

Congress of the United States

Washington, DC 20510

May 2, 2024

The Honorable Willie L. Phillips
The Honorable Allison Clements
The Honorable Mark C. Christie
Federal Energy Regulatory Commission
888 First St NE
Washington, DC 20426

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By The Federal Energy Regulatory Commission Office of External Affairs at 12:19 pm, May 02, 2024

RE: DPL-South Capacity Market
Docket Nos. ER23-729 and EL23-19

Chairman Phillips, Commissioner Clements and Commissioner Christie:

I am writing as a Member of the House Committee on Energy and Commerce, and its Subcommittee on Energy, Climate and Grid Security, to request that the Commission prohibit PJM Interconnection, LLC (PJM) from reapplying a flawed capacity market design that would expose citizens on the Delmarva Peninsula to grossly inflated electricity prices *of more than four times the just and reasonable rate* with no commensurate electric reliability benefit.

I appreciate that the Commission acted swiftly once before in February 2023 to address this issue, allowing PJM at that time to amend its Capacity Resource Tariff to avoid excessive prices in the Delmarva Zone for the 2024/2025 delivery year. However, the recent decision by the Third Circuit Court of Appeals, in *PJM Power Providers*,¹ vacated the Commission's 2023 order under the filed rate doctrine, and has prompted a filing by PJM that again threatens to reinstate excessive capacity costs for these consumers. I am deeply concerned that acceptance of PJM's proposal to rerun the capacity resource auction for the 2024/2025 delivery year will side-step the Commission's long-standing policy against rerunning markets and result in costs to Delmarva Zone customers that quadruple those of just and reasonable rates.

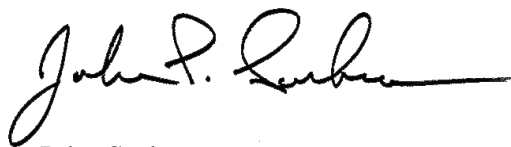
Under the Federal Power Act it is incumbent upon the Commission to ensure the rates citizens pay for electricity are fair, just and reasonable. Allowing PJM to reapply the same flawed market design that the Commission has already correctly characterized as being unjust and unreasonable would be unconscionable.²

With the Commission's acknowledgement of the consequences of a flawed market design preceding the prior Capacity Resource Auction, PJM already set the fair prices for electric capacity well over a year ago. I therefore ask the Commission to require PJM to retain those rates and to continue to ensure fair electricity prices for our citizens.

¹ *PJM Power Providers Grp. v. FERC*, Nos. 23-1778, et al., 2024 U.S. App. LEXIS 5963 (3d Cir. Mar. 12, 2024).

² *PJM Interconnection, L.L.C.*, 182 FERC ¶ 61,109, at P 173.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Sarbanes". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John Sarbanes
Member of Congress

cc: The Honorable Frederick H. Hoover, Maryland Public Service Commission
Mr. Mark Takahashi, Chair, PJM Board of Managers
Mr. Manu Asthana, PJM President, and CEO
Dr. Joseph Bowring, Monitoring Analytics (PJM Independent Market Monitor)