March 29, 2019

Mr. Andy Ott, President and CEO
PJM Interconnection
2750 Monroe Boulevard Audubon, PA 19403

PJM Board of Managers
c/o Ake Almgren, Ph.D., Chairman
2750 Monroe Boulevard Audubon, PA 19403

Re: Rescheduling the 2022/23 Base Residual Auction

Dear Mr. Ott, Dr. Almgren and the PJM Board of Managers:

The undersigned cross-section of Members writes to recommend a process for administering the 2022/23 Base Residual Auction (BRA) considering the significant market uncertainty resulting from inaction on PJM's Capacity Repricing proposal by the Federal Energy Regulatory Commission (FERC). The rationale for conducting the 2022/23 BRA in August 2019, as laid out by PJM in its August 2018 waiver filing establishing that auction date, is no longer valid. The Members below therefore agree that the lack of clarity on FERC's resolution of issues raised in its June 2018 Order (finding the current tariff not just and reasonable and directing a paper hearing) has made it impossible to hold the auction as scheduled in August 2019. FERC has not yet established the "replacement rate" under which PJM must conduct the 2022/23 BRA and, therefore, failure to reschedule that auction could leave PJM with little choice other than to conduct the auction under existing rules that FERC has found to be unjust and unreasonable. This would make the 2022/23 BRA results subject to potential refund – a result that is unacceptable to us and should be unacceptable to PJM.

The undersigned Members have given great thought to the various solutions to this conundrum offered by PJM, as well as others. While there is no perfect answer that will assure market certainty, **we have concluded that the most reasonable and practical course of action is for PJM to seek to reschedule the 2022/23 BRA until mid-April 2020, six weeks in advance of the 2023/24 BRA, which could be conducted in late May 2020. To maximize the likelihood that FERC would respond promptly, we recommend proposing the new 2022/23 BRA auction schedule through a Section 205 filing limited to modifying the timeline for the 2022/23 BRA, which will not require the FERC to make any decision regarding the merits of the underlying Capacity Repricing proceeding.** As discussed below, any substantive proposal offered for use in the 2022/23 BRA is likely to be hotly contested, exacerbating stakeholder conflicts on this matter and complicating FERC's resolution of the pending litigation.

The foregoing timeline and process will provide the Commission with maximum flexibility to consider the complex issues with which it is still grappling in the Capacity Repricing docket and ample time to issue an order establishing the replacement rules under which PJM must conduct the 2022/23 BRA. It also would increase the likelihood that PJM and market participants will have sufficient time to digest and react to FERC's decision, including its interaction with multiple other proceedings that are pending at FERC implicating the 2022/23 BRA. A mid-April 2020 timeframe for the 2022/23 BRA yields the greatest opportunity to adhere to the FERC-approved timeline for pre-auction deliverables, such as the submission of Avoidable Cost Rate information 120 days prior to commencement of a BRA, and presents market participants and states that may be adversely impacted by the order an opportunity to react to any accommodation that the Commission affords. Conversely, we concluded that other strategies for developing a Section 205 filing to develop an "interim rate" are legally indefensible.

We respectfully request that the Board direct PJM to seek the necessary FERC approvals to reschedule the 2022/23 BRA from August 2019 to mid-April 2020 via a tailored 205 filing limited to modifying the auction schedule.

<u>The Most Reasonable and Practical Action Is to Reschedule the 2022/23 BRA to April 2020</u>

Rescheduling is warranted

The August 2019 date for the 2022/23 BRA was established at PJM's suggestion in a waiver request filed with FERC on August 13, 2018. In that request, PJM noted that the existing capacity market rules had been found to be unjust and unreasonable and that the Commission was not expected to issue an order setting a replacement rate in time to conduct the BRA consistent with the typical pre-auction schedule and deadlines. PJM therefore argued that rescheduling 2022/23 BRA would "benefit market participants and other third parties by providing more certainty to the marketplace."

Specifically, PJM stated that rescheduling the 2022/23 BRA would be appropriate because:

i) It will allow stakeholders, PJM, and the Commission more time to develop and establish the replacement rules; and
ii) It will allow the necessary timeframe to conduct the auction in an orderly manner once the replacement rules are known.[1]

PJM explained that resetting the 2022/23 BRA date from May to August would allow the Commission to issue its initial order, PJM to submit a compliance filing, and the Commission to issue a final order by March 15 – all before the pre-auction deadlines began. None of these orders and compliance filings have come to pass, and yet we are well into the submission of information under the pre-auction deadlines. By all public accounts, Commission action does not appear imminent. Given this inaction, the same concerns that led PJM to reschedule the 2022/23 BRA last August apply with equal force now. If anything, the need for clarity on auction scheduling is more severe now than it was last fall.

Rescheduling is consistent with PJM's original tariff waiver rationale

Under the totality of the circumstances, holding the 2022/23 BRA in April 2020 is appropriate. There are several reasons that support this conclusion.

First, it would provide the Commission with the most flexibility to consider the complex issues raised in response to the June 2018 Order without interfering with or necessitating changes to the

[1] *See Request of PJM Interconnection, L.L.C. for Grant of Tariff Waiver*, Docket No. ER18-2222-000, at pg. 1-2 (filed Aug. 13, 2018).

schedule for the 2023/24 BRA, which must be conducted in May 2020 pursuant to Attachment DD of the Tariff.

Second, resetting the 2022/23 BRA to April eliminates the need to litigate yet another change to the 2022/23 BRA schedule in the event FERC's adoption of replacement rules cannot be implemented on a more expedited basis.

Third, an April date affords the FERC with the maximum time to resolve the seven other dockets cited below that could impact auction participation, strategies and outcomes. [2]

Fourth, an April auction would provide the most time possible for market participants to adjust to the new capacity market rules, while also providing a reasonable opportunity for any state actions needed to implement procurement programs under the resource-specific FRR alternative.

Fifth, an April auction would be administratively efficient for Market Sellers, PJM, and the Independent Market Monitor since any supplier proposing a unit-specific Avoidable Cost Rate for both auctions could use nearly identical trailing cost data.

Sixth, an April 2020 date also would align the new 2022/23 BRA schedule most closely with the traditional, Commission-approved schedule for BRAs while affording market participants enough time to consider the auction results and consider strategies for the 2023/24 BRA held six weeks hence. The signatories note that we considered competing interests in agreeing to the six-week span.

In reaching the foregoing recommendation, the signatories balanced the goal of achieving market certainty by rescheduling against potential new entrant interests in obtaining speedy auction results. We also acknowledge that generation developers, in particular, could face complications with a further rescheduling of the 2022/23 BRA. We are all harmed, however, each in our own way, by the significant uncertainty regarding the rules that will govern the 2022/23 BRA. On balance, the benefit to new entrants of holding the auction in August 2019 is far outweighed by the risks that we all – including those developers – will face from an August 2019 BRA. We all need know the rules under which the auction will be conducted in order to accurately provide pre-auction-related information. And we all want to avoid the potential of conducting an auction that is subject to refund.

Moreover, there is no pressing need for new entry in the PJM Region. Reserve margins in PJM between now and the 2022/23 Delivery Year are between 22 and 24 percent - well above the target reserve margin of 16 percent. There is therefore no reliability need to hold the 2022/23 BRA any earlier

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[2] There are at least seven separate proceedings pending before FERC that could affect the rules by which the 2022/23 BRA is conducted or its results. *See Calpine Corporation et al. v. FERC*, EL16-49, ER19-1314, EL18-178 (MOPR revisions/resource-specific fixed resource requirement); *PJM Interconnection, L.L.C.*, Docket No. ER19-1012-000 (proposed amendments to price responsive demand rules); *PJM Interconnection, L.L.C.*, Docket No. ER19-511-000 (proposed amendments to peaking shaving rules); *PJM Interconnection, L.L.C.*, Docket No. ER19-105-000 (periodic review of variable resource requirement curve shape and key parameters); *Independent Market Monitor for PJM v. PJM Interconnection, L.L.C.*, Docket No. EL19-47-000 (complaint regarding default offer caps); *Cube Yadkin Generation, L.L.C. v. PJM Interconnection, LLC*, EL19-51 (complaint regarding application of rules for external capacity resources); *Brookfield Energy Marketing, LP v. v. PJM Interconnection, LLC*, EL19-34 (complaint regarding application of rules for external capacity resources).

than April 2020 to support new entry. Similar to PJM's conclusion in seeking the initial wiaver, the signatories suggest that the needs of the PJM Region as a whole are better served by rescheduling the 2022/23 BRA to April 2020.

Other potential solutions are legally indefensible or unlikely to meet PJM's aims

The signatories considered other alternatives, including those suggested by PJM at the March 21 Markets and Reliability Committee meeting. The "do nothing" option appears to yield the greatest possibility of PJM running an auction subject to refund, and therefore was rejected.

PJM also suggested submitting tariff reforms under Section 205 that use the current auction rules for the 2022/23 BRA, supplemented by a ministerial "report to FERC." This path would presume that FERC could decide substantive issues without prejudging its consideration of issues in the underlying Repricing proceeding. Numerous parties have sought rehearing of FERC's finding in the June 2018 Order that the PJM Tariff is not just and reasonable, arguing that state subsidies are not significantly affecting clearing prices. Running an auction under the existing rules, subject to a reporting requirement, would effectively require FERC to conclude that such rehearing arguments are correct, at least for this auction. In other words, FERC would have to resolve the substance of those rehearing requests for it to reach the conclusion that the 205 is just and reasonable. This is unreasonable to expect from FERC in the current environment.

Similarly, PJM also suggested development of a Section 205 filing with slight modification to the existing MOPR or other auction rules to form an "interim rate." Given the inability of stakeholders to reach consensus in the underlying proceeding, there is little expectation that there will be uniform support for an alternative rate to be implemented on an interim basis. As a result, proposing an "interim rate" would invariably lead to more litigation – and complication – at FERC regarding the substance of rule changes to be made in response to the June 2018 order. This proposal therefore suffers the same legal flaws as the "report to FERC" option. In order to accept the alternative "interim rate," FERC would have to find that the adjustment to auction rules would resolve its underlying finding that the current auction rules are not just and reasonable. If FERC then desired to impose an alternative set of market rules in response to the June 2018 Order, it would need to explain why its finding that the "interim rate" is just and reasonable does not compel FERC to adopt those market rules for future auctions. As a practical matter, FERC cannot reach any conclusions with respect to an "interim rate" without knowing what it would find acceptable for the going-forward rules.

<u>Recommendation</u>

The undersigned members recommend that PJM seek to reschedule the 2022/23 BRA to mid-April 2020 and, consistent with the current tariff requirements, hold the 2023/24 BRA at the end of May 2020, providing a six-week span between the auctions. All pre-auction deadlines for the 2022/23 BRA would align six-weeks prior to the same deadlines for the 2023/24 BRA in May 2020. Procedurally, this solution could be achieved via a Section 205 filing limited to the issue of the timing of the BRA, or either a new tariff waiver request or a modification of the existing waiver. To maximize the likelihood that FERC would respond promptly, we recommend proposing the new 2022/23 BRA auction schedule through a Section 205 filing.

We believe that rescheduling is warranted under the circumstances. This recommendation would provide the greatest market certainty and would avoid an undesirable auction re-run that could occur if the auction is conducted under the current schedule, subject to refund. Finally, the undersigned members would commit to supporting a PJM filing to FERC rescheduling the 2022/23 BRA to mid-April 2020.

Respectfully,

American Municipal Power, Inc.

AvanGrid Renewables

Dominion Energy

EDP Renewables North America LLC

Exelon Business Services Company, LLC

NextEra Energy Resources

The PSEG Companies

Talen Energy Marketing, LLC