

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Calpine Corporation, Dynegy Inc., Eastern	)	Docket Nos. EL16-49-000
Generation, LLC, Homer City Generation,	)	
L.P., NRG Power Marketing LLC, GenOn	)	
Energy Management, LLC, Carroll County	)	
Energy LLC, C.P. Crane LLC, Essential	)	
Power, LLC, Essential Power OPP, LLC,	)	
Essential Power Rock Springs, LLC,	)	
Lakewood Cogeneration, L.P., GDF SUEZ	)	
Energy Marketing NA, Inc., Oregon Clean	)	
Energy, LLC and Panda Power Generation	)	
Infrastructure Fund, LLC	)	
	)	
v.	)	
	)	
PJM Interconnection, L.L.C.	)	
	)	ER18-1314-000
PJM Interconnection, L.L.C.	)	ER18-1314-001
	)	
	)	EL18-178-000
PJM Interconnection, L.L.C.	)	(Consolidated)

**REPLY SUBMISSION  
OF THE  
NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION**

**I. INTRODUCTION AND SUMMARY OF POSITION**

Pursuant to the Commission’s Order of June 29, 2018,<sup>1</sup> and the Notice of Extension of Time of August 22, 2018, the National Rural Electric Cooperative Association (“NRECA”) submits this reply in the paper hearing to address the just and reasonable replacement rate for the existing Minimum Offer Price Rule (“MOPR”) in the Reliability Pricing Model (“RPM”) contained in the Open Access Transmission Tariff (“Tariff”) of the PJM Interconnection, L.L.C. (“PJM”).<sup>2</sup> In summary, NRECA supports PJM’s proposal for a categorical “Self-Supply

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<sup>1</sup> *PJM Interconnection, L.L.C.*, 163 FERC ¶ 61,236 (2018) (“June 29 Order”).

<sup>2</sup> *See id.* at PP 157-171.

Exemption” from the expanded MOPR for capacity resources of “Public Power Entities,”<sup>3</sup> subject to reasonable net short and net long thresholds for new resources.<sup>4</sup> PJM’s proposed Self-Supply Exemption is consistent with the limited purpose and scope of this proceeding, which was established to address out-of-market support provided or required by states, as well as the Commission’s previous approval of such an exemption by PJM in order not to unreasonably impede self-supply of capacity by PJM’s load-serving entities (“LSEs”) acting under long-standing business models, such as NRECA’s member cooperative utilities.

NRECA’s Initial Submission in this proceeding focuses on the critical need to preserve and encourage the self-supply of capacity by PJM’s LSEs under long-standing business models. As opposed to further expansion of the already-complex MOPR, NRECA recommends that the Commission should instead transition PJM’s Reliability Pricing Model (“RPM”) back to the voluntary, residual market of last resort that was initially envisioned and approved by the Commission.<sup>5</sup> If the Commission instead proceeds with reforms as proposed in the June 29 Order in an attempt to mitigate supposed price suppression resulting from state energy policies, then NRECA requests that the Commission take care to avoid collateral damage to the wholesale markets. Specifically, in order to honor its commitment to prevent the MOPR from “unreasonably impeded[ing] the efforts of resources choosing to procure or build capacity under long-standing business models”,<sup>6</sup> NRECA requests that the Commission “specifically exclude from the MOPR self-supply by public power LSEs or, in the alternative, direct PJM to adopt a Self-Supply

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<sup>3</sup> Consistent with the Initial Submission of NRECA in this proceeding and PJM’s proposal, references to “Public Power” herein refer to both municipal utilities and rural electric cooperatives.

<sup>4</sup> See Initial Submission of PJM Interconnection, L.L.C. at 12, 32–34 (Oct. 2, 2018).

<sup>5</sup> See NRECA Initial Submission at 1–2, 14.

<sup>6</sup> NRECA Initial Submission at 4, citing *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,145 at P 208 (2011).

Exemption similar to the Self-Supply Exemption which existed prior to the Commission’s Order on Remand” in *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108 (D.C. Cir. 2017) (“*NRG*”).<sup>7</sup>

NRECA’s Initial Submission includes the Declaration of Marc D. Montalvo, President of Daymark Energy Advisors and an expert in wholesale market design.<sup>8</sup> Mr. Montalvo explains that there is no basis in this proceeding, which was initiated by concerns over the impact of state initiatives on RPM capacity prices, to attack the electric cooperative self-supply business model and undermine its clear benefits for cooperative member-consumers. Mr. Montalvo’s conclusion that “self-supplied resources used to meet the loads of Public Power utilities should not be subject to mitigation by the proposed expanded MOPR and should be exempted from the MOPR”<sup>9</sup> is based on three basic arguments, as follows:

1. Self-supply resource investments of Public Power utilities do not receive the state-sponsored out-of-market payments that the Commission seeks to address with the expanded MOPR;<sup>10</sup>
2. The self-supply resource investment decisions of Public Power utilities “are consistent with the behaviors one would expect of participants in a competitive market;”<sup>11</sup> and

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<sup>7</sup> *Id.*

<sup>8</sup> Mr. Montalvo’s Declaration was developed on behalf of NRECA and the American Public Power Association (“APPA”).

<sup>9</sup> Montalvo Decl. at P 4. Following the convention of the Commission and PJM, Mr. Montalvo’s Declaration uses the term “Public Power” to refer to both municipal utilities and rural electric cooperatives. *See id.* at P 3.

<sup>10</sup> NRECA Initial Submission, Montalvo Decl. at P 6; *see also id.* at PP 20-24.

<sup>11</sup> *Id.* at P 8; *see also id.* at PP 25-45.

3. Applying the proposed expanded MOPR to the self-supplied resources of Public Power utilities “would improperly interfere with the public benefits of this long-standing business model.”<sup>12</sup>

In its Initial Submission filed in this proceeding on October 2, 2018, PJM proposes the following in response to the June 29 Order: (1) an expanded MOPR, which would apply to all fuel and technology types, existing and planned resources, if such resources are found to include an actionable subsidy, subject to the Self-Supply Exemption; and (2) a Resource Carve-Out (“RCO”) option, which would replace the Fixed Resource Requirement (“FRR”) mechanism. For the reasons discussed below, the PJM proposed Self-Supply Exemption is reasonable in that it avoids over-mitigating self-supply by LSEs procuring capacity under long-standing business models. Therefore, if the Commission adopts an expanded MOPR in this proceeding, NRECA supports adoption of PJM’s proposed Self-Supply Exemption.

Finally, NRECA also seeks clarification that financing by the U.S. Rural Utilities Service (“RUS”) does not constitute any actionable federal subsidy.

As it did in its Initial Submission, NRECA’s reply here is limited to the self-supply issues. NRECA leaves to its individual member cooperatives to address other aspects of the initial submissions submitted by PJM and other parties, and urges the Commission to consider NRECA members’ comments in its determination of the just and reasonable replacement rate.<sup>13</sup>

## **II. SCOPE OF THIS PROCEEDING**

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<sup>12</sup> *Id.* at P 11; *see also id.* at PP 46-49.

<sup>13</sup> For example, ODEC’s Initial Submission provided input on the Commission’s proposed FRR Alternative, while SMECO and East Kentucky Power Cooperative requested, respectively, that the Commission address the Self-Supply Exemption net short/net long criteria for winter peaking resources and that if the Commission adopts a net long threshold for the Self-Supply Exemption, it should be based on the utility’s non-coincident peak.

In the June 29 Order, the Commission determined that PJM’s existing Tariff MOPR is unjust and unreasonable because it does not address the price suppression in PJM’s capacity construct which can be caused by “out-of-market payments by certain PJM states.”<sup>14</sup>

As a remedy for these state actions, the Commission proposed in the June 29 Order a two-part replacement rate to address its determination that “state-subsidized resources – not just entities exercising buyer-side market power – can cause significant price suppression.”<sup>15</sup> The two-part replacement rate consisted of (1) an expanded MOPR to apply “to all new and existing resources, regardless of type”<sup>16</sup> and (2) a resource-specific Fixed Resource Requirement (“FRR”) Alternative.<sup>17</sup> The FRR Alternative was designed to address the possibility of double-payment for capacity by ratepayers who will be “obligated to pay for capacity both through the state programs providing out-of-market support and through the capacity market.”<sup>18</sup>

With the evidence upon which the Commission based its finding in the June 29 Order limited to “out-of-market payments by certain PJM states”<sup>19</sup>, the scope of this proceeding should be limited to current state-based out-of-market payments, such as the zero-emissions credits (“ZEC”) and Renewable Portfolio Standards (“RPS”). The Commission specifically noted the limited scope of the June 29 Order at the outset, stating in part as follows:

We emphasize that we cannot, and need not, address at this time all of the possible ways a state might provide out-of-market support for its preferred generation resources. We need only address the forms of state support that we find, in this proceeding, render the current Tariff unjust and unreasonable – *i.e.*, out-of-market revenue that a state either provides, or requires to be provided, to a supplier that participates in the PJM wholesale capacity market.<sup>20</sup>

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<sup>14</sup> June 29 Order at P 156.

<sup>15</sup> *Id.* at P 158.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at P 159.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at P 156.

<sup>20</sup> *Id.* at P 1, n.1.

As NRECA and others cautioned in their initial submissions, the scope of this proceeding should not be expanded beyond out-of-market payments provided or directed by state (and some federal) directives. Otherwise, the Commission could recreate the unexpected, unintended adverse effects on LSE self-supply under long-standing business models that resulted in the need for the previous Self-Supply Exemption.<sup>21</sup>

Nonetheless, some generator owners have sought to expand this proceeding into imposing a MOPR on all capacity resources, including LSE self-supply. The Electric Power Supply Association (“EPSA”), while not specifically targeting Public Power utility self-supply, argues for a “clean” MOPR that would have limited exceptions or exemptions.<sup>22</sup> NRG Power Marketing LLC (“NRG”) argues against any accommodation of self-supply and instead urges the Commission to subject self-supply by Public Power utilities and others to the expanded MOPR.<sup>23</sup> But the affidavit of NRG’s economist, Robert B. Stoddard, points only to changes in state policies, not changes in the actions of Public Power utilities, as the justification for expanding PJM’s MOPR to all resources.<sup>24</sup> His arguments for imposing the expanded MOPR on Public Power self-supply<sup>25</sup> merely repeat arguments the Commission found wanting when it approved PJM’s previous Self-Supply Exemption as just and reasonable.

The members of the PJM Power Providers Group (“P3”) are explicit in their attempt to broaden this proceeding from one based on state subsidies as defined by the Commission into a vehicle to force all capacity procurement to be made through PJM’s RPM. P3 focuses most of its substantive argument on state and federal subsidies, yet includes an unsupported, theoretical

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<sup>21</sup> See NRECA Initial Submission at 6-11.

<sup>22</sup> Initial Brief of the Electric Power Supply Association at 8.

<sup>23</sup> Initial Brief of NRG Power Marketing LLC at 11-12, 40.

<sup>24</sup> See Affidavit of Robert B. Stoddard on Behalf of NRG Power Marketing LLC at P 14.

<sup>25</sup> See *id.* at P 17.

argument that the MOPR should not include any exception for self-supply by public power or vertically-integrated utilities.<sup>26</sup> The affidavit by P3’s economist, Roy J. Shanker, disregards the Commission’s acknowledgement that self-supply under long-standing business models such as cooperative utilities does not give rise to concerns over artificial price suppression. He challenges the assurance of cost recovery associated with public power or investor-owned utility ownerships as discriminatory and argues that it “leads to price suppression.”<sup>27</sup> Contrary to his assertion, there is no discrimination – particularly not undue discrimination – in the fact that LSEs such as electric cooperatives may have as one core element of their long-standing business model, the ownership of resources in order to ensure that they can meet their load-serving obligations at a reasonable cost. Given that the members of P3 are not similarly situated with LSEs in this regard, there can be no undue discrimination in treating them differently.<sup>28</sup>

Next, Dr. Shanker attempts to create changed circumstances in order to justify attacking the long-standing business models. He summarily argues that “historic business models” such as those of NRECA’s cooperative utility members “were followed in the past, but they were done so for a different regulatory, business and operational model, not the current RTO market design.”<sup>29</sup> In other words, an expanded MOPR is needed for co-op self-supply not because co-ops have changed their business model, but rather because that they have not changed. From that skewed perspective, these wholesale markets should not be expected to serve the needs of wholesale customers, but rather the other way around—wholesale customers should be subservient to a market design that accommodates wholesale suppliers.

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<sup>26</sup> Initial Brief of the PJM Power Providers Group at 12-13.

<sup>27</sup> *Id.*, Shanker Affidavit at P 15.

<sup>28</sup> See *Calpine Oneta Power, L.P.*, 119 FERC ¶ 61,177, at P 31 (2007); *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,076, at P 369 (2007); *El Paso Natural Gas Co.*, 104 FERC ¶ 61,045, at PP 115-117 (2003).

<sup>29</sup> Initial Brief of the PJM Power Providers Group, Shanker Affidavit at P 16.

The Commission should disregard or otherwise reject generic arguments to apply the MOPR to self-supply. The long-standing business models of Public Power utilities have not been altered by changes in regulatory, business, operational or RTO market design. Quite to the contrary, long-standing business models have been accommodated by the Commission in various orders and mechanisms, including accommodation of long-standing business models for entities that wish to join an RTO or ISO.<sup>30</sup> Moreover, as Mr. Montalvo explained, “[i]mplicit in arguments that the integrity of competition in the PJM capacity market requires the application of the MOPR to Public Power self-supply resources is the mistaken premise that all resource entry and exit must be coordinated solely by the RTO administered market to be deemed economic. The PJM capacity market should properly account for, not mitigate, the resource decisions made by Public Power entities in pursuit of a portfolio of supply resources consistent with their business objectives and their cost, risk (diversity), flexibility, security, and environmental impact goals, as these decisions are legitimate market-based decisions.”<sup>31</sup>

The scope of this proceeding should remain as the Commission set forth in the June 29 Order; to address the Commission’s determination that “state-subsidized resources – not just entities exercising buyer-side market power – can cause significant price suppression.”<sup>32</sup> As Mr. Montalvo explained, “it would be incorrect to conflate the Public Power not-for-profit business

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<sup>30</sup> See *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs. ¶ 31,089, at 31,201 (1999), *order on reh’g*, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 (2000), *aff’d sub nom. Pub. Util. Dist. No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001) (“We acknowledge that public power entities face several difficult issues regarding RTO participation”); *see, e.g., TRANSLink Transmission Co., L.L.C., et al.*, 101 FERC ¶ 61,140, at P 26 (2002); *TRANSLink Development Co., LLC*, 104 FERC ¶ 61,148, at P 9 (2003); *Midwest Indep. Transmission Sys. Operator*, 123 FERC ¶ 61,265, at P 19 (2008) (the Commission accepted provisions which permit a public power entity to terminate its membership in ISO with shortened notice if MISO’s tariff was amended in a way that could conflict with state laws and regulations); *see also* SPP Membership Agreement Section 3.11, *No Waiver of Jurisdictional Immunity*.

<sup>31</sup> NRECA Initial Submission, Montalvo Decl. at P 26.

<sup>32</sup> June 29 Order at P 158.



model and tax advantages with state-sponsored external payments to preferred resources.”<sup>33</sup> The long-standing business models of Public Power utilities are distinct from state-subsidized resources and the Commission must reject attempts to deem all revenues received outside of the PJM capacity construct as artificial price suppression, uneconomic, or unreasonable.

### **III. SUPPORT FOR PJM’S PROPOSED SELF-SUPPLY EXEMPTION**

NRECA’s Initial Submission focuses on self-supply and addresses the following three fundamental principles, none of which are new to the Commission (1) the residual nature of the capacity market; (2) the importance of long-term contracts in bilateral markets; and (3) honoring and accommodating LSE capacity procured under long-standing business models.<sup>34</sup> Several other parties, including NRECA member cooperative utilities, similarly urge the Commission to include an exemption for self-supply by public power LSEs in any MOPR the Commission adopts in this proceeding.<sup>35</sup> These parties’ submissions seek to remind the Commission of the unintended consequence of its prior orders that removed the accommodation of self-supply by LSEs under long-standing business models, which exposed those LSEs’ customers to double payment for

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<sup>33</sup> NRECA Initial Submission, Montalvo Decl. at P 13.

<sup>34</sup> NRECA Initial Submission at 5 (citing NRECA’s Initial and Reply Post-Technical Conference Comments in Docket No. AD17-11-000, where NRECA urged the Commission to first adopt principles which include ensuring that LSEs’ long-term investments in generation are honored and encouraged).

<sup>35</sup> See Initial Submission of Old Dominion Electric Cooperative, Initial Comments of East Kentucky Power Cooperative, Inc.; Initial Submission of Southern Maryland Electric Cooperative, Inc.; Comments of Northern Virginia Electric Cooperative, Inc.; Evidence and Arguments of American Municipal Power, Inc. and the Public Power Association of New Jersey; Comments of Buckeye Power, Inc.; Initial Submission of the American Public Power Association.

capacity<sup>36</sup> and required the development of the Self-Supply Exemption in order to mitigate against those unintended, adverse impacts of the Commission's orders.<sup>37</sup>

In its Initial Submission, PJM proposes an expanded MOPR which, consistent with the June 29 Order, would apply to all types of resources (fuel and technology), as well as to both existing and new resources. Under PJM's proposal, the expanded MOPR would apply to resources which (1) are material resources;<sup>38</sup> (2) receive a Material Subsidy;<sup>39</sup> and (3) the seller is not willing to forgo receiving all Material Subsidies associated with a resource for the relevant Delivery Year.<sup>40</sup> If all of these are met, then the resource will be treated as a Capacity Resource with Actionable Subsidy and will be subject to the MOPR. Significantly, PJM also proposes that resources with a federal subsidy will be subject to the MOPR if the legislation providing for such federal subsidy was enacted on or after March 21, 2016, or if the new federal subsidy is implemented after March 21, 2016.<sup>41</sup>

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<sup>36</sup> The risk of double payment for capacity by Public Power LSEs' load is based on their having to pay for capacity procured by the LSE outside of the RPM capacity construct, then have to pay a second time to fund the same capacity obligation when the LSEs' self-supply is not honored in the RPM auction. It is not the double payment discussed by the Commission in the June 29 Order which could result if the MOPR applies to state subsidized resources and the states continue to support those resources, leaving some ratepayers to pay for capacity "both through the state programs providing out-of-market support and through the capacity market." June 29 Order at P 159. In this regard, NRG's argument that "the possibility of some ratepayers being obligated to pay for capacity twice . . . stems from conscious decisions made by policy makers on their behalf" (NRG Initial Brief at 9) does not apply to self-supply under long-standing business models, where investments are made pursuant to long-term load-serving obligations and a holistic view of costs and benefits, not the three-year forward capacity price in RPM. Moreover, NRG's reliance on the Third Circuit's opinion in *N.J. Bd. of Pub. Utils. v. FERC*, 744 F.3d 74, 97 (3d Cir. 2014), is misplaced, since the court did not uphold FERC's application of a MOPR and the threat of double payment to LSE self-supply, because the court concluded that the self-supply issue was mooted by FERC's later approval of a self-supply exemption from the MOPR, *see id.* at 105.

<sup>37</sup> NRECA Initial Submission at 5-11, 18; ODEC Initial Submission at 8-9.

<sup>38</sup> PJM proposes that a material resource include Demand Resources and Generation Capacity Resources that are 20 MWs or greater and whose primary function is energy production. PJM Initial Submission at 15-19, proposed pro forma PJM Tariff Attachment DD § 5.14(h)(ii)(a).

<sup>39</sup> PJM Initial Submission at 19-29, proposed pro forma PJM Tariff Attachment DD.

<sup>40</sup> *Id.* at 27, proposed pro forma PJM Tariff Attachment DD, section 5.14(h)(vi)(B).

<sup>41</sup> *Id.* at 28.

PJM proposes a single categorical exemption from the definition of Capacity Resource with Actionable Subsidy, which in turn would be an exemption from the MOPR. The single exemption is the Self-Supply Exemption, which PJM explains “closely follows the categorical exemption the Commission previously accepted for application of the MOPR, in that such exclusion appropriately balances between protecting against price suppression while avoiding interference with long-standing capacity procurement business models.”<sup>42</sup> As NRECA explains in its Initial Submission, the previously accepted Self-Supply Exemption was set aside not on the merits, but as a result of the D.C. Circuit’s vacatur in the *NRG* opinion on grounds not relevant here.<sup>43</sup>

NRECA supports PJM’s proposed Self-Supply Exemption. First, PJM’s proposed Self-Supply Exemption tracks the previously-accepted Self-Supply Exemption which the Commission found just, reasonable and not unduly discriminatory or preferential, and which has not been determined otherwise. Therefore, for all of the reasons the Commission previously approved a Self-Supply Exemption from the MOPR, it should also approve PJM’s proposed Self-Supply Exemption here.<sup>44</sup> Significantly, the Commission found that “. . . providing exemptions for resources properly designated as self-supply when they meet suitable net-short and net-long thresholds is reasonable” and that “if a self-supply entity meets a sufficiently large proportion of its capacity needs through its own generation investment, it has little or no incentive to suppress capacity market prices.”<sup>45</sup> The Commission’s logic continues to apply and PJM’s proposed Self-Supply Exemption is consistent with the Commission’s general policy regarding self-supply. Just

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<sup>42</sup> PJM Initial Submission at 32.

<sup>43</sup> NRECA Initial Submission at 10-11.

<sup>44</sup> See *PJM Interconnection, L.L.C.*, 143 FERC ¶ 61,090 at P 108 (2013).

<sup>45</sup> *Id.*

as the Commission previously adopted the Self-Supply MOPR Exemption over objection by generator interests, it should approve PJM’s proposed Self-Supply Exemption.

Second, PJM’s proposed Self-Supply Exemption reasonably satisfies NRECA’s three fundamental principles noted above, while addressing the Commission’s concern over artificial price suppression as a result of state out-of-market payments. To be sure, a truly residual capacity market would be a preferable end state.<sup>46</sup> Nevertheless, PJM’s Self-Supply Exemption affords LSEs an opportunity to build or purchase capacity outside of the PJM capacity construct, based on the LSEs’ own view of economics and benefits, as opposed to forced reliance on the proxy for competition and narrow view of economic entry found in RPM. Thus, the proposed Self-Supply Exemption is consistent with the original conception that RPM should be residual, whereby as a “last resort”<sup>47</sup> “after LSEs 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 in procurement could jeopardize reliability.”<sup>48</sup> By so doing, PJM’s proposed Self-Supply Exemption recognizes or at least accommodates the importance of long-term contracts in bilateral markets, and should honor and accommodate LSE capacity procured under long-standing business models, such as NRECA’s cooperative utility members. Further, to the extent LSE self-supply resources qualify for the Self-Supply Exemption, ratepayers would be protected against the risk of double

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<sup>46</sup> “NRECA has long advocated that consumers will fare better in competitive wholesale power markets where LSEs such as cooperatives can first meet their power- supply requirements through voluntary measures such as resource ownership and long- term bilateral contracts—i.e., self-supply their resources—and then turn to the RTO- administered centralized capacity markets for residual needs. By themselves, centralized forward capacity markets are inadequate substitutes for the multi-attribute, long-term resource planning practiced by cooperatives on behalf of their member- consumers.” Comments of the National Rural Electric Cooperative Association, Grid Resilience in Regional Transmission Organizations and Independent System Operators, Docket No. AD18-7-000 at 14 (May 9, 2018) (citations omitted).

<sup>47</sup> *PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,079 at 55, 71 (2006).

<sup>48</sup> *Id.*

payment for the capacity associated with those resources. As Mr. Montalvo explained, subjecting self-supply by LSEs under long-standing business models to the MOPR “would improperly undo the benefits of the Public Power utilities” self-supplied resources “through wholesale market design and could impose costs on Public Power utilities that, through portfolio diversification, the would have otherwise avoided.”<sup>49</sup>

Third, PJM’s proposed Self-Supply Exemption is consistent with the record of this proceeding. As NRECA discusses in its Initial Submission, there is no evidence in the record to support expanding the MOPR beyond state subsidies. Moreover, economic theories by generators seeking to substitute their judgement of what is in loads’ best interest must not be permitted to replace the Commission’s commitment to honor self-supply by LSEs acting under long-standing business models. Instead, as PJM correctly observes in its filing, the Self-Supply Exemption is “allow[s] reasonable departures from a theoretically perfect market . . . .”<sup>50</sup>

#### **IV. CLARIFICATION REGARDING RURAL UTILITY SERVICE FINANCING**

In addition to accepting the MOPR Self-Supply Exemption as proposed by PJM, NRECA requests that the Commission clarify that RUS financing does not constitute a federal subsidy for purposes of the MOPR. As explained in NRECA’s Initial Submission, many cooperative utilities receive funding and hold debt from the RUS. Cooperative utilities do not have shareholders and, therefore, many utilize funding from the RUS. The RUS funding does not meet PJM’s proposed definition of Material Subsidy, as it predates PJM’s March 21, 2016 cutoff date and is not “connected to the construction, development or operation (including but not limited to support which has the effect of allowing the unit to clear in any RPM Auction) . . . .”<sup>51</sup> However, given

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<sup>49</sup> NRECA Initial Submission, Montalvo Decl. at P 13.

<sup>50</sup> PJM Initial Submission at 8.

<sup>51</sup> PJM’s proposed pro forma Tariff, Article I, Definitions.

the reliance of many cooperative utilities on RUS financing, and the critical need to ensure self-supply by these LSEs will not be subject to the MOPR, NRECA renews its request that the Commission explicitly state that if resources owned by self-supply cooperative utilities or their affiliates are financed with ROS debt, the financing alone will not disqualify the resource from the Self-Supply Exemption or otherwise trigger application of the MOPR.

## V. CONCLUSION

WHEREFORE, for the foregoing reasons, NRECA requests that if the Commission proceeds with MOPR revisions in these proceedings, the Commission (1) confine any expanded MOPR to state and federal subsidies as contemplated by the June 29 Order and PJM's Initial Submission; (2) adopt PJM's Self-Supply Exemption as proposed in its Initial Submission; and (3) clarify that RUS financing is excluded from any category of support which can trigger application of the MOPR.

Respectfully submitted,

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Dated: November 6, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of November, 2018, I have caused a copy of the foregoing to be served upon each person designated on the Official Service List in this proceeding.

/s- Adrienne E. Clair/