UNITED STATES OF AMERICA
BEFORE
THE FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.	)	Docket Nos. ER18-1314-003
	)	ER18-1314-004

COMMENTS OF NRG POWER MARKETING, LLC

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the "Commission"),[1] NRG Power Marketing, LLC[2] submits comments on PJM Interconnection, L.L.C.'s ("PJM") March 18, 2020 filing[3] ("Compliance Filing") in compliance with the Commission's December 19, 2019 order in Docket Nos. EL16-49-000 and EL18-178-000 (the "December 2019 Order").[4] NRG appreciates the Commission's recognition of the value of competitive markets and the steps taken by the Commission in the December 2019 Order to protect the wholesale market from out-of-market subsidies. While PJM has largely complied with the December 2019 Order's directives in the Compliance Filing, NRG remains concerned about the capacity auction timing.

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[1] 18 C.F.R. § 385.713 (2019).

[2] NRG Power Marketing, LLC and its affiliate, Midwest Generation, LLC, both of which are subsidiaries of NRG Energy, Inc. ("NRG"), own or operate over 5,000 MW of generation in PJM.

[3] 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, Docket No. ER18-1314-003 (filed Mar. 18, 2020) (the "Compliance Filing"). *See also* Errata to PJM Compliance Filing re: Hope Creek Nuclear Plant, Docket No. ER18-1314-004 (filed Mar. 25, 2020).

[4] *Calpine Corp. v. PJM Interconnection, L.L.C.*, 169 FERC ¶ 61,239 (2019) (the "December 2019 Order"), *on reh'g*, 171 FERC ¶ 61,035 (2020) (the "December 2019 Rehearing Order").

I. COMMENTS

PJM has not conducted a Base Residual Auction ("BRA") since May 2018. The timing of the BRA that should have taken place in May 2019 for the 2022/2023 delivery year has been delayed, postponed and ultimately has been up in the air for over a year. The December 2019 Order directed PJM to "provide an updated timetable for when it proposes to conduct the 2019 BRA, as well as the 2020 BRA."[5] PJM market participants need certainty around the auction schedule and need the valuable information that is provided by the auction's forward pricing.

A. The Commission Should Reject PJM's Proposal to Allow Certain State Action to Extend the Auction Timeline.

In its Compliance Filing, PJM proposes to hold the BRA for the 2022/2023 Delivery Year "within six and a half months after the date of the Commission's acceptance of PJM's compliance filing,"[6] but proposes to give states the ability to trigger a three-month extension.[7] Specifically, PJM proposes that "in the event that legislation directly applicable to the new elections of the FRR alternative is enacted before June 1, 2020, and upon request of a state public utility commission acting in its official capacity, PJM would have the limited ability to extend the schedule for the affected BRA to no later than March 31, 2021, for completion of the BRA."[8] By deferring an auction, time itself does not stand still. Suspension of market milestones in deference to states embroiled in special interest lobbying does not simultaneously freeze all other factors that contribute to the economics of supply and demand of a 180,000 MW market, which serves 65 million customers. A proposed BRA schedule that is subject to state

[5] December 2019 Order at P219.

[6] PJM Compliance Filing at 84.

[7] *Id.* at 86.

[8] *Id.*

action is inconsistent with FERC's directive in the December 2019 Order to provide a timetable for the auction. It fails to provide market participants with much needed certainty around the timing of the postponed PJM auction. The Commission should reject this element of PJM's compliance filing.

Further, since PJM made its March 18 Compliance Filing in which it proposed the June 1, 2020 trigger for offering states a potential trigger to extend the auction schedule, comments in this docket were extended to May 15, 2020, and the Commission required PJM to submit a separate compliance filing in response to the request for rehearing due on June 1, 2020. Both events may lead parties to argue that the June 1, 2020 date should be extended. As discussed above, the element of the Compliance Filing that gives states the ability to trigger a three-month extension of the auction schedule should be rejected, but if the Commission is not inclined to reject the trigger, the Commission should not extend the June 1, 2020 date. For the reasons discussed below market participants need certainty on auction timing and the forward pricing information provided by the auction.

The three-year forward auction provides key price information for market participants that is used for decisions such as investments and retirements. The lack of clarity into future market pricing has harmed capacity suppliers who need to make important decisions related to investments in new and existing capacity, construction of new capacity and retirements of existing capacity. NRG's affiliates own or operate over 5,000 MW of generation and almost 3,200 MW of demand response and energy efficiency in PJM. Over the last six years, NRG has invested more than $500 million to modernize and add environmental controls to its Illinois generation. NRG's decision to allocate capital was based on a market structure that was regularly generating price signals while at the same time enhancements such as capacity performance were being incorporated into PJM's capacity construct.

Absent RPM price signals, NRG will blindly face investment decisions for commitment years that are rapidly approaching. Environmental regulators, both state and federal, will press on with deadlines that could require near term capital spending for compliance with regulations such as the Effluent Limitations Guidelines for Steam Electric Generating Facilities and Coal Combustion Residuals. In addition to environmental capital expenditure decisions, if a unit is damaged, NRG needs to decide whether repairing the unit is a rational economic decision, which is made materially more difficult without the price signals that result from the BRAs. By establishing a defined auction schedule, the Commission can provide the clarity needed by plant operators to make prudent, near-term financial decisions based on unadulterated price signals.

It is not just generators that are placed in an unenviable position from the lack of certainty around the auction schedule – its developers, demand response providers, energy efficiency providers, states and all market participants. More specifically, the lack of auction certainty jeopardizes development projects. In the initial docket establishing PJM's forward market, the Commission and PJM recognized that "holding an auction three years in advance of the delivery year provides adequate time for the development of new generation facilities, or other solutions, along with equally important incentives for bringing these solutions to market."[9] Additionally, demand response and energy efficiency providers (which cleared close to 14,000 MW in the last BRA)[10] rely on the timing between auctions to develop these resources, install energy efficiency

[9] *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,318 (2007) at P92.

[10] https://pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2021-2022/2021-2022-base-residual-auction-report.ashx?la=en

or load reduction equipment and to portfolio manage customer reduction plans. To perform all of these tasks without knowing when the auctions will even be held makes planning exceedingly difficult.

Further, the lack of a capacity auction has had an impact on state default procurement auctions. As an example, because the capacity price is unknown for the 2022/2023 Delivery Year, New Jersey electric distribution companies explained in a New Jersey Board of Public Utilities ("New Jersey Board") docket that bidders into the State's default procurement program (Basic Generation Service or BGS) were likely to include risk premiums in their bids and that some potential bidders may choose not to participate in the BGS auction altogether, which could result in higher prices in the auction.[11] In response, the New Jersey Board adopted capacity proxy prices to be used for the BGS auction for the period beginning June 1, 2020.[12] The bottom line is delaying the auctions any further and failing to establish an auction schedule will put market participants, both buyers and sellers, in an untenable position.

Even if the Commission was inclined to grant a short extension to allow for state legislation, there is no indication what extension would be necessary if the goal is to permit states enough time to deliberate and decide upon whether to adopt an FRR, should they be interested in doing so in the first place. Indeed, the Commission's establishment of a short extension may create a political impetus on the part of some market participants to goad state legislatures into hasty action, asserting that this Commission had set them a deadline. The ability for any region to opt into an FRR is an annual process. Further delaying the conduct of the BRA

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[11] *In the Matter of the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2020*, Decision And Order, Docket No. ER19040428 dated 11/13/19 at page 18.

[12] *Id.* at page 22.

auction will extend the uncertainty and have an adverse impact on all suppliers and consumers in the PJM footprint, who must make decisions on investment or hedging of their capacity purchase obligations. To continue to do so, in order to allow a subset of the region to further deliberate on an option that would be foregone, at most, for only one year is unreasonable. This point is particularly salient given that the primary objective of capacity markets is to maintain the reliability of the electric system and that mission should not be further compromised with what has already been a far too long delayed auction for the 2022/2023 delivery year. Thus, the Commission should reject any efforts to extend the PJM's proposed timelines for state action.

B. The Commission Should Require PJM to Conduct the Pre-Auction Activities for the 2022/2023 Auction in the Same 4.5 Month Timeframe Proposed for Subsequent Auctions.

In PJM's Compliance Filing, it proposes to complete all pre-auction activities and open the BRA for the 2022/2023 Delivery Year 6.5 months after the Commission issues an Order on the Compliance Filing (after an initial adjustment two week period and 6 months for pre-auction activities).[13] However, for subsequent BRAs for the 2023/2024, 2024/2025 and 2025/2026 Delivery Years, PJM provides for 4.5 months for the BRA pre-auction activities (in between auction PJM allows six weeks after the posting of the prior BRA results, then 4.5 months for the BRA pre-auction activities and 2 weeks for the auction window and posting of results, thus subsequent auctions would be 6.5 months apart).[14] The Commission should require PJM to conduct the pre-auction activities for the BRA for the 2022/2023 Delivery Year in the same 4.5 month period that PJM has proposed for the subsequent auctions. Since the auction will likely be delayed at least a year and a half from its original May 2019 date and for all the reasons

[13] PJM Compliance Filing at 85.

[14] *Id.* at 85-86.

discussed in Section I.A above, the Commission should require PJM to conduct its internal processes and pre-auction activities as promptly as possible.

II. CONCLUSION

NRG Power Marketing, LLC respectfully submits these comments and respectfully requests that the Commission act as requested herein.

Respectfully submitted,

NRG POWER MARKETING LLC

<u>*/s/ Cortney Madea Slager*</u>
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May 15, 2020

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on each person designated for service on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

Dated at Atlanta, GA, this 15th day of May, 2020.

/s/ *Jennifer Hsia*
Jennifer Hsia