UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.	**)**	**Docket No. ER18-1314-000**

COMMENTS OF THE
NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION

I. INTRODUCTION AND SUMMARY OF POSITION

Pursuant to Rule 211 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.211 (2018), the Combined Notices of Filing #1 and the Notice of Extension of Time issued in the above-referenced proceeding on April 17, 2018, the National Rural Electric Cooperative Association ("NRECA") submits these comments on PJM Interconnection, L.L.C.'s ("PJM") filing of revisions to the Reliability Pricing Model ("RPM") rules under PJM's Open Access Transmission Tariff ("OATT" or "Tariff"). As discussed herein, NRECA continues to oppose the forced reliance on mandatory capacity constructs such as RPM. Instead, NRECA prefers a voluntary, residual market as a long-term solution to maintain reliability while accommodating long-standing business models such as those of NRECA's cooperative utility members, and allowing for true competitive outcomes. However, recognizing that the Commission may not at this time unravel PJM's mandatory capacity construct, NRECA urges that the Commission should at least accommodate and encourage the self-supply of capacity under long-standing business models. Therefore, while NRECA does not take a position at this time on either of the options presented by PJM in this proceeding, NRECA requests that the Commission mandate that any outcome of this proceeding must contain specific exemptions for self-supply by cooperative utilities and other load-serving entities ("LSEs").

II. DESCRIPTION OF NRECA

NRECA is the national service organization for America's electric cooperatives. The nation's member-owned, not-for-profit electric co-ops constitute a unique sector of the electric utility industry. NRECA represents the interests of the nation's more than 900 rural electric utilities responsible for keeping the lights on for more than 42 million people across 47 states. Electric cooperatives are driven by their purpose to power communities and empower their members to improve their quality of life. Because of their critical role in providing affordable, reliable, and universally accessible electric service, electric cooperatives are vital to the economic health of the communities they serve. America's electric cooperatives serve 56 percent of the nation, 88 percent of all counties, and 12 percent of the nation's electric customers, while accounting for approximately 11 percent of all electric energy sold in the United States. NRECA's member cooperatives include 63 generation and transmission ("G&T") cooperatives and 834 distribution cooperatives. The G&Ts are owned by the distribution cooperatives they serve. The G&Ts generate and transmit power to nearly 80 percent of the distribution cooperatives, those cooperatives that provide power directly to the end-of-the-line consumer-owners. Remaining distribution cooperatives receive power directly from other generation sources within the electric utility sector. NRECA members account for about five percent of national generation and, on net, generate approximately 50 percent of the electric energy they sell and purchase the remaining 50 percent from non-NRECA members. Both distribution and G&T cooperatives share an obligation to serve their members by providing safe, reliable, and affordable electric service. NRECA's members participate in all of the nation's organized wholesale electricity markets, including PJM.

III. DISCUSSION

A. Overview of PJM's Filing

PJM has provided the Commission with two separate proposals to modify the RPM rules in its Tariff, to "address supply-side state subsidies and their impact on the determination of just and reasonable prices in the PJM capacity market."[1] One proposal, which is PJM's preferred approach, is the "Capacity Repricing" proposal. PJM proposes to apply Capacity Repricing in instances where a material amount of Capacity Resources with Actionable Subsidy offers clears a Base Residual Auction ("BRA") within a modeled Locational Deliverability Area ("LDA") or the PJM region.[2] Under Capacity Repricing, PJM purports to accommodate state subsidies while avoiding impacts on wholesale prices by conducting a two-step BRA where resources are cleared and capacity commitments are assigned in an initial auction, then PJM will conduct a second auction where Capacity Resources with an Actionable Subsidy will be repriced to an Actionable Subsidy Reference Price. The Market Clearing Price would be determined based on the intersection of the demand curve and the reconstituted supply stack that uses the Actionable Subsidy Reference Price.[3] Because the Capacity Repricing mechanism would apply to both new and existing resources which qualify as a Capacity Resource with Actionable Subsidy, PJM proposes to eliminate the BRA's Minimum Offer Price Rule ("MOPR") as unnecessary.[4]

The second approach to RPM modifications in PJM's filing is the "MOPR-Ex" proposal. The MOPR-Ex proposal was developed by the Independent Market Monitor for PJM ("IMM") and received greater stakeholder support than Capacity Repricing.[5] Under the MOPR-Ex proposal, the existing MOPR would be expanded to apply to existing resources as well as new

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[1] PJM Filing at 1.
[2] PJM Filing at 60.
[3] PJM Filing at 59-93.
[4] *Id.* at 95.
[5] *Id.* at 41.

entry and would mitigate resources that receive a Material Subsidy and qualify as a Capacity Resource with Actionable Subsidy.[6] MOPR-Ex would also expand the existing MOPR from applying only to certain types of gas-fired resources, to all types of Generation Capacity Resources except Qualifying Facilities.[7] Further, MOPR-Ex would apply to external Capacity Resources.[8] With respect to exemptions, PJM proposes to retain a Unit Specific Exception.[9] PJM also proposes to reinstitute the Self-Supply and Competitive Entry Exemptions which existed prior to the Commission's order on remand in Docket No. ER13-535,[10] and add two new exemptions: a Public Entity Exemption and a renewable portfolio standard ("RPS") Exemption.[11]

B. The Commission Should Ensure That Load-Serving Entities' Rights To Self-Supply Capacity Are Protected.

NRECA has consistently advocated that residual markets for capacity, where LSEs first have the opportunity to self-supply their obligations through long-term arrangements such as owned or purchased resources, provide a competitive outcome that is far better for consumers than the mandatory, administrative constructs which are repeatedly revised and redesigned in their failed attempts to mimic competitive outcomes. In the Commission's 2017 inquiry into state policies and wholesale markets operated by regional transmission organizations ("RTOs") and independent system operators ("ISOs"), NRECA recommended that at the outset, the Commission adopt a set of principles to guide accommodation of state policies in wholesale markets. The principles, initially proposed by NRECA member Old Dominion Electric Cooperative ("ODEC"), were as follows:

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[6] *Id.* at 98-116.
[7] *Id.*
[8] *Id.*
[9] *Id.* at 104-105.
[10] *Id.* at 105; *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108 (D.C. Cir. 2017) ("*NRG*"); order on remand, *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,252 at P 41 (2017) ("Remand Order").
[11] PJM Filing at 109-114.

1. Maintain a focus on reliable service at just and reasonable rates for end-use customers;
2. Ensure that LSEs' long-term investments in generation are honored and encouraged;
3. Avoid the volatility of repeated, reactionary revisions to market designs;
4. Adopt wholesale market policies which encourage resource diversity and accommodate legitimate state policy objectives; and
5. Allow regional flexibility.[12]

With respect to first principle, NRECA urged the Commission to focus on ensuring just and reasonable rates for consumers, not guaranteeing revenues for generators. NRECA also urged that the "Commission should strive for truly competitive wholesale power markets, where the RTO-administered markets are restored to voluntary, residual sources for needed capacity and energy."[13]

It is critical that that LSEs' long-term investments in generation and other resources are honored and encouraged. This protection and encouragement of self-supply is necessary in order to ensure that LSEs such as NRECA's members can continue in their long-standing business models of investing in resources on a long-term basis in order to meet their obligations. As the Commission has recognized, "the purpose and function of the MOPR is not to unreasonably impede the efforts of resources choosing to procure or build capacity under long-standing business models."[14]

Self-supply has not fared well in the evolution of PJM's capacity construct from a residual mechanism where ". . . after LSE's have had an opportunity to procure capacity on their own, it is reasonable for PJM to procure capacity in an open auction at a time when further delay

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[12] Initial Comments of the National Rural Electric Cooperative Association, submitted in Docket No. AD17-11-000 on June 22, 2017, at 3 ("Initial Comments").
[13] *Id.*
[14] *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,145 at P 208 (2011).

in procurement could jeopardize reliability. This, however should be a last resort."[15] As PJM's MOPR was expanded to address action by states which was seen as a threat to PJM's capacity construct, guaranteed clearing for self-supply by LSEs was eliminated.[16] PJM responded to concerns by LSEs that the MOPR revisions threatened their long-standing business models, reiterating that "efforts in this area must be sensitive to the possibility of unintended consequences, and must ensure that legitimate new entry is not deterred."[17] In order to correct the unintended adverse consequence on load, PJM submitted and the Commission approved a Self-Supply Exemption to the MOPR.[18] While still inferior to guaranteed clearing of LSE self-supplied capacity, the Self-Supply Exemption provided LSEs with some assurance that their long-term investments in capacity resources could be used toward satisfying their capacity obligation under the RPM capacity construct. This assurance proved temporary, however, because the Commission later vacated in their entirety the orders accepting the Self-Supply Exemption and directed PJM to reinstate the previous MOPR tariff provisions, which contained neither guaranteed clearing for self-supply nor any self-supply exemption.[19] The Commission directed the removal of the Self-Supply Exemption notwithstanding the fact that the D.C. Circuit in *NRG* made no determination on the merits of the exemption, and over the objections of PJM as well as LSEs like NRECA member ODEC.[20]

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[15] *PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,079 at P 71 (2006), *order on reh'g*, *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331 (2006).
[16] *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,022 (2011); *order on reh'g*, 137 FERC ¶ 61,145 (2011); *order on reh'g*, 138 FERC ¶ 61,194 (2012).
[17] Comments of PJM Interconnection, L.L.C. on Technical Conference, filed in Docket No. ER11-2875, *et al.* on August 29, 2011, at 5.
[18] *PJM Interconnection, L.L.C.*, 143 FERC ¶ 61,090 (2013); *reh'g denied,* 153 FERC ¶ 61,066 (2015); *vacated and remanded sub nom.*, *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108 (D.C. Cir. 2017) ("*NRG*"), *reh'g denied*, 2017 U.S. App. LEXIS 18218 (D.C. Cir. Sept. 20, 2017) (per curiam).
[19] *PJM Interconnection, L.L.C.,* 161 FERC ¶ 61,252 (2017).
[20] *See id.* P 60; *see also* Answer of Old Dominion Electric Cooperative, filed in Docket No. ER13-535-000 on November 14, 2017, at 3-5.

In a similar vein and more recently, in addressing concerns over state actions and impacts on wholesale markets in ISO New England, Inc. ("ISO-NE"), NRECA requested that the Commission ensure that ISO-NE's Forward Capacity Market ("FCM") accommodate self-supply, urging the Commission

> to investigate accommodating and removing barriers to the self-supply of resources by New England cooperatives and public power utilities alongside the ISO's centralized forward capacity auctions – allowing these wholesale customers to choose the resources they want to serve their customers' preferences and requirements without the risk of being forced to pay twice for such capacity.[21]

The Commission's order accepted ISO-NE's changes to the FCM to accommodate certain state resource policies, but the Commission did not investigate the FCM's treatment of LSE self-supplied capacity resources. Indeed, the Commission identified "first principles of capacity markets" that did not mention self-supply or accommodating LSEs whose long-standing business models include long-term investments in capacity resources.[22]

This is the second proceeding since the Commission held its conference on state policies in wholesale markets operated by RTOs and ISOs where an RTO seeks tariff changes in reaction to or anticipation of state policy initiatives. NRECA takes some comfort in the fact that both the Capacity Repricing and the MOPR-Ex proposals include exemptions for self-supply by LSEs, including Municipal/Cooperative Entities.[23] While the blanket exemption language under Capacity Repricing seems a more straightforward and presumably more certain protection of self-supply under long-standing business models, NRECA does not take a position at this time on the particular redesign options or exemptions included therein. Instead, NRECA expects that its members will raise their individual concerns in pleadings with the Commission. However,

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[21] *Answer of the National Rural Electric Cooperative Association*, filed in Docket No. ER18-619-000 on February 12, 2018, at 2.
[22] *ISO New England, Inc.*, 162 FERC ¶ 61,205 at P 21 (2018).
[23] *See* PJM Filing at 74-76 (describing the exemption for Municipal/Cooperative Entities under the Capacity Repricing proposal); 109-111 (describing the Public Entity Exemption under PJM's MOPR-Ex proposal).

NRECA urges that if the Commission accepts either of these proposals or otherwise directs changes to RPM to accommodate state policies in this proceeding, the Commission should not allow a repetition of the earlier PJM history, where there was express acknowledgement by PJM and the Commission of legitimate self-supply by LSEs yet later RPM design changes threatened LSEs' long-standing business models—with the result that the currently effective RPM language has no explicit self-supply protections whatsoever. The Commission's action in this proceeding should require the protection of self-supply under long-standing business models from overbroad buyer-side mitigation or other artificial barriers that will threaten the business models of LSEs like NRECA's cooperative utility members. The protection of self-supply under long-standing business models should be explicit in the Commission's order and in the final RPM tariff language. If the Commission sets this matter for settlement, hearing or further procedures, it should specifically direct that any mechanism proposed in this proceeding must include exemptions for self-supply by at least cooperative utilities and municipal utilities. These entities should not be required to bargain for tariff language that protects their long-standing business models.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, NRECA requests that the Commission require reasonable exemption for self-supply by LSEs under long-standing business models as a component of any revisions to the RPM rules in this proceeding.

Respectfully submitted,

/s/ Adrienne E. Clair
Adrienne E. Clair
Thompson Coburn LLP
1909 K Street, N.W., Suite 600
Washington, D.C. 20006-1167
(202) 585-6900
(202) 585-6969 (fax)
aclair@thompsoncoburn.com

Counsel to the National Rural Electric Cooperative Association

/s/ Randolph Elliott
Senior Director, Regulatory Counsel
National Rural Electric Cooperative Association
4301 Wilson Blvd, 11th Floor
Arlington, VA 22203
703-907-6818
Randolph.elliott@nreca.coop

Dated: May 7, 2018

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of May, 2018, I have caused a copy of the foregoing to be served upon each party designated on the Official Service List for this proceeding.

/s- *Adrienne E. Clair*/