

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

PJM Interconnection, L.L.C.

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Docket No. ER16-372-002

COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“FERC” or the “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.212 (2016), the Electric Power Supply Association (“EPSA”)¹ respectfully submits comments regarding the August 16, 2016 compliance filing by PJM Interconnection, L.L.C. (“PJM” or the “RTO”) to modify various provisions of the PJM Open Access Transmission Tariff (“Tariff”) and the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”) to comply with the Commission’s directives in its June 17, 2016 order.² Specifically, PJM proposes revisions to provide Market Sellers greater flexibility to submit day-ahead energy market offers that vary hourly and to submit updated offers in real-time (collectively, “Hourly Offers”), and with respect to cost-based offers, a process for PJM review of Market Sellers’ fuel procurement policies and an

¹ EPSA is the national trade association representing leading competitive power suppliers, including generators and marketers. Competitive suppliers, which collectively account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities. EPSA seeks to bring the benefits of competition to all power customers. This pleading represents the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue. EPSA filed a doc-less Motion to Intervene in this proceeding on December 1, 2015.

² *PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,282 (2016) (“June 2016 Compliance Order”).

associated penalty structure (collectively, “Fuel Cost Policy”).³ PJM requests that the Commission issue an order by October 17, 2016, with an effective date of December 1, 2016, for the Fuel Cost Policy-related changes.

EPSA previously filed comments in support of PJM’s initial compliance filing in this proceeding⁴ and has highlighted the importance of developing and implementing mechanisms that improve energy price formation, in particular the ability to update offers during the day as is the case in every other organized wholesale market. Therefore, EPSA generally supports PJM’s August 16, 2016 Compliance Filing as discussed herein. EPSA urges the Commission to act expeditiously and issue an order accepting the filing by October 17, 2016, as requested by PJM. Further, EPSA has reviewed and endorses the detailed comments filed contemporaneously by the PJM Power Providers Group (“P3”) that include minor revisions to the PJM August 16, 2016 Compliance Filing, and requests that the Commission’s approval is conditioned to incorporate the P3 revisions.

I. COMMENTS

A. The Commission Should Approve the PJM Hourly Offers Compliance Filing Expeditiously With Minor Revisions

This important proceeding stems from the Commission’s June 9, 2015 order that initiated a review of the PJM Tariff and Operating Agreement, pursuant to Section 206 of the Federal Power Act (“FPA”), as the Commission determined certain provisions

³ *PJM Interconnection, L.L.C.*, Compliance Filing Implementing Hourly Offers and Cost-Based Offer Requirements, Docket No. ER16-372-002 (filed August 16, 2016) (“PJM August 16, 2016 Compliance Filing”).

⁴ Comments of the Electric Power Supply Association, Docket No. ER16-372-000 (filed December 11, 2015).

“may be unjust, unreasonable, unduly discriminatory or preferential because they do not appear to allow market participants to submit day-ahead offers that vary by hour and do not appear to allow market participants to update their offers in real time, including during emergency situations.”⁵ This was followed by the June 17, 2016 order on the PJM initial hourly offers compliance filing where the Commission found that PJM’s existing Tariff and Operating Agreement are unjust and unreasonable. In the same June 2016 order, the Commission rejected PJM’s initial Hourly Offers compliance filing and found that PJM did not demonstrate that its compliance filing was just and reasonable. PJM was directed to submit a second compliance filing, and the Commission provided specific guidance, clarification and directives in its ruling. PJM agrees with the Commission that its current Tariff is unjust and unreasonable,⁶ and has responded with a detailed and comprehensive second compliance filing.

In that regard, PJM is to be commended for the extensive effort undertaken to develop the Hourly Offers proposal in coordination with the PJM Independent Market Monitor (“IMM”) and stakeholders, and in response to the guidance and directives provided by the Commission in its orders in this proceeding. It should be emphasized, in particular, that great efforts were taken to balance and respond to the concerns raised by the PJM IMM and certain stakeholders throughout this process, with respect to issues surrounding appropriate market mitigation and the specific functions of the

⁵ *Duke Energy Corp. v. PJM Interconnection* at P2, *L.L.C.*, 151 FERC ¶ 61,206 (2015) (“June 2015 Order”), order on reh’g, 154 FERC ¶ 61,156 (2016). (The June 2015 Order also required PJM to provide a report that included, among other things, a proposed timeline explaining how it would implement hourly offers changes by November 1, 2015, or as soon as practicable thereafter; see P73.)

⁶ PJM August 16, 2016 Compliance Filing at 9; also, see *PJM Interconnection, L.L.C., Compliance Filing to Implement Hourly Offers*, Docket No. ER16-372-000, (filed November 20, 2015)(“PJM Initial Hourly Offers Compliance Filing”) at 3.

RTO and market monitoring unit. In fact, the submittal of the initial Hourly Offers compliance filing was delayed and the Hourly Offers proposal was revised to address some of the concerns raised by the IMM and other stakeholders.⁷ Further, while there was not a formal stakeholder process undertaken to develop the second, instant compliance filing now pending before the Commission, PJM provided updates on the status and an opportunity for feedback at various stakeholder meetings during development and made numerous changes to incorporate that input into its as-filed proposal.⁸ Of note, the focal point during this second compliance effort related to issues surrounding revisions to Fuel Cost Policy tariff provisions, which was a specific directive from the Commission as the current policies have been found to be unjust and unreasonable. The Fuel Cost Policy provisions are fundamental to the overall proposal, and EPSA requests that, with the revisions proposed in the P3 comments, the Commission approve these changes. EPSA urges the Commission not to lose sight of the overall benefits to be gained through establishment of this additional flexibility and transparency for the PJM energy markets and market participants, and not to allow the

⁷ See Updated Hourly Offers Proposal Overview Presentation, pg. 2 and generally, Generator Offer Flexibility Senior Task Force Meeting, November 12, 2015, *available at* <http://www.pjm.com/~media/committees-groups/task-forces/gofstf/20151112/20151112-item-02d-proposal-overview.ashx>; Also see, Supplemental Report of PJM Interconnection, L.L.C., Docket No. EL15-73-000, (filed October 29, 2015) (“Given the amount of stakeholder feedback PJM received related to its proposed revisions and the complexity of the issues involved, PJM will not be able to submit its filings by October 30. Moreover, PJM feels it is important to review the proposed revisions a final time with its stakeholder before submitting its filing to the Commission.”), *available at* <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14032289>.

⁸ See, e.g., Market Implementation Committee (“MIC”) Special Session: Manual 15 & Fuel Cost Policy Discussion (August 4, 2016); MIC Special Session: Manual 15 & Fuel Cost Policy Discussion (July 27, 2016); and MIC Special Session: Manual 15 Discussion (June 29, 2016); among other stakeholder meetings/sessions where updates and presentations on development of the compliance filing were provided prior to submittal of the PJM August 16, 2016 Compliance Filing, *available at* <http://www.pjm.com/committees-and-groups/committees/mic.aspx>.

process to implement hourly offers in PJM to become bogged down at this juncture due to the differing points of view that may be expressed on this matter.

In terms of the overall timing, PJM indicates that due to the significant technical overhaul required to PJM's systems to implement the new hourly offer market rules, it cannot request a definitive date for these changes to become effective; however, if the Commission issues an order by October 17, 2016, PJM estimates software and other system changes necessary to implement the switch to hourly offers should be ready by November 1, 2017.⁹ While EPSA appreciates the complexity of the technical and system changes needed, it should be noted this anticipated timeline would be almost two and a half years following issuance of the order initiating the Section 206 review of the PJM Tariff and Operating Agreement. If there is further delay beyond this, the benefits of hourly offers may not be in place for yet *another* winter season.

In sum, PJM has demonstrated that the proposed measures provide appropriate safeguards regarding market power concerns while providing Market Sellers the critical and necessary flexibility to respond to changing circumstances and better reflect their actual costs in offers. The PJM proposal is similar to what is already in effect in other RTOs which allow some form of hourly offers, but also have rules in place to ensure that market power is not exercised when hourly offers are made.¹⁰

⁹ PJM August 16, 2016 Compliance Filing at 78-79. ("Implementing hourly offers will be one of the most in depth and complicated undertakings in PJM's recent history, as PJM's systems have been designed and implemented on the basis of daily offers. Thus, until the Commission issues an order approving PJM's hourly offers proposal, or makes a final decision on any additional changes, PJM cannot reasonably determine a final implementation date.")

¹⁰ PJM Initial Hourly Offers Compliance Filing at 13, 4-5 and Fn 15. PJM discusses that it does not utilize "reference prices" like other RTOs such as ISO-NE and the NYISO as a market power mitigation tool; rather, PJM uses cost-based offers in place of market-based offers when market power mitigation screens are tripped. Cost-based offers are based on the short-run marginal cost of the applicable

Additionally, the hourly offers proposal will provide the benefits of increased transparency and granularity to the overall market, while allowing Market Sellers to refine their individual offers in response to weather or other events in the market to better ensure reliability. Further, the hourly offers proposal will improve PJM market efficiency and dispatch, as the current mechanism is cumbersome as highlighted during the polar vortex of January 2014. In light of the above, EPSA requests the Commission move forward without delay and approve the PJM August 16, 2016 Compliance Filing with the P3 revisions.

B. Commission Approval And Implementation Of The PJM Hourly Offers Filing Is An Important Part Of The Broader Effort To Improve ISO/RTO Price Formation

Over the past several years, EPSA has consistently urged the Commission through comments, priority principles and recommendations, and expert reports to ensure that intraday offer flexibility is addressed as one of the key elements in the overall solution to improve price formation across the ISOs/RTOs.¹¹ EPSA has

generation resource and such costs are calculated by the Market Seller of the generation resource in accordance with Operating Agreement, Schedule 2, and PJM Manual 15 (“Cost Development Guidelines”) before they are submitted to PJM by the Market Seller, which is typically every day. It is this underlying Fuel Cost Policy issue (including proposed penalties) that have been a focal point of discussion in the Hourly Offers stakeholder process. It should be noted that in the other RTOs, reference prices are not calculated and submitted by the market participant like cost-based offers in PJM, but instead are calculated in conjunction with (or entirely by) the RTO and/or the RTO’s market monitor.

¹¹ See, e.g., Comments of the Electric Power Supply Association, *Settlement Intervals and Shortage Pricing in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Docket No. RM15-24-000, (filed November 30, 2015); Post-Technical Workshop Comments Of The Electric Power Supply Association, *Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators*, Docket No. AD14-14-000, (filed March 6, 2015); Post-Conference Comments of the Electric Power Supply Association, *Winter 2013-2014 Operations and Market Performance in Regional Transmission Organizations and Independent System Operators*, Docket No. AD14-8-000, (filed May 14, 2014); Susan L. Pope, “Price Formation in ISOs and RTOs: Principles and Improvements,” Electric Power Supply Association paper (“Pope Price Formation Paper”), Filed in Docket No. ER14-14-000, October 29, 2014, available at http://www.epsa.org/forms/uploadFiles/2CC210000016F.filename.EPSA_Price_Formation_Oct_29_2014

highlighted that such a mechanism, which provides the ability to refresh energy offers on an intraday basis – optimally hourly – is critical so that sellers can adjust real-time offers to account for fuel price volatility between the Day Ahead and Real Time markets. This ensures that generators are able to reflect actual fuel prices in their offers, which is of particular importance when natural gas prices are volatile. Also, it is critical that a gas generator has the ability to reflect the gas prices of two different gas days into its offers for a single electric day by shaping the hourly offers when the gas price from one gas day to another varies significantly. Without this hourly offer flexibility, generators are forced to take on significant risk by using a price that may be accurate for the hours in gas day 1 but too high or low for the hours in gas day 2. This ability is central to adequate price formation and therefore is a market mechanism that should be implemented in every market, but is currently lacking only in PJM. Approval of the instant compliance filing brings PJM in line with what is clearly a best practice for energy price formation.

EPSA therefore commends the Commission’s action in directing PJM to implement Hourly Offers in the instant proceeding. ISO-NE, NYISO, MISO, CAISO, as well as ERCOT, have all developed market systems and related business rules that allow generating resources to make Hourly Offers in some form.¹² PJM’s proposal is

FINAL.pdf; “The Polar Vortex: Implications for Improving the Efficiency of Wholesale Electricity Spot Market Pricing,” by A. Joseph Cavicchi, Executive Vice President, Compass Lexecon, issued March 31, 2014, *available at* http://www.epsa.org/forms/uploadFiles/29D410000011.filename.Compass_Lexecon_Polar_Vortex_Implications_paper_3_31_2014.pdf. (“Cavicchi Paper”)

¹² PJM Issue Tracking, Generator Offer Flexibility, Issue Details, *available at* <http://www.pjm.com/committees-and-groups/issue-tracking/issue-tracking-details.aspx?Issue={ECAC2705-A42B-4495-82DD-B7DD7BBE4050}>.

designed to both account for characteristics that are specific to PJM's markets and align with several of these RTOs which already allow Hourly Offers. PJM stated in its Initial Hourly Offers compliance filing, "While the particular mechanisms and rules proposed to be employed by PJM may differ from what is used today in other RTOs due to the key differences in each market's respective design, PJM's proposed revisions result in the same just and reasonable outcome." EPSA agrees with this approach as reflected in the PJM August 16, 2016 Compliance Filing. Further, EPSA has urged the Commission to move forward expeditiously with energy price formation reforms in generally applicable proceedings such as NOPRs, or in market-specific proceedings, such as the instant PJM Hourly Offers proposal. Doing so will ensure the benefits and efficiencies of these market design improvements will be derived across the regions and protect against seams or inter-market distortions as a series of critical reforms to energy and ancillary services market prices are implemented in the coming months.

C. The Commission Should Expeditiously Adopt PJM's Proposed Fuel Cost Policy With Minor Modifications

As noted, in addition to compliance directives associated with Hourly Offers in the energy market, the Commission has further required PJM Market Sellers to have PJM-approved fuel cost policies for their cost-based energy offers.¹³ EPSA largely supports the proposed rule changes made by PJM regarding fuel cost policies and supports the comments submitted by P3 on this same date. EPSA agrees that PJM's current rules governing the approval and substance of the fuel cost policies are largely lacking. The current rules provide little guidance as to the substance that is required for a fuel cost policy and no guidance as to the role of the IMM and PJM in the process. As

¹³ June 2016 Compliance Order at PP 32-33.

such, market participants are left in an untenable position of constantly revising their fuel cost policies in an effort to gain approval. Regrettably, some EPSA members have been negotiating their fuel cost policies with the IMM for over a year without successful completion. For some EPSA members, the process has seemed to rely on ever-changing standards of approval¹⁴ and in other instances, entire cost policies have been rejected that were already approved. The process at this point is in need of modification and clarification.

PJM's proposed rules will fill the gap and with small modifications will provide for a just and reasonable approach. *First*, PJM appropriately recognizes that the objective of the fuel cost policies is for the Market Seller to demonstrate to PJM how it procures fuel. The Commission should make clear that neither PJM nor the IMM are to require Market Sellers to change the method in which they construct their bids. For example, developing gas costs is a key element of the strategic business decisions in bidding assets. Market sellers should have the flexibility to bid their assets dependent on the unique situation of each of the plants and should not be subjected to a "one-size-fits-all" template. Neither PJM nor the IMM should direct market sellers in a manner that would tie the hands of Market Sellers developing their cost-based offers.

Second, the PJM proposal gives PJM the authority to make the final decision as to whether the fuel cost policy is approved.¹⁵ EPSA views this as a crucial element of the proposal. Market sellers should not be placed in limbo between PJM and the IMM and PJM should be the final arbitrator. EPSA agrees with the comments of P3 that if

¹⁴ For example, despite perceived progress toward completed fuel cost policies, many EPSA members were required to start over when the IMM began publication of their own cost policy templates.

¹⁵ PJM August 16, 2016 Hourly Offers Compliance Filing at 19, 33-34.

the IMM does not agree with the PJM approval, the market monitor can seek recourse at the Commission just as it can with other issues. Despite how PJM's current revisions are drafted, going directly to the Office of Enforcement is not the appropriate forum for such matters.¹⁶

II. CONCLUSION

WHEREFORE, EPSA reiterates general support for the PJM compliance filing to implement hourly offers and asks the Commission to consider these comments in issuing its order. EPSA respectfully requests that the Commission accept PJM's August 16, 2016 Compliance Filing with the revisions outlined in the P3 comments in an order issued no later than October 17, 2016.

Respectfully submitted,



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¹⁶ See Comments of the PJM Power Providers Group, Docket No. ER16-372-002 at 9-11 (filed Sept. 16, 2016).

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the comments via email upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., September 16, 2016.



Nancy Bagot, Sr. Vice President