

169 FERC ¶ 61,252
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

PJM Interconnection, L.L.C.

Docket No. ER20-271-000

ORDER ACCEPTING TARIFF REVISIONS SUBJECT TO CONDITION

(Issued December 30, 2019)

1. On October 31, 2019, PJM Interconnection, L.L.C. (PJM) filed revisions to its Open Access Transmission Tariff (OATT or Tariff) and the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region (RAA) to update certain rules and requirements for Price Responsive Demand (PRD)¹ to conform to the rules and requirements for Capacity Performance Resources (PRD Update). We accept the filing, to become effective December 30, 2019, as requested, subject to the condition that PJM submit a compliance filing within 30 days of the date of this order adding a clarification to the Tariff consistent with PJM's statements on the record here.

I. Background

2. PJM operates a capacity market, the Reliability Pricing Model (RPM), in which it procures sufficient capacity to meet its reliability targets. Resources offering into the capacity market are expected to be available for all 12 months of the year, and are required to deliver their expected output during defined Performance Assessment Intervals,² which can occur at any time, or else pay a significant Non-Performance

¹ We note that capitalized terms not defined herein are defined in the PJM OATT or RAA.

² Performance Assessment Intervals are any real-time settlement interval during which an Emergency Action has been declared by the PJM Office of the Interconnection. See PJM, Intra-PJM Tariffs, OATT, O-P-Q, OATT Definitions (21.2.1); *id.* R-S, OATT Definitions (18.2.0).

Charge Rate.³ To create a further incentive to perform, PJM awards funds collected through Non-Performance Charges (Performance Payments) to resources that exceed their expected output during a Performance Assessment Interval.⁴ All supply-side capacity resources, including Demand Resources, are required to meet the Capacity Performance requirements.

3. PJM's PRD program provides LSEs an opportunity to designate a portion of their load as price-responsive in order to reduce their bills for energy and capacity. PJM's PRD program only allows for participation through an LSE: either the LSE acts as the PRD Provider itself, or the LSE contracts with a third party to act as the PRD Provider on its behalf. Furthermore, PRD Providers must: (1) limit PRD to customers served under a dynamic retail rate structure; (2) employ advanced metering; and (3) employ supervisory control to ensure the committed demand reduction can be accomplished.⁵

4. A PRD Provider reflects retail customers' willingness to reduce load using a set of price/quantity pairs called a PRD Curve, and is required to autonomously ensure its customers' real-time load does not exceed the amount in its PRD Curve corresponding to the prevailing real-time Locational Marginal Price (LMP).⁶ The PRD Provider can also commit to reduce the LSE's load by a certain amount of MW (the Nominal PRD Value) during PJM's annual peak, which generally occurs in the summer.⁷ Because PRD operates as price-sensitive demand in the energy market, LSEs participating in PRD receive no energy payment other than reduced energy bills. Similarly, LSEs receive a capacity service bill credit (the PRD Credit) for any PRD in their Locational Deliverability Area to reflect avoided capacity market costs. The amount of the PRD Credit is based on Nominal PRD Value, which reflects the reduction in the LSE's demand during PJM's annual peak. That is, the PRD Credit puts the LSE in the same position as if PJM had reduced the LSE's capacity obligation, which is calculated based on the LSE's demand during PJM's annual peak.

³ *See id.* Attachment DD, § 10A (5.0.0).

⁴ *See id.*

⁵ *See* PJM, Intra-PJM Tariffs, RAA, RAA Article 1 – Definitions (29.0.0).

⁶ *See id.* Schedule 6.1 (2.0.0).

⁷ *Id.* Schedule 6.1.C (2.0.0).

5. On February 7, 2019, PJM filed a proposal to align the rules and requirements for PRD with the rules and requirements for Capacity Performance Resources (February 2019 PRD Filing).⁸ That filing included a proposal to calculate the Nominal PRD Value based on the lesser of an LSE's summer and winter load reductions, rather than based on the reduction during PJM's annual peak. On June 27, 2019, the Commission rejected the February 2019 PRD Filing as unjust and unreasonable, finding that PJM's proposal to calculate the Nominal PRD Value as the lesser of summer and winter load reductions conflicts with the manner in which PJM calculates an LSE's capacity obligation, which is based on an LSE's demand during PJM's annual peak.⁹

II. Filing

6. PJM's filing proposes all of the same revisions originally proposed in the February 2019 PRD Filing that the Commission did not explicitly reject in the June 27 Order. Specifically, PJM proposes to: (1) change the trigger for PRD performance assessment from a Maximum Generation Emergency to an Emergency Action, which triggers a Performance Assessment Interval; (2) make PRD eligible for Performance Payments when its Actual Performance exceeds its Expected Performance during a Performance Assessment Interval; (3) charge PRD for non-performance at the Capacity Performance Non-Performance Charge Rate; and (4) align the PRD credit requirement with the credit requirement for Capacity Performance Resources.¹⁰ PJM states that these revisions will better align the requirements for PRD, which have remained largely unchanged since 2012, with the requirements for Capacity Performance Resources.¹¹

7. Additionally, PJM proposes two revisions to the calculation for Nominal PRD Value that, PJM states, better align that calculation with the nomination and measurement methodology for Capacity Performance Demand Resources, and are consistent with the June 27 Order. Specifically, PJM proposes to: (1) replace the term Maximum Emergency Service Level, which represents the demand level to which PRD is expected to reduce during a Maximum Generation Emergency, with the term Firm Service Level that is used for Demand Resources; and (2) replace the term PRD Provider's Zonal Expected Peak Load Value, which represents PRD's expected load absent any demand

⁸ PJM, Filing, Docket No. ER19-1012-000 (filed Feb. 7, 2019).

⁹ *PJM Interconnection, L.L.C.*, 167 FERC ¶ 61,268, at PP 22-25 (2019) (June 27 Order).

¹⁰ Transmittal at 6-15.

¹¹ *Id.* at 4-15.

reductions, with the term peak load contribution that is used for Demand Resources.¹² PJM states that these additional revisions address the Commission's concerns regarding the calculation for Nominal PRD Value proposed in the February 2019 PRD Filing.¹³ PJM requests a December 30, 2019 effective date for the revisions proposed in its filing.¹⁴

8. PJM proposes to allow PRD Providers to withdraw or modify previously submitted PRD Plans until no later than 30 days prior to the commencement of the Base Residual Auction for the 2022/2023 Delivery Year.¹⁵

III. Notice of Filing and Responsive Pleadings

9. Notice of PJM's filing was published in the *Federal Register*, 84 Fed. Reg. 60,077 (2019), with interventions and protests due on or before November 21, 2019. American Municipal Power, Inc., Calpine Corporation, the Delaware Division of the Public Advocate, Dominion Energy Services, Inc., Exelon Corporation, Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (IMM), the National Rural Electric Cooperative Association, North Carolina Electric Membership Corporation, NRG Power Marketing LLC, Old Dominion Electric Cooperative, and the PJM Power Providers Group (P3) submitted timely motions to intervene. The Maryland Public Service Commission filed a notice of intervention. P3 filed comments and the IMM filed a protest. PJM filed an answer to the IMM's protest. The IMM filed an answer to PJM's answer.

10. P3 states that it supports PJM's filing because it aligns the rules for PRD with the Capacity Performance construct.¹⁶

11. The IMM agrees with PJM that PRD should conform to Capacity Performance requirements but argues that PJM's filing fails to achieve this goal.¹⁷ Specifically, the IMM explains that PJM's filing only requires PRD to reduce load when the real-time

¹² *Id.* at 15-18.

¹³ *Id.* at 15-19.

¹⁴ *Id.* at 21.

¹⁵ *Id.* at 19.

¹⁶ P3 Comments at 2.

¹⁷ IMM Protest at 2.

LMP is greater than the LMP threshold specified in its PRD Plan. The IMM maintains that all other Capacity Performance Resources must perform during a Performance Assessment Interval regardless of the real-time LMP. The IMM claims that, under PJM's proposal, PRD could effectively engage in economic withholding by picking high LMP thresholds to avoid responding. In addition, the IMM argues that PJM's filing aggravates the disparate treatment of PRD and Capacity Performance Resources by permitting PRD to receive Performance Payments during Performance Assessment Intervals even when it has no obligation to reduce load. The IMM avers that PJM does not allow any other resource to avoid its performance obligation during a Performance Assessment Interval and still be eligible to receive a Performance Payment.¹⁸ The IMM asks that the Commission direct PJM to propose rules that require PRD to respond to the maximum committed MW level during a Performance Assessment Interval regardless of LMP and only award bonus payments if PRD responds by more than its committed MW during a Performance Assessment Interval.¹⁹

12. In its answer, PJM contends that the IMM's argument that PRD should be required to reduce load regardless of LMP amounts to a collateral attack on the existing PRD rules that the Commission accepted.²⁰ PJM explains that, under its existing rules, PRD is assessed a non-compliance charge only when its PRD Curve specifies a price at or below the highest real-time LMP recorded during a Maximum Generation Emergency. PJM states that the instant filing merely changes the triggering event from a Maximum Generation Emergency to an Emergency Action.²¹ PJM also maintains that the IMM's argument would not be reasonable because PRD may not be prepared to curtail, as they are designed to automatically curtail based on LMPs.

13. Furthermore, PJM defends its proposal to make PRD eligible for bonus Performance Payments if PRD customers in the aggregate curtail more load than anticipated during a Performance Assessment Interval.²² PJM argues that this treatment is similar to that afforded traditional generators. However, PJM maintains, just as PRD would not be subject to a Non-Performance Charge, it would also not receive bonus

¹⁸ *Id.* at 2-3.

¹⁹ *Id.* at 4.

²⁰ PJM Answer at 2 (citing *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,204 (2011), *order on technical conference, PJM Interconnection, L.L.C.*, 139 FERC ¶ 61,115 (2012)).

²¹ *Id.* at 2-3.

²² *Id.* at 3.

Performance Payments during a Performance Assessment Interval if LMPs are less than its specified pricing points.²³

14. In its answer to PJM's answer, the IMM reiterates its position that PJM should be directed to propose rules that require PRD resources to respond to their maximum committed MW levels during a Performance Assessment Interval regardless of LMP and only award bonus payments if PRD resources respond by more than their committed MWs during a Performance Assessment Interval.²⁴

IV. Discussion

A. Procedural Matters

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

16. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2019), prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority. We accept PJM's and the IMM's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

17. We accept PJM's filing as just and reasonable, subject to the condition that PJM make a compliance filing adding a clarification to the Tariff about PRD's eligibility for Performance Payments.²⁵ We agree with PJM that it is just and reasonable to align the rules and requirements for PRD with the rules and requirements for Capacity Performance Resources, while respecting the fact that PRD operates on the demand side

²³ *Id.* at 3-4.

²⁴ IMM Answer at 2-3.

²⁵ The United States Court of Appeals for the District of Columbia Circuit has held that, in certain circumstances, the Commission has "authority to propose modifications to a utility's [FPA section 205] proposal *if the utility consents to the modifications.*" *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, 114–15 (D.C. Cir. 2017).

of PJM's markets and thus should align with how LSEs' capacity obligations are determined.²⁶

18. We dismiss as beyond the scope of this filing the IMM's argument that the Commission should require PJM to revise its current tariff to require PRD to reduce load during a Performance Assessment Interval even if the prevailing LMP is below its trigger price. PJM explains in its answer that, under its current tariff, PRD is exempt from reducing load when the LMP is below its trigger price, including during emergency conditions.²⁷ PJM only proposes to revise the triggering event for PRD compliance in this filing, and therefore the IMM's protest goes beyond the scope of this section 205 filing.

19. We agree with the IMM that PRD should not be eligible for a bonus Performance Payment during a Performance Assessment Interval when the LMP is below its trigger price and it is not obligated to reduce load.²⁸ PJM also agrees with the IMM on this point, stating that "just as PRD would not be subject to a Non-Performance Charge, it would also not receive bonus [P]erformance [P]ayments during a Performance Assessment Interval when LMPs are less than the specified pricing points because PRD is not designed, and such PRD loads may not have the ability, to automatically reduce load at lower LMPs."²⁹ PJM, however, does not include or cite to a tariff provision providing that PRD will not be eligible for bonus Performance Payments when its trigger price is above the prevailing LMP. We therefore accept PJM's filing on the condition that it reflect its statement in the transmittal letter in its Tariff by revising OATT Attachment DD, Section 10A to specify that a PRD registration is not eligible for bonus Performance Payments during a Performance Assessment Interval when the PRD Curve

²⁶ See June 27 Order, 167 FERC ¶ 61,268 at PP 22-25.

²⁷ PJM Answer at 2-3; see PJM, Intra-PJM Tariffs, RAA, Schedule 6.1.K (2.0.0) ("If the identified loads submitted . . . by a PRD Provider exceed during any Emergency the aggregate Maximum Emergency Service Level ('MESL') specified in all PRD registrations of such PRD Provider *that have a PRD Curve specifying a price at or below the highest Real-time LMP recorded during such Emergency*, the PRD Provider that committed such loads as Price Responsive Demand shall be assessed a compliance charge hereunder.") (emphasis added).

²⁸ IMM Protest at 3-4.

²⁹ Transmittal at 8.

associated with such registration has a price point above the real-time LMP recorded during the Performance Assessment Interval.³⁰

The Commission orders:

(A) PJM’s proposed PRD Update is hereby accepted, effective December 30, 2019, subject to condition, as discussed in the body of this order.

(B) PJM is hereby directed to submit a further compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

³⁰ See *PJM Interconnection, L.L.C. and AMP Transmission, LLC*, 166 FERC ¶ 61,216, at P 23 (2019) (finding that the proposed tariff appeared to be inconsistent with AMP Transmission’s stated intent in its transmittal and deficiency letter response, and accepting the proposal subject to a compliance filing to revise the proposed tariff, “consistent with its stated intent”); *PJM Interconnection, L.L.C.*, 165 FERC ¶ 61,188, at P 37 (2018) (accepting PJM’s filing on the condition that it revise the Operating Agreement and its Tariff “[i]n order to comply with PJM’s stated intent [in its transmittal] to have each of [the related] filings stand alone”).