

132 FERC ¶ 61,222
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

PJM Interconnection, L.L.C.

Docket Nos. ER05-1410-016
EL05-148-016
ER09-412-011

ORDER DENYING REHEARING

(Issued September 16, 2010)

1. In this order, the Commission denies rehearing of an order issued on May 20, 2010 relating to PJM Interconnection, L.L.C.'s (PJM's) obligation to purchase additional capacity through its Reliability Pricing Model (RPM) capacity market.¹ The order first finds that the rehearing request is untimely as it challenges a determination that was not made or revisited in the May 20 Order. The order also denies the rehearing request on the merits.

I. Background

A. Design of RPM

2. PJM operates the RPM capacity market, under which PJM purchases capacity on a multi-year forward basis through an auction mechanism. Under RPM, PJM conducts a Base Residual Auction three years ahead of each Delivery Year, in which it procures the majority of the capacity that will be required for that Delivery Year. Additionally, while RPM is designed to enable PJM to procure the bulk of needed capacity for each Delivery Year in the Base Residual Auction for that year, during the three-year period between the Base Residual Auction and the Delivery Year, PJM also conducts three scheduled Incremental Auctions in which it can adjust its capacity position during the three years between the Base Residual Auction and the Delivery Year.

¹ *PJM Interconnection, L.L.C.*, 131 FERC ¶ 61,168 (2010) (May 20 Order).

3. The amount of capacity that PJM requires its customers to purchase, and the price for that capacity, is determined by the Variable Resource Requirement Curve (the VRR curve). The VRR curve, in broad terms, is designed to reflect the relationship of price to quantity. Its height and position vary from Delivery Year to Delivery Year based on two parameters, the Net Cost of New Entry (CONE) and the Installed Reserve Margin (IRM). CONE is intended to approximate the costs for a new peaking unit to enter the capacity market, and Net CONE is CONE minus an estimate of the revenue that the resource will earn from the sale of energy and ancillary services.² The IRM is the amount of capacity that PJM anticipates needing to meet its reliability targets.³

4. PJM has designed the VRR curve so that the price of capacity is equal to the Net CONE for a new peaking unit when the amount of capacity to be supplied is one percent greater than the IRM.⁴ PJM's tariff acknowledges that the operation of the VRR curve may in some cases cause the RPM auctions to procure more capacity than necessary to meet PJM's Reliability Requirement:

The Office of the Interconnection shall determine Variable Resource Requirement Curves for the PJM Region . . . to establish the level of Capacity Resources that will provide an acceptable level of reliability consistent with the Reliability Principles and Standards. It is recognized that the variable resource requirement reflected in the Variable Resource Requirement Curve can result in an optimized auction clearing in which the level of Capacity Resources committed for a Delivery Year exceeds the PJM Region Reliability Requirement⁵

² CONE is the capacity price "considered necessary to attract new entry . . . calculated as the levelized, estimated fixed cost of a new peaking unit . . . net of a historical average of the estimated energy and ancillary services net earnings for such units." *PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,015, at P 2 (2008).

³ "The Installed Reserve Margin (IRM) is the amount of capacity expected to be needed to meet the traditional 1-day-in-10-year reliability target, where firm load is involuntarily curtailed no more than 1 day in 10 years due to inadequate capacity." *Id.* P 2 n.5.

⁴ *Maryland Public Service Commission v. PJM Interconnection, L.L.C.*, 124 FERC ¶ 61,276, at P 3 n.4 (2008).

⁵ PJM tariff, Attachment DD, section 5.1(a). In RPM, the Reliability Requirement represents the target level of reserves required to meet PJM reliability standards and

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Prices above Net CONE (where capacity is less than IRM + 1 percent) will encourage additional entry, while prices below Net CONE (where capacity exceeds IRM + 1 percent) will discourage additional entry; thus, the amount of capacity participating in the market is likely to fluctuate around the level where price matches Net CONE.

B. Initial Filing and March 26 Order

5. On December 12, 2008, PJM made a filing under section 205 of the Federal Power Act (FPA) in which it proposed to revise the RPM capacity market.⁶ In the December 12, 2008 filing, PJM proposed to update its Reliability Requirements before each of the three scheduled Incremental Auctions. If the updated Reliability Requirement was either higher or lower than the most recent prior Reliability Requirement used to set or adjust capacity procurement levels, then PJM would seek in the upcoming Incremental Auction either to buy additional commitments of capacity, or to "sell back" capacity commitments (i.e., if PJM no longer needs capacity, it can allow resources to buy out their prior commitments to provide capacity).⁷

6. The Commission issued an order on PJM's proposal on March 26, 2009,⁸ in which it required PJM to clarify the procedures for determining whether and how it would secure additional commitments of capacity, or allow sellers to buy out of their prior capacity commitments, based on an update of the Reliability Requirements, including a clarification of the precise conditions that would trigger procurement or sale of capacity by PJM in relation to updates of the Reliability Requirement.⁹ PJM made that compliance filing on September 1, 2009.

principles. To calculate the Reliability Requirement, PJM first multiplies the PJM peak load forecast by the forecast pool requirement, which accounts for the IRM and the forced outage rates of generation resources, and then deducts the capacity obligations of those PJM Load Serving Entities (LSE) that have chosen to provide for their own capacity needs. *See* Attachment DD, section 2.55 and PJM Manual 18, section 2.4.

⁶ PJM amended that filing on February 9, 2009.

⁷ *See PJM Interconnection, L.L.C.*, 129 FERC ¶ 61,090, at P 54 n.24 (2009) (October 30 Order) for a description of how this works.

⁸ *PJM Interconnection, L.L.C.*, 126 FERC ¶ 61,275 (2009) (March 26 Order).

⁹ March 26 Order, 126 FERC ¶ 61,275 at P 87.

C. August 14 Order

7. The Illinois Commerce Commission (Illinois Commission) sought rehearing of the March 26 Order. As relevant here, the Illinois Commission argued:

The [Illinois Commission] believes that the Commission erred in not limiting PJM's participation in incremental auctions to only those instances when there is a difference between the updated eligibility requirement and the actual capacity procured in prior auctions. ... Action pursuant to section 5.4(c)(1) of the PJM tariff could force PJM to procure additional capacity when the updated reliability requirement has already been satisfied by the actual capacity procured in the previous auctions.¹⁰

8. In its order on rehearing, issued on August 14, 2009, the Commission found that the precise conditions that would trigger procurement or sale of capacity by PJM in relation to updates of the reliability requirement and capacity already procured were not clearly described and required PJM, in its compliance filing, to explain the circumstances under which it would procure capacity. For this reason, the Commission deferred ruling on the Illinois Commission's request for clarification or rehearing until after PJM made its compliance filing.¹¹

D. Compliance Filing and October 30 Order

9. In its September 1, 2009 compliance filing, PJM provided details of the method to update the Reliability Requirement between auctions, and also of the conditions under which it would purchase additional capacity or sell back capacity commitments. PJM proposed, *inter alia*, that, after updating the Reliability Requirement prior to each Incremental Auction, if the updated Reliability Requirement is greater than the prior Reliability Requirement, PJM will purchase additional capacity to meet that shortfall.¹² This means that on some occasions, PJM will procure more capacity even if it already has enough capacity on hand to meet the updated Reliability Requirement.¹³

¹⁰ Illinois Commission April 23, 2009 Request for Rehearing and Clarification at 12.

¹¹ *PJM Interconnection, LLC*, 128 FERC ¶ 61,157 (2009) (August 14 Order).

¹² *See* October 30 Order, 129 FERC ¶ 61,090 at P 58.

¹³ For example, assume that for the Base Residual Auction, the Reliability
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10. In its protest to PJM's September 1, 2009 compliance filing, the Illinois Commission raised two issues in addition to the contention in its April 23, 2009 rehearing request that PJM should not be permitted to purchase capacity in the Incremental Auctions when PJM has procured in excess of the Reliability Requirement. First, the Illinois Commission contended that PJM should be required to make its buy-back and sell back provisions symmetrical, so that PJM would be required to sell back capacity in an Incremental Auction if PJM has exceeded its Reliability Requirement.¹⁴ Second, the Illinois Commission raised concerns about the amount that PJM was willing to pay to purchase additional capacity in the Incremental Auctions.

11. In the October 30 Order, the Commission addressed and rejected the Illinois Commission's contention (from its April 23, 2009 rehearing request) that PJM should not be permitted to purchase additional capacity in the Incremental Auctions when PJM already has procured its Reliability Requirement. The Commission stated that "[p]ut simply, PJM proposes . . . that whenever the Reliability Requirement is changed . . . (either increasing or decreasing), PJM will seek to buy or sell the amount of the change in the Reliability Requirement,"¹⁵ and that this proposal was consistent with the use of the VRR curve. The Commission noted that the purpose of the VRR curve was to reduce volatility, thus benefitting customers by reducing the risk and the cost of investing in new capacity. We also stated that it was "implicit" in the use of the VRR curve that PJM would sometimes procure capacity in excess of its Reliability Requirement, if capacity could be obtained at sufficiently low prices, and would sometimes procure less capacity than necessary to meet the Reliability Requirement if the capacity price was high.¹⁶ Thus, the Commission rejected the Illinois Commission's protest relating to the purchase of additional capacity in Incremental Auctions.

12. In the October 30 Order, the Commission required further compliance filings by PJM on the two additional issues raised in the Illinois Commission's protest. The

Requirement was 10 MW of capacity, but PJM purchased 11 MW of capacity. Then, before a later Incremental Auction, the Reliability Requirement is updated and raised to 11 MW. PJM at this point already has 11 MW of capacity in hand. Under section 5.4(c)(1), however, because the updated Reliability Requirement is 1 MW higher than the prior Reliability Requirement, PJM is required to purchase an additional 1 MW of capacity.

¹⁴ *I.e.*, PJM would allow capacity providers to buy back their obligations to provide capacity.

¹⁵ October 30 Order, 129 FERC ¶ 61,090 at P 71.

¹⁶ *Id.*, footnote omitted.

Commission required that PJM either “revise its tariff to provide for a provision governing its sell back of capacity that is symmetrical with the purchasing provisions under section 5.12(b)(i), or providing an explanation as to why such a provision should not be included.”¹⁷ The Commission further required that PJM either “revise the price at which it is willing to purchase additional capacity in Incremental Auctions when the updated Reliability Requirement exceeds the thresholds, or justify its proposal to pay 1.5 times Net CONE.”¹⁸ In addition, the Commission required that PJM revise section 5.12(b)(i) of its tariff so as to more clearly describe the specific prices at which PJM would offer to purchase capacity in Incremental Auctions.¹⁹

13. The Illinois Commission did not seek rehearing of any of these determinations, and no other party sought rehearing of the Commission’s rejection of the Illinois Commission’s contention that PJM should not be permitted to purchase additional capacity when it has met or exceeded its Reliability Requirement.²⁰

E. Compliance Filing and May 20 Order

14. PJM made that required compliance filing on December 29, 2009. To replace its prior proposal (namely, to offer to purchase capacity in at a price of 1.5 times Net CONE), PJM proposed that, when it was purchasing capacity to meet an increase in the Reliability Requirement, it would offer to pay a fixed price, and that price would be determined by the point on the updated VRR curve associated with the quantity equal to the net capacity procured in previous auctions for the same Delivery Year.

15. On May 20, 2010, the Commission issued an order on rehearing of the October 30 Order and the compliance filing. The Commission accepted the compliance filing subject to the condition that PJM make a further compliance filing that provided for an offer

¹⁷ *Id.* P 79.

¹⁸ *Id.* P 84.

¹⁹ *Id.* P 81.

²⁰ PJM and the PJM Power Providers Group were the only parties to seek rehearing. PJM’s rehearing was limited to two issues: 1) whether it should be required to sell back capacity and 2) the requirement that it better describe in the tariff, the prices it will offer for capacity. The PJM Power Providers Group also sought rehearing on the question of whether PJM should be required to sell back capacity, and in particular, whether PJM would be required to do so even if it had not met the Reliability Requirement. In the May 20 Order, the Commission denied both PJM’s and the PJM Power Providers Group’s requests for rehearing.

price that used the updated VRR curve to value capacity (i.e., rather than a single fixed price) when it purchased capacity to meet an increase in the Reliability Requirement.²¹ In addition, the Commission accepted PJM's explanation of why it should not be required to sell back capacity in a manner symmetric with its obligation to buy additional capacity.

16. PJM made that compliance filing on June 21, 2010, and we accepted it by delegated letter order on August 19, 2010.

II. Request for Rehearing

17. The Illinois Commission sought rehearing of the May 20 Order. It states that the Commission should not have approved tariff revisions that permit PJM to procure additional capacity for a delivery year in an Incremental Auction, when PJM has already procured more capacity in prior capacity auctions than the updated Reliability Requirement. The Illinois Commission asserts that this provision requires PJM to over-procure capacity and to unnecessarily increase the costs paid by PJM's capacity customers, and is therefore not just and reasonable.²²

18. The Illinois Commission notes that supporters of this proposal may justify it as consistent with the application of the principles underlying the downward sloping VRR curve. In response to this argument, the Illinois Commission asserts that the primary goal of the RPM program is to procure capacity to satisfy the Reliability Requirement, which goal has already been met; according to the Illinois Commission, other elements of the RPM program, such as the downward sloping VRR curve, are designed to achieve secondary objectives such as dampening capacity price volatility and lowering the total cost incurred in a single auction when surplus capacity exists. The Illinois Commission asserts that procuring additional capacity in subsequent auctions, due to increases in the Reliability Requirement or otherwise, does not lower total costs because it has no effect on the price that cleared in previous auctions. While the Illinois Commission acknowledges that, if the increased Reliability Requirement would have been known at the time of the Base Residual Auction or previous Incremental Auction, more capacity would have cleared, and at a lower price, than was the case, it states that this lowering effect on prices will not occur when additional capacity is purchased in two different auctions.

19. Thus, the Illinois Commission states:

²¹ May 20 Order, 131 FERC ¶ 61,168 at P 39.

²² Illinois Commission June 15, 2010 Request for Rehearing at 2.

Blindly applying the principles that underlay the VRR curve to enable PJM to procure additional capacity in an [Incremental Auction] when PJM has already procured capacity in excess of the updated [Reliability Requirement] in prior auctions does not advance either the primary or secondary goals of the RPM program. In fact, applying these principles to this particular circumstance will only result in increased total costs for capacity that electricity consumers must pay.²³

The Illinois Commission asserts that “[w]hile the principles that underlay the downward sloping VRR curve may be appropriate when applied correctly, allowing those principles to be applied so as to permit PJM to procure additional capacity in an [Incremental Auction] when PJM has already procured an amount of capacity in excess of the updated [Reliability Requirement] in prior auctions would be to carry the principle beyond its usefulness,”²⁴ and PJM’s proposal should therefore be rejected.

20. It also asserts that it expressed concerns about PJM’s proposal to procure additional capacity in comments filed on January 9, 2009, and in a later Appendix to those comments; and that “[i]t was not until the issuance of the Commission’s May 20 Order . . . that the Commission accepted PJM’s proposal to purchase additional capacity subsequent to an increase in the Reliability Requirement.”²⁵

III. Discussion

21. For the reasons discussed below, we deny rehearing of the May 20 Order.

A. The Illinois Commission’s Request for Rehearing is Untimely

22. The Illinois Commission provides, as the statement of the issue in its rehearing request, the following statement:

When PJM has already procured an amount of capacity for a particular delivery year in prior auctions that exceeds the updated reliability requirement for such delivery year, PJM should not be authorized to procure additional capacity for

²³ *Id.* at 7

²⁴ *Id.*

²⁵ *Id.* at 7.

that delivery year in a subsequent incremental auction.²⁶

This is the identical issue the Illinois Commission raised in its request for rehearing of the March 26 Order. It stated there:

The [Illinois Commission] believes that the Commission erred in not limiting PJM's participation in incremental auctions to only those instances when there is a difference between the updated reliability requirement and the actual capacity procured in prior auctions.... Action pursuant to section 5.4(c)(1) of the PJM tariff could force PJM to procure additional capacity when the updated reliability requirement has already been satisfied by the actual capacity procured in the previous auctions.²⁷

23. The Commission rejected that argument in the October 30 Order and neither the Illinois Commission, nor any other party, sought rehearing of that determination.²⁸ Moreover, the issue relating to procurement of capacity that exceeds the updated Reliability Requirement was not addressed in the May 20 Order, which addressed only the sell back and pricing issues. Thus, the Illinois Commission's raising of this issue at this point is a belated request for rehearing of the October 30 Order and is not a proper rehearing request of the May 20 Order. As the Commission stated in *California Independent System Operator Corporation*:

²⁶ *Id.* at 1.

²⁷ Illinois Commission April 23, 2009 Request for Rehearing and Clarification at 12.

²⁸ Indeed, the principle that PJM could procure additional capacity even when it had satisfied its Reliability Requirement had been approved on December 22, 2006 in section 5.4.c of Attachment DD, which provides for PJM to procure additional resources in the second Incremental Auction due to an increase in load forecast. *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331, at P 75-78 (2006), *order on reh'g*, 119 FERC ¶ 61,318, *reh'g denied*, 121 FERC ¶ 61,173 (2007), *aff'd sub nom. Pub. Serv. Elec. & Gas Co. v. FERC* D.C. Circuit Case No. 07- 1336 (Mar. 17, 2009) (unpublished); *see also N.Y. Indep. Sys. Operator, Inc.*, 105 FERC ¶ 61,108, at P 39 (2003) *aff'd. sub nom. Elec. Consumers Res. Council v. FERC*, 407 F.3d 1232 (D.C. Cir. 2005). Thus, to the extent that the Illinois Commission seeks to undo the ability of PJM to procure any additional capacity in the second Incremental Auction, the Illinois Commission is improperly seeking to change the existing tariff, when the proper procedural vehicle is a section 206 complaint.

The Commission rejects [parties'] requests that we direct the CAISO to alter its compliance filing regarding the deadlines for the submission of load resource adequacy plans and supply resource adequacy plans. . . . [T]hese protests should have been raised on rehearing and/or clarification of the January 22 Order, and therefore we reject their requests to alter the CAISO's compliance filing as untimely and a collateral attack on [the order in which the Commission required the CAISO's compliance filing].²⁹

24. The Illinois Commission argues that its rehearing petition should be considered because "[i]t was not until the issuance of the Commission's May 20 Order . . . that the Commission accepted PJM's proposal to purchase additional capacity subsequent to an increase in the Reliability Requirement."³⁰ We disagree. As discussed above, the October 30 Order specifically responded to the Illinois Commission's challenge on this very ground, stating that:

Put simply, PJM proposes to seek to buy additional capacity in any incremental auction if the amount of capacity procured to date is below the updated Reliability Requirement by a threshold amount

²⁹ 119 FERC ¶ 61,240 at P 13 (2007). *See also California Independent System Operator Corporation*, 120 FERC ¶ 61,147, at P 15 (2007) ("We accept the CAISO's tariff sheets as in satisfactory compliance with the April 19 Compliance Order. . . . We find the Protestors' objections to the compliance filing go beyond the scope of compliance. . . . The additional information requested by the Protestors does not pertain to that calculation process and, therefore, is beyond the scope of the compliance requirements set forth in the April 19 Compliance Order. The Protestors' issues with respect to the scope of the compliance filing should have been raised in the context of a request for clarification or rehearing of the April 19 Compliance Order; but they failed to do so. Consequently, we reject their requests as an impermissible collateral attack on the April 19 Compliance Order") and *ISO New England, Inc.*, 132 FERC ¶ 61,098, at P 12 (2010) ("The Commission has held that requests to alter a compliance filing in a manner that differs from the order requiring the compliance filing constitute a collateral attack on the order requiring the compliance filing"). *See also NSTAR Electric Company v. ISO New England, Inc.*, 120 FERC ¶ 61,261, at P 33 (2007) ("Collateral attacks on final orders and relitigation of applicable precedent, especially by parties that were active in the earlier case, thwart the finality and repose that are essential to administrative efficiency, and are therefore strongly discouraged").

³⁰ Illinois Commission June 15, 2010 Request for Rehearing at 7.

(500 MW or 1 percent). In addition, it proposes that whenever the Reliability Requirement is changed beyond a threshold amount (either increasing or decreasing), PJM will seek to buy or sell the amount of the change in the Reliability Requirement.³¹

25. The Illinois Commission points to P 20 and P 27 of the May 20 Order to support its assertion that the Commission did not rule on the principle that PJM should purchase additional capacity in excess of the Reliability Requirement until it issued that May 20 Order.³² However, this section of the order reflects PJM's response to the requirements in the October 30 Order that PJM justify the prices at which it would procure additional capacity. This discussion took as a given (based on the prior orders) that PJM would procure additional capacity in the Incremental Auctions even when it had already procured sufficient capacity to satisfy the Reliability Requirement. The Illinois Commission cannot seize upon the Commission's reiteration of a principle articulated in a prior order as a basis to file an untimely rehearing of that prior order.

³¹ October 30 Order, 129 FERC ¶ 61,090 at P 71.

³² P 20 of the May 20 Order merely summarized PJM's proposal, stating in pertinent part:

In this filing, PJM has revised its proposals to purchase capacity related to the Reliability Requirement . . . in response to the October 30 Order. . . . [U]nder PJM's proposal, PJM would seek to purchase additional capacity in an Incremental Auction when . . . the Reliability Requirement has increased by a threshold amount since the previous auction for the same Delivery Year. . . at a fixed price.

P 27 then states, in pertinent part:

We find that PJM has adequately revised its tariff to describe the process by which it integrates buy bids into the VRR curve. PJM has explained that it will use in the Incremental Auctions only the portion of the Updated VRR Curve that accounts for all cleared capacity in the prior auctions. . . . PJM will construct a demand curve by summing, for each capacity price, the amount of capacity that it is willing to purchase at this price with the amount of capacity that market participants are willing to purchase at this same price. We find that this is a reasonable and clearly-described method of developing a demand curve.

B. The Illinois Commission's Request for Rehearing Fails on the Merits

26. Second, assuming *arguendo* that the Illinois Commission's request for rehearing is properly before us, we deny the request for rehearing on the same basis that we did in the October 30 Order:

Put simply, PJM proposes to seek to buy additional capacity in any incremental auction if the amount of capacity procured to date is below the updated Reliability Requirement by a threshold amount (500 MW or 1 percent). . . . As a general matter, this proposal accords with the use of the VRR curve as accepted by the Commission. The purpose of using the VRR curve is to reduce capacity volatility, thereby reducing the risk and the financing cost of investment, to the benefit of customers. Implicit in this curve is the expectation that PJM will sometimes procure in excess of its Reliability Requirement if additional capacity can be procured at sufficiently low prices. The VRR curve also allows PJM to procure less capacity than its Reliability Requirement when the price needed to procure capacity is sufficiently high. Under the VRR curve, it is to be expected that PJM will procure more capacity than the Reliability Requirement in some years (when supplies are plentiful and offered at comparatively low prices) and will occasionally procure less capacity than the Reliability Requirement in other years (when supplies are less plentiful and offered at higher prices).³³

27. The Illinois Commission argues that PJM should not purchase additional capacity in the incremental auctions if it has already met its Reliability Requirement based on the increased load forecast. But this argument ignores the basis on which the capacity market was designed.

28. PJM designed the capacity market based on the downward sloping demand curve. It therefore is reasonable for PJM to purchase additional capacity when such a purchase is economic as indicated by the VRR curve. As the Commission stated in the order approving the RPM Settlement:

we agree with PJM that a downward-sloping demand curve provides a better indication of the incremental value of

³³ October 30 Order, 129 FERC ¶ 61,090 at P 71, footnote omitted

capacity at different capacity levels than the current vertical demand curve. Under a vertical demand curve, capacity above the Installed Reserve Margin is deemed to have no value. Incremental capacity above the Installed Reserve Margin is likely to provide additional reliability benefits, albeit at a declining level. This value is reflected in the positive (but declining) prices in the sloped demand curve to the right of the Installed Reserve Margin, but is not reflected in the current capacity market. Finally, as we discussed in orders in which a sloped demand curve was approved for NYISO, a sloped demand curve would reduce the incentive for sellers to withhold capacity in order to exercise market power when aggregate supply is near the Installed Reserve Margin.³⁴

Had PJM correctly estimated the load forecast in the Base Residual Auction, it would have purchased additional capacity even if that purchase exceeded the Reliability Requirement. Therefore, we find it reasonable for PJM to purchase additional capacity in the Incremental Auctions under the same circumstances. The reasons that made the use of the VRR curve to procure capacity, and to determine the amount and price of the capacity procured, in the Base Residual Auction, also apply to PJM's extension of the RPM design of procuring more capacity than the Reliability Requirement into the Incremental Auctions. As we stated in the October 30 Order, PJM's proposal to purchase additional capacity in the Incremental Auctions "accords with the use of the VRR curve as accepted by the Commission," in that such purchases will similarly enable PJM to procure capacity "in excess of its Reliability Requirement if additional capacity can be procured at sufficiently low prices."³⁵ The Illinois Commission does not justify treating the Incremental Auctions differently from the Base Residual Auction in this respect. While the Illinois Commission's counter-proposal (namely, that once PJM has procured enough capacity to meet its Reliability Requirement, it should not procure any additional capacity) might also be reasonable, the Illinois Commission has not met its burden of first showing that PJM's proposal is not just and reasonable, and we deny rehearing on that basis.

29. Moreover, the Illinois Commission asserts that the principal purpose of RPM is to procure sufficient capacity for PJM, and that the VRR curve mechanism was designed to meet less important goals such as the reduction of volatility. It therefore maintains that

³⁴ *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331 at P 76.

³⁵ October 30 Order, 129 FERC ¶ 61,090 at P 71.

there is no need to procure additional capacity once the paramount goal of meeting the Reliability Requirement is satisfied. In the first place, this argument attacks the overall design of the PJM capacity market and the use of the VRR curve, not simply the design of the Incremental Auctions, which was the subject of the May 20 Order. Secondly, the Commission disagrees that the other goals of RPM are so subsidiary that they can and should be ignored. As the Commission has stated:

The downward sloping demand curve is designed to reflect the increased value provided by additional energy resources and to reduce the price volatility of the current vertical demand curve.³⁶

Thus, as noted previously herein, the operation of the VRR curve benefits customers in the Incremental Auctions, as it does in the Base Residual Auction, by more correctly reflecting the value of capacity, and reducing capacity price volatility.

The Commission orders:

The rehearing request is denied.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

³⁶ *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,318 at P 3.