

ADVANCED ENERGY BUYERS GROUP

the policy voice of advanced energy purchasers

May 7, 2018

Federal Energy Regulatory Commission

888 First Street, NE
Washington, D.C. 20426

Re: PJM Interconnection L.L.C. Capacity Market Proposals, Docket No. ER18-1314-000

Chairman McIntyre and Commissioners LaFleur, Chatterjee, Powelson, and Glick:

The Advanced Energy Buyers Group (“AE Buyers Group” or “Buyers Group”) respectfully submits written comments in response to the application of PJM Interconnection, L.L.C. (“PJM”) before the Federal Energy Regulatory Commission (“FERC” or “Commission”) for approval of tariff revisions to address the impact of state public policies on the PJM Reliability Pricing Model (“RPM” or “capacity market”) pursuant to section 205 of the Federal Power Act (“FPA”).¹ Based on our experience as both retail and wholesale consumers in the PJM market, and based on our review of PJM’s proposal, the Buyers Group finds that PJM’s proposed tariff revisions would increase costs to consumers without providing any demonstrated benefits with regard to resource adequacy or market efficiency.² Accordingly, the Buyers Group urges the

¹ PJM Interconnection, L.L. C., Capacity Repricing or in the Alternative MOPR-Ex Proposal: Tariff Revisions to Address Impacts of State Public Policies on the PJM Capacity Market (Apr. 9, 2018), Federal Energy Regulatory Commission Docket No. ER18-1314-000 [hereafter “Application”].

² These comments represent the consensus view of the Advanced Energy Buyers Group (<https://info.aee.net/ae-buyers-group>). However, this document does not necessarily reflect the position of any specific member of the AE Buyers Group, and these comments should not be attributed to any individual company or companies participating in the AE Buyers Group.

Commission to conclude at this time that neither the capacity repricing proposal nor the alternative Minimum Offer Pricing Rule - Extension (“MOPR-Ex”) has been adequately demonstrated to be “just and reasonable” as required under section 205.

ABOUT THE AE BUYERS GROUP

The Advanced Energy Buyers Group is a business-led coalition of large energy users engaging on policies to expand opportunities to procure energy that is secure, clean, and affordable. Members of the Buyers Group are market leaders and major employers spanning different industry segments, including technology, retail, and manufacturing. Our companies are among the 71% of Fortune 100 companies and 43% of Fortune 500 companies that have established renewable and/or climate targets as part of our corporate sustainability commitments. We share a common interest in expanding our use of advanced energy, such as renewable energy like wind, solar, geothermal, and hydropower; demand-side resources like energy efficiency, demand response, and energy storage; and onsite generation from solar photovoltaics, advanced natural gas turbines, and fuel cells.

In 2017, members of the AE Buyers Group totaled over \$1 trillion in revenue and collectively consumed over 18 terawatt hours (“TWh”) of electricity, including over 11 TWh of renewable electricity, equivalent to the electricity sales for the states of North Dakota and Delaware, respectively. This collective electricity use includes a significant footprint in the PJM region.

COMMENTS

The AE Buyers Group is concerned that both the capacity repricing proposal and the alternative MOPR-Ex proposal would raise capacity prices without any demonstrated indication that the changes will bring benefits to resource adequacy or efficient market function.

Particularly in light of the various proposed or potential changes to PJM's market that would interact with proposed RPM tariff changes in unknown ways, and the fact that PJM currently has excess capacity, the Buyers Group urges FERC against approving either proposal at this point.

I. Neither the repricing proposal nor the MOPR-Ex can be considered “just and reasonable” because either proposal would increase costs for consumers without a clear demonstration that those higher costs are necessary to ensure resource adequacy or improve market performance.

As large electricity customers in the PJM region, members of the AE Buyers Group are impacted by any changes in the market, and we believe that market interventions should be taken only when they have been carefully considered and proven through robust analysis to be “just and reasonable.” Unfortunately, both proposals in PJM's application to FERC will increase costs for consumers, and neither is backed by rigorous analysis demonstrating either the extent of those costs or the expected benefits to the market.

Unfortunately PJM provides no data as to the likely capacity price and resulting consumer cost impacts of either proposal. However, both the repricing proposal and the MOPR-Ex can be expected to raise the price of capacity in the PJM market, directly increasing consumer costs. Even worse, many consumers will be forced to pay twice for this capacity because, in addition to higher capacity prices, consumers in certain jurisdictions will also be paying for state policies through state taxes or utility tariffs. Under the MOPR-Ex, consumers will also pay twice for any subsidized resources that fail to clear in the capacity market. Especially troubling is the fact that PJM has not studied the consumer price impacts of either proposal, nor has it studied the impact of higher capacity prices on units that may otherwise have exited the market, particularly aging and uneconomic resources. This inefficiency will erode investor confidence, harm market function, and raise costs over time. Prior to approving either proposal as “just and reasonable,”

the Buyers Group urges the Commission to direct PJM to study the magnitude of these cost increases. In particular, while the Commission is not required to rely on a cost-benefit analysis in determining whether PJM’s proposals are “just and reasonable,” it is required to consider the costs and determine whether they are justified.³ PJM’s application provides inadequate information on both the costs and the benefits of the two proposals for the Commission to make such a determination.

Furthermore, although PJM has provided some analysis and illustrative scenarios of the effect of state subsidies on capacity prices and lost capacity revenue for individual plants,⁴ it has not provided sufficient analysis of the overall market impact of these state policies. The Organization of PJM States, Inc. (“OPSI”), noted that “PJM Staff has not provided any meaningful facts, data, or information” to support the claim that state policies are having an adverse impact on markets that requires action.⁵

More importantly, as the Commission considers whether the proposals meet the standard of “just and reasonable,” PJM has also failed to provide analysis of expected outcomes under the two proposals. Illustrative examples and descriptions of how the new capacity market would function are insufficient to conclude that the proposals would be “just and reasonable.” In a complex market with multiple forms of subsidies—many not addressed in PJM’s application—and in which entry and exit decisions are driven by multiple factors including but not limited to

³ See *Advanced Energy Management Alliance et al. v. FERC*, 860 F.3d 656, 662 (D.C. Cir. 2017) (citing *Michigan v. E.P.A.*, 135 S. Ct. 2699, 2707(2015) and *TransCanada Power Marketing Ltd. v. FERC*, 811 F.3d 1, 11-12, 421 U.S. App. D.C. 1 (D.C. Cir. 2015)) (noting that the Commission must at a minimum acknowledge the cost impacts of its actions and weigh whether those costs are justified when making policy judgments).

⁴ See Application at 28-29.

⁵ Organization of PJM States, Inc. (OPSI), *Letter to Chairman Schneider and PJM Board of Managers* (February 7, 2018), available at <https://citizensutilityboard.org/wp-content/uploads/2018/02/OPSI-BOD-Repricing-Letter-Final-with-vote.February.pdf>.

capacity prices, additional analysis is warranted prior to making sweeping market changes. In particular, PJM has not provided information about the anticipated short-term and long-term impact of the proposals or of maintaining the status quo, including on bidding behavior, market entry and exit, long-term prices, energy market prices, ancillary services markets, and resource adequacy. In addition to being electricity customers, members of the Buyers Group are active market participants (as purchasers of offsite and onsite renewable energy, participants in demand response programs, etc.), and our current and future projects and activities will be directly impacted by these changes. Without more analysis of the proposals, it is difficult to assess the overall impact on the market, including potential undue discrimination and the impact on different technology types.

In light of the anticipated but unquantified impact of either proposal on consumer costs and the significant remaining uncertainty around the potential benefits and negative impacts of the two proposals, the AE Buyers Group strongly urges the Commission against concluding that either proposal is “just and reasonable.”

II. Given that PJM currently has excess capacity and is also considering or exploring other potential market changes, approval of the repricing proposal or the MOPR-Ex would be both unnecessary and premature.

The PJM market currently has excess capacity for upcoming years, and is not facing any immediate threats to resource adequacy that would warrant hasty approval of changes to the RPM. Furthermore, PJM is considering a range of other, interrelated market changes that may have implications in the RPM that have not been analyzed. Given these factors, the Buyers Group urges the Commission against approval of either proposal at this time.

PJM in its application acknowledges that it is long on capacity and attempts to preface the argument that this excess capacity justifies denying the application, stating, “[s]ome may argue that no action is needed at this time because capacity commitments in PJM are well above the installed reserve margin, and because the PJM Region continues to see new entry.”⁶ PJM disagrees with this assessment, but its argument that it would be as appropriate to take action now as later does not mean that it would be any less appropriate to take action at a later date. Given that there is no immediate threat to resource adequacy in PJM, the Buyers Group urges the Commission to not approve PJM’s application at this time because:

- As noted above, considerable uncertainty remains regarding the short-term and long-term price and market impacts of the two proposals and of maintaining the status quo;
- Despite working on this issue for nearly two years, PJM has failed to arrive at solutions that are supported by stakeholders; for example, 64% of PJM stakeholders prefer the status quo⁷ and OPSI opposes the proposal, questioning the need for market changes, and requesting a “more holistic stakeholder process” if PJM moves forward⁸; and
- PJM is considering other market changes, including price formation and a new “Valuing Fuel Security” proposal,⁹ that would interact with the capacity market

⁶ Application at 36.

⁷ PJM, “CCPPSTF Vote Results” (Nov. 21, 2017), <http://pjm.com/-/media/committees-groups/task-forces/ccppstf/20171121/20171121-ccppstf-vote-results.ashx>.

⁸ See *supra* n. 4.

⁹ PJM, “Valuing Fuel Security” (Apr. 30, 2018), <http://www.pjm.com/-/media/library/reports-notice/special-reports/2018/20180430-valuing-fuel-security.ashx?la=en>.

changes in unstudied and unknown ways, and that might further exacerbate the impact on efficient market exit of uneconomic units.

Should PJM and the Commission find that the RPM as currently designed will be insufficient to ensure resource adequacy moving forward, the Buyers Group urges the Commission to approve capacity market changes only if they are justified by a thorough assessment of expected benefits and adequate analysis of potential unintended impacts.

CONCLUSION

As consumers dependent upon reliable electricity at all times of the day, in perpetuity, members of the Buyers Group appreciate and support efforts to identify potential market failures or threats to reliability and resilience, and to respond with just, reasonable, and market-based solutions. PJM's preferred and alternate proposed capacity market revisions have not met these conditions, and should not be considered "just and reasonable."

The AE Buyers Group appreciates the opportunity to provide input on PJM's proposed tariff revisions, and we respectfully request the Commission's consideration of our perspective in this case.

Signed,

The Advanced Energy Buyers Group

<https://info.aee.net/ae-buyers-group>