir. 2017).

²⁴ See section III, *infra*.

²⁵ See September 27 Board Letter (explaining that "PJM is contemplating grouping specific topics together and submitting multiple filings, all to be filed on or before October 13, to mitigate the risk of a single component of the filing causing the delay or rejection of the entire suite of enhancements.").

²⁶ PJM Filing, Transmittal Letter at 2.

²⁷ *Id.* at 3.

²⁸ See PJM IMM Comments on PJM's CIFP-RA Proposals at 3 (August 18, 2023), <https://pjm.com/-/media/committees-groups/cifp-ra/2023/20230823/20230823-stakeholder-written-comments---imm-cifp-resource-adequacy.ashx> ("IMM CIFP-RA Comments").

assess either filing. Because PJM has failed to demonstrate that its proposed Tariff and RAA revisions are just and reasonable, the Commission should reject the PJM Filing.

B. PJM’s proposed MSOC changes would unreasonably increase capacity charges paid by customers.

Much of the PJM Filing is devoted to proposed “enhancements” to the MSOC used in PJM’s Capacity Performance construct.²⁹ Most, if not all, of these proposals appear to be aimed at increasing Capacity Resources’ MSOCs. Several of the changes relate to the MSOC’s CPQR component, including: (1) an additional method for calculating a unit-specific offer cap for Capacity Resources “that would otherwise continue to participate in PJM’s EAS markets irrespective of whether they receive a capacity commitment”;³⁰ (2) a new option for deriving a unit-specific CPQR value using a standardized value at risk (“VaR”) methodology;³¹ and (3) a broader Tariff definition of CPQR.³² PJM also proposes to diminish the role of the IMM in the unit-specific MSOC review process.³³ The Commission should reject these changes. While the PJM Filing is devoid of any analysis of the cost impact to consumers from its proposed MSOC changes, these revisions would allow Capacity Market Sellers with market power to unreasonably increase their offers, likely raising costs to consumers without any demonstrated reliability benefit.

Although the PJM Filing does not include any quantification of the potential cost impact on consumers from the MSOC changes, a presentation posted by PJM during the

²⁹ See PJM Filing, Transmittal Letter at 6-34. The MSOC is a market power mitigation measure that caps the level of Sell Offers that may be submitted by Capacity Market Sellers that do not pass PJM’s market power screen. *Id.* at 6. PJM notes that “in practice all Capacity Market Sellers fail” the applicable market power screen. *Id.* at 10.

³⁰ *Id.* at 17.

³¹ See *id.* at 12-17.

³² PJM Filing, proposed PJM Tariff, Attachment DD, Section 6.8.

³³ See PJM Filing, Transmittal Letter at 30-32.

CIFP-RA process regarding Dr. Graf's analysis³⁴ of the potential impact on clearing results from PJM's accreditation and risk modeling changes includes the results of a scenario that assumed a \$15/MW-day CPQR adder for all Sell Offers.³⁵ In this scenario, total costs to consumers increased \$800 million for the Delivery Year to \$3.0 billion from the status quo figure of \$2.2 billion,³⁶ a much larger increase in the cost to consumers than shown in Dr. Graf's analysis (\$200 million) without the CPQR adder assumption.³⁷ This analysis suggests that the MSOC changes proposed by PJM, particularly the proposed revisions to the rules regarding the CPQR component, could materially increase consumer costs.

1. PJM's proposal would unreasonably allow recovery of CPQR costs by Sellers that do not experience "missing money."

PJM's current offer cap framework uses the Unit-Specific Avoidable Cost Rate ("ACR") approach approved by the Commission in Docket Nos. EL19-47-000, *et al.* after finding that PJM's previous MSOC approach was unjust and unreasonable.³⁸ Sellers can opt for either a default offer cap or a unit-specific offer cap review. The default offer cap is calculated using "the technology-specific default gross ACRs already defined in the Tariff minus unit-specific net energy and ancillary service revenues."³⁹ Under the unit-specific approach, a Seller's offer is "capped at the resource's unit-specific net ACR,

³⁴ See PJM Filing, Graf Affidavit at ¶¶ 32-36.

³⁵ PJM, Simulation Analysis of PJM CIFP-RA Proposals at 9-10 (August 14, 2023), <https://www.pjm.com/-/media/committees-groups/cifp-ra/2023/20230814/20230814-item-05d---2023-08-14-market-simulation-analysis.ashx>.

³⁶ *Id.*

³⁷ PJM Filing, Graf Affidavit at ¶ 36.

³⁸ *Indep. Market Monitor for PJM v. PJM Interconnection, L.L.C.*, 176 FERC ¶ 61,137 (2021), *order on reh'g*, 178 FERC ¶ 61,121 (2022), *aff'd sub nom. Vistra Corp. v. FERC*, 80 F.4th 302 (D.C. Cir. 2023).

³⁹ *PJM Interconnection, L.L.C.*, 178 FERC ¶ 61,121 at P 7.

meaning unit-specific gross ACR minus net energy and ancillary service revenues.”⁴⁰ The ACR “represents the expenses incurred as a direct result of a unit's decision to be a capacity resource for one year, and includes individual avoidable cost components.”⁴¹ The CPQR is a component of the unit-specific gross ACR,⁴² and is currently defined as “the quantifiable and reasonably-supported costs of mitigating the risks of non-performance associated with submission of a Capacity Performance Resource offer . . . such as insurance expenses associated with resource non-performance risks.”⁴³

Arguing that it seeks to ensure “that Capacity Market Sellers can, in all cases, adequately reflect the cost of risk associated with committing a Capacity Resource in a unit-specific offer cap,”⁴⁴ PJM proposes to modify its MSOC rules “to establish an additional methodology for calculating a unit-specific Market Seller Offer Cap for those Capacity Resources that would otherwise continue to participate in PJM’s EAS markets irrespective of whether they receive a capacity commitment.”⁴⁵ In simple terms, PJM would allow Capacity Resources that do not need capacity revenues to support profitable operation because they earn adequate revenue from the EAS markets (and thus have a net ACR that may be lower than CPQR or even negative) to nonetheless submit Sell Offers that include a standalone unit-specific CPQR component.⁴⁶ The Commission

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² PJM Filing, Transmittal Letter at 10.

⁴³ PJM Tariff, Attachment DD, section 6.8.

⁴⁴ PJM Filing, Transmittal Letter at 9.

⁴⁵ *Id.* at 17.

⁴⁶ *See id.*, Transmittal Letter at 17-25, Graf Affidavit at ¶¶ 81-91. In less simple terms, PJM would “allow resources that would continue to participate in the EAS markets even if they do not receive a capacity commitment to utilize a unit-specific Market Seller Offer Cap that is based on incremental costs that would be avoided only in the absence of a capacity obligation, such as CPQR, without [] offsetting such

should reject this proposal as wholly inconsistent with the “missing money” principle that PJM cites as the fundamental rationale for the PJM capacity construct.

Mr. Keech points to the “missing money” from the EAS markets as the reason PJM has a capacity construct at all.⁴⁷ Then, disregarding the concept, PJM proposes to allow a Capacity Resource that has *no missing money* (and thus should be properly offer-capped at zero) to submit a Sell Offer that reflects the unit’s alleged CPQR costs. The basic mathematical illustrations included in PJM’s filing show the problem with the proposal.⁴⁸ PJM posits a hypothetical gas unit, for example, with a gross ACR (excluding CPQR) of \$50/MWh, a CPQR component of \$10/MWh, and a net EAS offset of \$100/MWh.⁴⁹ Thus, the resource would have an ACR of *negative* \$40/MWh, meaning that it is more than recovering the avoidable costs – *including CPQR* – of any participation in the capacity construct, and, as PJM notes, this resource would be subject (appropriately) to a unit-specific MSOC of \$0/MWh.⁵⁰ Allowing this hypothetical resource to nonetheless submit a Sell Offer at the level of its CPQR costs (i.e., \$10/MWh) would potentially allow the unit to over-recover its costs.

During the CIFP-RA process, the IMM identified the PJM proposal’s patent flaws in comments that warrant quoting at length:

The missing money logic means that the role of the capacity market is to provide revenue that is not provided through the energy and ancillary services markets. The metric for missing

costs with the resource’s expected net EAS revenues.” *Id.*, Transmittal Letter at 22; *id.*, proposed Tariff, Attachment DD, section 6.8(d-1).

⁴⁷ PJM Filing, Keech Affidavit at ¶ 3 (asserting that “[t]he capacity market is necessary because the [EAS] markets do not consistently produce sufficient revenues to support investment in sufficient resources to maintain the desired level of reliability . . . without additional capacity revenues.”).

⁴⁸ See PJM Filing, Transmittal Letter at 21-22.

⁴⁹ *Id.* at 21.

⁵⁰ *Id.*

money is gross avoidable costs, ACR. If net revenue from the energy and ancillary services markets covers or more than covers gross ACR, then the competitive offer for that resource in the capacity market is zero. There is no missing money for that resource in that case. The resource could still receive capacity market revenue if the competitive offers of other resources results in a positive capacity market price. PJM's proposed approach ignores this basic capacity market logic and assigns special properties to the cost of mitigating risk (CPQR). If a resource had gross ACR of \$150 per MW-day, including CPQR of \$10 per MW-day, and energy market net revenues of \$200 per MW-day, PJM would define its acceptable offer to be \$10 per MW-day when the competitive offer is clearly zero. The same would be true, regardless of how high the energy market net revenues were. The energy market net revenues could never be high enough to offset the CPQR. This is illogical. This is inconsistent with the premise of the capacity market. This could result in significant price increases in the capacity market if the CPQR levels approved by PJM were \$100 per MW-day.⁵¹

PJM nonetheless seeks to justify this proposed handout to generators based on the theory that: "Capacity Market Sellers that offer a Capacity Resource into the capacity market and plan to continue operating the resource, regardless of receiving a capacity commitment, face economic costs of selling capacity that are at least as high as their CPQR. This is because if they accept a capacity commitment at a market clearing price that is less than their CPQR, they would be less profitable than not taking on that capacity commitment at all."⁵² But as the IMM noted, this position is illogical; if the resource is already recovering its ACR in the EAS markets, then zero is the only competitive capacity construct offer.

⁵¹ IMM CIFP-RA Comments at 4.

⁵² PJM Filing, Transmittal Letter at 21.

PJM's assertion that failing to adopt its proposal would result in outcomes that are "clearly confiscatory" is clearly wrong.⁵³ The resources that would benefit from PJM's proposal (i.e., units subject to an offer cap of zero that receive a capacity commitment) are *recovering their costs* through the EAS markets; indeed, that is the *premise* for the proposal. Further, these resources, even if subject to a zero offer cap, will still receive capacity payments based on the market clearing price, and these payments may meet or exceed any CPQR values to which PJM claims the resources are entitled. PJM provides no evidence that failing to adopt its proposal to revise the *offer* cap rules will result in confiscatory *rates* for Capacity Market Sellers.⁵⁴

Moreover, PJM argues that its proposal would, in most cases, only allow for recovery of CPQR costs.⁵⁵ But the proposed Tariff language does not necessarily establish such a limit; it would define avoidable costs eligible for inclusion in the offer cap as "the incremental costs that would be avoided only in the absence of a capacity obligation such as CPQR."⁵⁶ This language is likely to raise disputes as to which costs beyond CPQR are truly "incremental" costs that would only be avoided if the Seller does not have a capacity obligation. And none of these costs would be offset by any net EAS revenues.⁵⁷

⁵³ *Id.*

⁵⁴ See *Indep. Market Monitor for PJM*, 178 FERC ¶ 61,121 at P 100 (explaining that "offers are not rates: the rate for the sale of capacity in an organized capacity market is the set of market rules contained in the Commission-accepted tariff and the market clearing price that emerges from the market conducted pursuant to those rules.").

⁵⁵ PJM Filing, Transmittal Letter at 20 n.41.

⁵⁶ PJM Filing, proposed Tariff, Attachment DD, section 6.8(b).

⁵⁷ PJM Filing, Transmittal Letter at 22; *id.*, proposed Tariff, Attachment DD, section 6.8(d-1).

Finally, while PJM argues that its proposal would be consistent with the methodology used by ISO New England, Inc. (“ISO-NE”), PJM does not point to any ruling in which the Commission substantively addressed the relevant issue in the case of ISO-NE. Moreover, PJM does not establish that the overall MSOC framework that PJM would apply under the revised Tariff provisions is identical to the overall static de-list bid calculation applied by ISO-NE.

2. PJM has not demonstrated that the proposed VaR formula for setting unit-specific CPQR values is just and reasonable.

The current unit-specific review provisions in the PJM Tariff do not specify a formula for calculating the CPQR value, but provide instead for individualized submissions under which a resource’s CPQR will be accepted as “reasonably-supported” if based on standard actuarial practices for modeling or valuing risk.⁵⁸ The PJM Filing proposes a new formulaic option for deriving a unit-specific CPQR using a standardized VaR methodology.⁵⁹ As explained by Dr. Graf, “[t]he standard CPQR would be calculated as the product of the extreme *value* at risk and the percentage *cost* of this risk.”⁶⁰ The value at risk would be defined as a unit’s potential net Non-Performance Charges at the 95th percentile of a distribution of potential net over- or under-performance during PAls based on a probabilistic analysis conducted by PJM.⁶¹ The cost of risk in the formula would be defined as a resource’s after-tax weighted average cost of capital

⁵⁸ PJM Filing, Transmittal Letter at 11 (citing Tariff, Attachment DD, section 6.8(a)).

⁵⁹ See PJM Filing, Transmittal Letter at 12-17.

⁶⁰ PJM Filing, Graf Affidavit at ¶ 96.

⁶¹ See *id.* at ¶ 97; see also PJM Filing, proposed PJM Tariff, Attachment DD, Section 6.8.

("ATWACC").⁶² CPQR values calculated using this new VaR methodology would be considered "reasonably supported" for unit-specific offer cap purposes.⁶³

The Commission should reject the proposed standardized CPQR formula, as PJM has not shown that the formula would appropriately measure any particular Seller's cost of mitigating non-performance risk, raising the prospect that the approach could unreasonably increase costs to consumers. As an initial matter, the new VaR option for calculating CPQR proposed by PJM is inconsistent with the Commission's repeated admonition that the determination of CPQR necessarily "involves a complex, fact-specific calculation that varies by capacity resource."⁶⁴ This new option departs from the individualized analysis of the cost of mitigating non-performance risk in favor of a one-size-fits-all formulaic approach to calculating CPQR. While some of the inputs in the VaR calculation may reflect expectations for the particular resource, the values produced under the formula may nonetheless bear no relationship to the actual CPQR for that resource.

Even if the Commission is inclined to accept a formulaic approach, a significant problem with the new option is that the probabilistic analysis conducted by PJM to identify a Seller's VaR apparently would be based in part on historical data and could be skewed by poor performance during outlier periods such as Winter Storm Elliott. While the Commission has allowed the cost associated with non-performance risk to be included in

⁶² PJM Filing, Transmittal Letter at 14; *id.*, Graf Affidavit at ¶ 101; *id.*, proposed PJM Tariff, Attachment DD, Section 6.8. PJM proposes to use a default ATWACC figure "determined consistent with the calculated value used in the capital recovery factor ('CRF') formula in the avoidable project investment recovery ('APIR') component" detailed in the Tariff. PJM Filing, Transmittal Letter at 14. Capacity Market Sellers would also have the option to "substitute their own estimate of a unit-specific risk cost and provide supporting documentation for such estimate." *Id.*

⁶³ PJM Filing, proposed PJM Tariff, Attachment DD, Section 6.8.

⁶⁴ *Indep. Market Monitor for PJM*, 178 FERC ¶ 61,121 at P 51.

the offer cap, these costs currently must be justified on a case-by-case basis in the unit-specific review process, with a showing that the CPQR calculation is based on standard actuarial practices for modeling or valuing risk.⁶⁵ The new formulaic unit-specific option, in contrast, would formalize use of historical experience and effectively reward poor performance by inflating the CPQR values of under-performing units.

Indeed, the proposed standardized CPQR option would exacerbate one of the core problems with the Capacity Performance framework: this penalty-based construct exposes Sellers to financial risk, which then causes customers to pay higher rates to compensate Sellers for taking this risk. Criticizing this “circular logic,” the IMM observed in comments during the CIFP-RA process that “[t]he CP model creates arbitrarily high penalty rates which affect CPQR which increase the ACR market seller offer caps. The risk is created by the CP model and then the cost to mitigate that risk is compensated within the CP model.”⁶⁶ The proposed formulaic approach to calculating CPQR would exacerbate this circularity by formalizing the use of a probabilistic approach to CPQR.

PJM also fails to show that it would be reasonable to use ATWACC as a proxy for a Seller’s cost of mitigating non-performance risk.⁶⁷ On this point, Dr. Graf merely asserts that “[w]hile certainly not the only measure of the potential costs of the risk-mitigation transactions to lower the one-in-twenty risk exposure, the ATWACC represents one reasonable, conservative estimate of those potential costs.”⁶⁸ PJM does not explain why cost of capital is a valid across-the-board proxy for Capacity Performance risk mitigation

⁶⁵ Tariff, Attachment DD, section 6.8(a).

⁶⁶ IMM CIFP-RA Comments at 4.

⁶⁷ PJM Filing, Transmittal Letter at 14; *id.*, Graf Affidavit at ¶ 103.

⁶⁸ PJM Filing, Graf Affidavit at ¶ 103.

costs. For one thing, a Seller's ATWACC (and the underlying equity and debt costs) would not necessarily reflect only the cost of risk associated with Capacity Performance but would reflect the Seller's overall enterprise-wide risk profile. Thus, use of ATWACC would contravene the Commission's clear guidance that CPQR must be limited to the costs associated with a Seller's risk of participating as a Capacity Performance resource.⁶⁹ Further, there is no assurance that the ATWACC is an appropriate proxy for any particular resource's cost of mitigating non-performance risk (let alone all resources), which is inconsistent with the requirement to conduct the "complex, fact-specific calculation that varies by capacity resource"⁷⁰ required by the Commission.

PJM contends that the proposed formulaic CPQR option is "consistent with actuarial practices used in the industry."⁷¹ Even if correct, PJM's assertion does not address the problems discussed above with using the approach in the context of setting a unit-specific CPQR for offer caps for Capacity Market Sellers that possess market power. Nor is the nine-year-old informational filing by ISO-NE's internal market monitor, which was never specifically addressed by the Commission, persuasive evidence that PJM's methodology is appropriate.⁷²

⁶⁹ See, e.g., *Indep. Market Monitor for PJM*, 178 FERC ¶ 61,121, at PP 48-55.

⁷⁰ *Id.* at P 51.

⁷¹ PJM Filing, Transmittal Letter at 16.

⁷² PJM Filing, Transmittal Letter at 16-17 (citing ISO-NE, Informational Filing for Qualification in the Forward Capacity Market of ISO New England Inc., Docket No. ER15-328-000, Attachment J Methodology Used by IMM in Establishing an Alternative De-List Bid Value When the IMM Rejected Some or All of the Components of the Participant-submitted De-List Bids (November 4, 2014)). The relevant ISO-NE informational filing was accepted by the Commission without any substantive discussion. See *ISO New England Inc.*, 150 FERC ¶ 61,021, at P 16 (2015).

3. PJM offers no support for its proposed expansion of the Tariff definition of CPQR.

PJM proposes to broaden the current Tariff definition of CPQR beyond the costs of risk *mitigation* to include the cost of “retaining or otherwise managing the risks of Non-Performance Charges.”⁷³ The PJM Filing does not include any explanation for this expanded definition of CPQR, and the change is not even mentioned in the Transmittal Letter or accompanying affidavits. The Commission should not accept the revised CPQR definition in the absence of adequate support.

The changes are not merely clarifying and could potentially expand CPQR to permit the inclusion of a wider range of costs. It is not clear what PJM means in referring to the cost of “retaining” Non-Performance Charge risks, or how such costs differ from the costs of “mitigating” or “managing” non-performance charge risk. Given previous disputes over the scope of costs that may be reflected in CPQR,⁷⁴ the Commission should not accept the revised definition without adequate support or a clear rationale for the change.

4. The Commission should reject PJM’s proposed changes to the unit-specific offer cap review process.

The PJM Tariff currently provides a specific process for the IMM and a Capacity Market Seller to reach agreement on a unit-specific MSOC.⁷⁵ Failing agreement, the IMM and the Seller each submit a proposed MSOC to PJM, and PJM may “accept or reject” the Capacity Market Seller’s proposed unit-specific MSOC.⁷⁶ If PJM rejects the Seller’s proposed offer cap, the IMM’s unit-specific price cap applies.

⁷³ PJM Filing, proposed PJM Tariff, Attachment DD, Section 6.8.

⁷⁴ See, e.g., *PJM Interconnection, L.L.C.*, 178 FERC ¶ 61,121 at PP 48-55.

⁷⁵ Tariff, Attachment M-Appendix, section E.2.

⁷⁶ Tariff, Attachment DD, section 6.4(b).

PJM proposes to modify its own current “accept or reject” role under the unit-specific offer cap review framework to “also allow PJM to ‘calculate an alternative unit-specific Market Seller Offer Cap based on the submitted documentation.’”⁷⁷ This approach would permit PJM to “accept certain components of a unit-specific Market Seller Offer Cap that are consistent with the Tariff, rather than rejecting the entire requested unit-specific Market Seller Offer Cap outright.”⁷⁸ The Commission should reject this proposal.

Although PJM characterizes its proposal as “a simple revision,”⁷⁹ it is, in fact, a highly consequential change to the current MSOC-setting process that would materially reduce the role of the IMM in reviewing proposed offer caps. As a practical matter, a capacity Seller would have much less incentive to reach agreement with the IMM on a unit-specific cap, knowing that it may be able to negotiate a more favorable outcome with PJM. If PJM has final negotiating authority, a Seller would be incented to “try its luck” with PJM if the IMM’s proposal was perceived to be unfavorable. The IMM echoed these observations in comments submitted in the CIFP-RA process, noting that it “would make PJM the primary reviewer and decision maker in the review of the MSOCs [and] significantly diminish the role of the MMU in reviewing proposed MSOCs and making market power determinations.”⁸⁰

While PJM would doubtless exercise MSOC negotiating authority in good faith, it is the IMM’s role to provide an *independent* review of the unit-specific offer cap proposals,

⁷⁷ PJM Filing, Transmittal Letter at 32 (quoting proposed Tariff, Attachment DD, section 6.4(b)).

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ IMM CIFP-RA Comments at 5.

insulated from other market administration considerations,⁸¹ to ensure that customers are protected from the exercise of market power by Sellers in the capacity construct. The Commission should therefore reject the PJM proposal and preserve the existing framework for unit-specific offer cap review.

C. PJM’s proposed revisions to the flawed Capacity Performance construct will likely exacerbate its problems.

The CIFP-RA process considered multiple proposals – including those advanced by the IMM and AMP/J-Power – that would have transitioned away from the flawed Capacity Performance construct. As AMP observed in its comments following the Commission’s Forum addressing the PJM capacity construct, the unavailability of resources during Winter Storm Elliott demonstrates that the “carrot and stick” Capacity Performance approach is a failure.⁸² Consumers have paid billions of dollars more under Capacity Performance with little reliability benefit to show for it; indeed, the percentage of Capacity Resources that failed to perform during Winter Storm Elliott was greater than during the 2014 Polar Vortex that prompted the adoption of Capacity Performance.⁸³

Unfortunately, PJM doubles down on the Capacity Performance construct in its filing, proposing multiple discrete changes to the model. Some of the proposed Capacity Performance revisions may be unobjectionable as tweaks to the generally flawed model, but other proposed changes – particularly the exclusion of certain committed capacity resources from Performance Payment eligibility and the new PAI Obligation Transfer

⁸¹ *Cf. NSTAR Elec. & Gas Corp. v. FERC*, 481 F.2d 794, 803 (D.C. Cir. 2007) (rejecting argument that ISO New England’s review of proposed mitigated rates ensured they were just and reasonable, observing that “[a]lthough the system operator plainly has an incentive to ensure that system-critical power is available to ensure grid stability and reliability, FERC neither in its decisions nor at oral argument was able to identify incentives driving ISO-NE to bargain for low prices.”).

⁸² AMP, Post-Forum Comments, Docket No. AD23-7-000, at 15 (August 14, 2023).

⁸³ *Id.* at 15-17.

mechanism – are more problematic and should be specifically rejected, as they are likely to make the already-flawed Capacity Performance framework even worse.

1. PJM does not adequately support the new PAI Obligation Transfer mechanism.

PJM proposes to add an entirely new feature to the Capacity Performance framework – PAI Obligation Transfer – under which a Market Participant would be able “to adjust the expected performance of a Capacity Resource by entering into a bilateral capacity obligation transaction for the purchase and sale of a specified megawatt quantity of committed capacity that is subject to” Capacity Performance obligations.⁸⁴ PJM explains that, as a result of such a bilateral transaction, “the seller’s PAI obligation on a resource is transferred to and received by the buyer’s resource.”⁸⁵ PJM suggests that the PAI Obligation Transfer mechanism would function as a form of a hedge for Capacity Performance obligations, which, in turn will reduce CPQR.⁸⁶

At a practical level, it does not make sense to layer a complicated and underdeveloped PAI obligation trading mechanism onto the already highly complex and flawed Capacity Performance framework. The PJM Filing does not demonstrate that the additional complexity and potential unintended consequences of implementing the PAI Transfer Obligation are justified by the speculative hedging and risk mitigation benefits of this new feature. As the IMM observed regarding the new PAI trading mechanism: “PJM should not be in the business of creating financial markets; private markets can handle any actual issue if there were one.”⁸⁷

⁸⁴ PJM Filing, Transmittal Letter at 40.

⁸⁵ *Id.*

⁸⁶ *Id.* at 43.

⁸⁷ IMM CIFP-RA Comments at 3.

At a minimum, the PAI Obligation Transfer concept, which was introduced relatively late in the CIFP-RA process, would benefit from further refinement before it is included in the Capacity Performance framework, if at all. The mechanism receives relatively scant attention in the PJM Filing (PJM's transmittal letter devotes less than four pages to it), and discussion during the October 5, 2023 meeting to review draft Tariff language suggested that basic details of the concept remain unclear to stakeholders.

2. PJM should not exclude DR, PRD, and EER from Performance Payment eligibility.

PJM proposes to modify the Capacity Performance framework to limit eligibility for Performance Payments to “committed Generation Capacity Resources that outperform their expected performance during a Performance Assessment Interval, up to their committed level of installed capacity.”⁸⁸ Along with this change, PJM would cap the credited performance of DR, PRD, and EER at the installed capacity commitment for such resources, effectively making these resources ineligible to receive Performance Payments when their actual performance exceeds expectations, regardless of whether they have a capacity commitment.⁸⁹

PJM's proposal to exclude DR, PRD, and EER from Performance Payment eligibility is not just and reasonable and is unduly discriminatory. If PJM retains the Capacity Performance framework, then all Capacity Resources should be treated comparably; a resource that is subject to the downside risk of Non-Performance

⁸⁸ PJM Filing, Transmittal Letter at 44.

⁸⁹ *Id.* at 50-54. As indicated *supra* note 18, unlike any other proposal in the PJM Filing, PJM agrees that its proposed Tariff changes concerning eligibility for Performance Payments are severable from the rest of the filing. *Id.* at 4, 43.

Payments for under- or non-performance, should also remain eligible for the upside opportunity to receive Performance Payments.

PJM maintains that excluding DR and PRD from bonus payment eligibility is consistent with its general proposal to cap Performance Payments for committed Capacity Resources at their committed level of installed capacity,⁹⁰ and suggests that if a DR or PRD resource has the ability to curtail below the Firm Service Level (“FSL”), it ought “to offer those additional amounts as committed capacity.”⁹¹ But under the Capacity Performance construct, bonus payments are based on a resource’s ability to over-perform relative to its *expected level of performance* during a PAI. The expected level of performance for DR and PRD resources is set at installed capacity (i.e., the difference between Peak Load Contribution and FSL), whereas expected performance of Generation Capacity Resources is set at UCAP multiplied by the Balancing Ratio.⁹² The method for determining expected performance for Generation Capacity Resources excludes additional capacity that can then be used to over-perform relative to expectations, whereas the method for setting DR and PRD expectations does not, even though these resources may, like Generation Capacity Resources, have the ability to over-perform relative to expectations (for example, many DR and PRD resources include behind-the-meter electric generators) and should be encouraged to do so. DR and PRD resources should not be unfairly denied eligibility for Performance Payments based on the way that the expected level of performance is established for these resources.

⁹⁰ *Id.* at 50-51.

⁹¹ *Id.* at 51.

⁹² *Id.* at 51-52; *id.* Graf Affidavit at ¶ 62.

Nor should the *reason* that DR and PRD resources are able to over-perform relative to expectations during a PAI be a consideration in Performance Payment eligibility.⁹³ While PJM points to Winter Storm Elliott and argues that many industrial and commercial loads were reduced or offline because of the Christmas holiday, this provides no basis to assume as a general matter that over-performance by DR, PRD, and EER resources will be unrelated to PAIs. In any case, the PJM Region benefits from over-performance relative to expectations, and PJM should not put itself in the position of trying to determine the particular reason that resources are able to over-perform in specific situations. Even if the resource is not responding to the price signal sent by any *particular* PAI, the general availability of Performance Payments will encourage DR and PRD participation in the capacity construct, with positive implications for resource adequacy and reliability.⁹⁴

III. COMMENTS

Although PJM has not shown that its proposed Tariff and RAA revisions, as an overall package, are just and reasonable, there are several components of PJM's filing that would be appropriate changes to the existing PJM capacity construct, should it remain in its current general form: (1) the ability to utilize unit-specific segmented offer caps; (2) the proposed changes regarding the treatment of FRR resources; and (3) the

⁹³ See PJM Filing, Transmittal Letter at 53 (claiming difficulty “in separating out what could be labeled ‘over-performance’ in response to a capacity emergency versus natural reductions for reasons unrelated to Performance Assessment Intervals.”).

⁹⁴ PJM makes a more general argument for excluding EERs from bonus eligibility, contending that “such resources do not provide specific real time reductions during a Performance Assessment Interval,” *id.* at 53, and that “accreditation of such resources is done outside of consideration of their ability to respond in real time to capacity emergencies.” *id.* at 53-54. As discussed above, however, to the extent that EERs are exposed to Non-Performance Payments, they should be eligible for Performance Payments, particularly because such eligibility will generally encourage EER participation in the capacity construct.

proposal to adopt a forward-looking net EAS offset. The PJM Filing demonstrates that these proposals are just and reasonable.⁹⁵

A. The proposal to allow segmented unit-specific offer caps is reasonable.

PJM proposes to revise the Tariff to permit Capacity Market Sellers to submit unit-specific offer caps “that reflect incremental costs of having a capacity obligation across different segments of a unit,”⁹⁶ asserting that there “may be incremental costs of risks associated with offering additional MWs from the same unit in certain instances.”⁹⁷ As PJM notes, the Tariff already permits Sellers to submit segmented offers,⁹⁸ and the proposed revisions would reasonably clarify how the unit-specific MSOC should be calculated for the various offer segments.⁹⁹ As the owner and operator of hydro resources, AMP concurs with PJM’s observation that segmented offer caps can be appropriate in cases where resources like run-of-river hydro “may face incremental costs of risks associated with offering additional MWs from the same unit.”¹⁰⁰

B. PJM’s proposed treatment of FRR Resources will ensure that these resources have appropriate incentives to perform.

Load Serving Entities that utilize the FRR Alternative to address their capacity obligations currently can satisfy any Performance Shortfalls associated with failure of a resource in an FRR Plan through a “physical” option that requires assignment of more

⁹⁵ AMP also generally supports PJM’s proposal to clarify the circumstances under which resources may be excused from performance shortfalls, see PJM Filing, Transmittal Letter at 34-38, and the related proposal to reflect such exclusions in calculating the Balancing Ratio. *Id.* at 39.

⁹⁶ PJM Filing, Transmittal Letter at 32-33.

⁹⁷ *Id.* at 33.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

capacity in the future.¹⁰¹ This physical option is a feature of the FRR Alternative, and there is no similar option available to Capacity Resources in RPM.¹⁰² Allowing performance shortfalls to be addressed through additional future capacity, PJM correctly explains, “defers the penalty’s effects and can severely mute incentives to perform when the system needs it the most.”¹⁰³

Given the FRR physical option’s potential adverse impacts on resource adequacy, and its misalignment with the RPM framework, PJM appropriately proposes to phase out the physical option by the 2025/2026 Delivery Year.¹⁰⁴ AMP strongly supports this reform, which will improve the incentives for FRR Plan resources to perform during critical periods, and better align the FRR Alternative approach with the Capacity Performance model.

C. PJM’s forward-looking net EAS offset is just and reasonable.

PJM proposes to shift to a forward-looking approach for determining net EAS, both for purposes of calculating MSOCs, as well as for Minimum Offer Price Rule (“MOPR”) determinations.¹⁰⁵ The net EAS calculation for MSOC and MOPR, currently based on a historical rolling average of EAS revenues, would instead utilize forward-looking electricity and fuel data.¹⁰⁶

To the extent the PJM capacity construct remains in its current general form, including retention of a MOPR, a forward-looking net EAS calculation is reasonable. In

¹⁰¹ *Id.* at 55.

¹⁰² *Id.* at 57.

¹⁰³ PJM Filing, Keech Affidavit at ¶ 38.

¹⁰⁴ PJM Filing, Transmittal Letter at 57.

¹⁰⁵ *Id.* at 58-61.

¹⁰⁶ *Id.* at 59.

addition to being more methodologically sound than the current rolling average approach, the use of a forward-looking net EAS calculation for MSOC and MOPR purposes would, as PJM explains, “align the use of a forward net EAS offset for the Market Seller Offer Cap and MOPR calculations with those that are already approved for determining the net EAS of the Reference Resource used in setting the VRR Curve.”¹⁰⁷

IV. THE COMMISSION SHOULD ENCOURAGE PJM TO RESUME THE STAKEHOLDER PROCESS OR INITIATE A PROCEEDING UNDER FPA SECTION 206.

PJM’s current administrative capacity construct clearly needs reform, but the PJM Filing does not offer just and reasonable solutions. The Commission should therefore reject the PJM Filing and encourage PJM to renew its stakeholder process with the goal of developing a just and reasonable set of reforms to its resource adequacy framework. Commission rulings on the proposals included in the filing in this docket and in Docket No. ER24-99-000 may help inform the discussion of what may be included in a just and reasonable package of reforms that could be resubmitted to the Commission. Stakeholders, however, should remain free to consider reform on a holistic basis, including moving away from Capacity Performance.

In the alternative, the Commission could institute a proceeding under FPA section 206 to investigate whether the currently effective RPM rules may be unjust and unreasonable, as AMP and others urged in Docket No. ER23-1996-000 in relation to PJM’s changes to the PAI trigger via revisions to the definition of Emergency Action under the Tariff.¹⁰⁸ While the Commission rejected that proposal, it did so on the grounds that

¹⁰⁷ *Id.* (citing *PJM Interconnection, L.L.C.*, 182 FERC ¶ 61,073 (2023)).

¹⁰⁸ AMP, *et al.*, Answer, Docket No. ER23-1996-000, at 15-16 (July 5, 2023).

PJM and stakeholders were engaged in the CIFP-RA process with plans to file Tariff revisions by October 1, 2023.¹⁰⁹ Those Tariff revisions have now been filed and, as discussed above, they are not just and reasonable. Accordingly, in the absence of further meaningful PJM stakeholder process, it would be appropriate for the Commission to step in and initiate an FPA section 206 proceeding to determine whether the existing RPM rules are unjust and unreasonable, and if so, establish a just and reasonable replacement framework.

These further proceedings could be incompatible with running the BRA for the 2025/2026 Delivery Year on its current schedule. However, in the proceedings in which the Commission approved the current BRA schedule reflected in the Tariff, PJM indicated that the BRA for the 2025/2026 Delivery Year could be run later than June 2024 to accommodate further Commission deliberation.¹¹⁰ In the related stakeholder process, PJM indicated that this BRA could be run as late as October 2024 under the new rules.¹¹¹ While the current date for the BRA for the 2025/2026 Delivery Year is properly specified in the Tariff, PJM retains the ability to seek a modification of that schedule with the Commission's approval, as the Commission noted in accepting the current BRA schedule.¹¹² If a delay becomes necessary, PJM should run it as soon as possible under the existing rules.

¹⁰⁹ *PJM Interconnection, L.L.C.*, 184 FERC ¶ 61,058, at P 43 (2023).

¹¹⁰ See PJM Filing, Docket No. ER23-1609-000, at 6 (April 11, 2023) (“given that the actual schedule of the auction will depend on when FERC issues a workable order on PJM’s forthcoming capacity market reform filing, PJM is not specifying the auction dates in the Tariff.”).

¹¹¹ See PJM, Potential revised RPM auction schedule, at 3 (April 4, 2023), <https://pjm.com/-/media/committees-groups/committees/mc/2023/20230404-special/item-01---1-potential-revised-rpm-auction-schedule---presentation.ashx>.

¹¹² *PJM Interconnection, L.L.C.*, 183 FERC ¶ 61,172, at P 39 (2023) (encouraging PJM to include any appropriate proposed updates to the BRA schedule in its capacity market reforms proposal and noting

V. CONCLUSION

WHEREFORE, for the foregoing reasons, American Municipal Power, Inc. respectfully requests that the Commission: (1) reject PJM's filing; (2) encourage PJM to renew its stakeholder process with the goal of developing a just and reasonable set of reforms to its resource adequacy framework, or, in the alternative, institute a section 206 proceeding on its own initiative; and (3) grant such further relief as the Commission may deem appropriate.

Respectfully submitted,

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November 9, 2023

"that PJM has the ability to make an additional FPA section 205 filing for a further modification of future auction deadlines should it so choose.").

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 Washington, D.C., this 9th day of November, 2023.

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