

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

**PJM Interconnection, LLC**

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**Docket No. ER11-3322-000**

**COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION**

The Electric Power Supply Association<sup>1</sup> (“EPSA”) submits these comments in response to the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) July 29, 2011 technical conference, which addressed issues associated with proposed clarifications and revisions to PJM’s measurement of demand response (“DR”) to prevent an improper “double counting” of these resources in PJM’s capacity market.<sup>2</sup> The July 29 conference revealed that numerous DR providers present either fundamentally misunderstand or ignore the distinctions between energy and capacity markets, which has formed the basis for their flawed positions regarding performance measurement for the capacity market. In contrast, PJM and its independent market monitor provided clear distinctions between the energy and capacity market, highlighting the faulty underpinnings of the arguments in favor of double-counting certain curtailment activity to obtain capacity market compensation.

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<sup>1</sup> EPSA is the national trade association representing competitive power suppliers, including generators and marketers. Competitive suppliers, which, collectively, account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities serving power markets. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue. EPSA intervened in this proceeding on April 28, 2011.

<sup>2</sup> See: *Notice of Technical Conference*, Docket No. ER11-3322-000 (June 21, 2011); and, *Supplemental Notice Inviting Comments*, Docket No. ER11-3322-000 (July 29, 2011).

As the Commission has striven for comparability between DR resources and traditional generation resources in the energy market, so too should comparability be a goal in the capacity markets.<sup>3</sup> Even more fundamental to this debate is that the product required of a seller must be consistent with the nature of the product purchased. As such, the Commission should make it clear that: (1) established capacity and energy products each have their own set of conventions and rules; and, (2) DR offered into the capacity markets must be consistent with the capacity market structure in which it is offered.

Accordingly, the Commission should approve PJM's requested clarifications and revisions to close the existing double-counting loophole and ensure comparability within PJM's capacity market.

## **I. COMMENTS**

### **A. Performance Measurement of DR in PJM's Capacity Market Must be Relevant to Capacity Market Principles and Not Confused by Energy Market Concepts.**

PJM's revisions ensure that the measurement of demand response compliance with capacity commitments is consistent with the underlying purpose and concepts of the capacity market. Stu Bresler, PJM's Vice President of Market Operations and Demand Resources, noted this concept definitively when he stated, "what we are trying to do here is define the requirements that are accepted by a demand resource when it commits itself to provide capacity to the

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<sup>3</sup> See: *Order No. 745: Demand Response Compensation in Wholesale Energy Markets*, 134 FERC ¶ 61,187, Docket No. RM10-17-000 (March 15, 2011).

system.”<sup>4</sup> Energy market performance concepts that were consistently injected into the conference discussion by certain DR providers are not relevant to this proceeding and only serve to confuse the issue. In his opening statements on the first panel, PJM market monitor Joe Bowring precisely summarized why the use of energy market concepts, such as measurement of a DR resource’s capacity compliance, is inappropriate in a capacity construct. He stated,

PJM administers distinct and different markets for these products, different metrics appropriately apply to the measurement and verification of energy and capacity products.

A demand side resource may provide either; it may provide either energy or capacity and receive compensation for both in an hour, depending on how it performs. If both products are delivered in the same hour, the resource is entitled to compensation for both products. If either product or both products are not delivered, the resource is not entitled to compensation for the product not delivered.

The PJM tariff defines capacity from demand resources and specifies the means, the measure, and verified delivery of that capacity. As I said, the sale of capacity demand side resource is an agreement to be interruptible. The reduction, when called on, is mandatory. It’s not voluntary; it’s mandatory. And if PLC is the metric, that means that the current level of usage, while relevant to the market, is not relevant to the level to which the customer has agreed to reduce. And that’s the essential point.<sup>5</sup>

In pleadings and testimony, those who support the flawed mechanism consistently missed or ignored Dr. Bowring’s “essential point” by continuing to refer to *energy* market measures while arguing about performance in the *capacity* markets.

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<sup>4</sup> Performance Measurement of Demand Response in PJM Capacity Market Technical Conference Transcript, Docket No. ER11-3322-000, p. 35, lines 13-15. (“Transcript”)

<sup>5</sup> Transcript, pp. 32-33, lines 8-25 and 1-3, citing Joe Bowring.

Viridity's Audrey Zibelman stated that "it's important to stress that we have to distinguish between capacity and energy."<sup>6</sup> Ms. Zibelman concluded on a later panel, "one of the things that we're struggling with is the recognition that when we talk about an energy resource, that's where we were talking about load balancing. We're talking about capacity again, it's a planning concept."<sup>7</sup> Ms. Zibelman's statements are entirely consistent with Dr. Bowring's "essential point" and further articulate the concept that energy market measures are irrelevant to value or performance of DR in PJM's capacity market. Ms. Zibelman's observations lead to the conclusion that a capacity sale is a forward obligation tied to fulfillment of system planning and, since capacity is a planning horizon product consisting of forward commitments at defined levels, all responses to real time system conditions beyond the forward commitment level should be irrelevant. Instead, such real time responses above the load's expected peak contribution (i.e., its peak load contribution or "PLC") should be, and are, compensated in PJM's energy market. Response to emergencies beyond their capacity obligation are addressed in real time energy markets in much the same way as voluntary offers of energy from generating capability not sold as capacity.

Since this entire proceeding concerns PJM's revisions to measurement of DR performance in the *capacity* market, none of the comments made during the conference about the performance of DR relative to real time customer baselines ("CBLs") beyond a customer's PLC is relevant to the discussion because PLC is already the accepted, approved and unambiguous measure of capacity market

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<sup>6</sup> Transcript, p. 115, lines 3-5, citing Audrey Zibelman.

<sup>7</sup> Transcript, p. 210, lines 13-17, citing Audrey Zibelman.

obligations.<sup>8</sup> Several panelists explained that the PLC is based on historic performance of a DR resource, calculated by averaging the customer's peak load on the previous year's five system-peak days. Mr. Bresler stated, "meeting your capacity commitment means getting down below what you have historically done," which means that PLC is the only logical and legitimate measure of calculating performance in the capacity market. Furthermore, he noted that "[u]tilizing reductions from energy baselines to satisfy capacity commitments will require PJM to buy more capacity, there is no way around it."<sup>9</sup> Thus, if the Commission were not to accept PJM's revisions, customers in PJM would face additional and unnecessary cost increases.<sup>10</sup>

### **B. Commission Precedent Strives for Comparability**

PJM's Stu Bresler noted that when a generation resource delivers energy to the market, it is not compensated under the capacity construct (although its delivery of energy up to its capacity sale level satisfies its capacity service obligation). "Demand response resources need be looked at the same way," he concluded. Commission precedent supports treating demand response

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<sup>8</sup> PJM Open Access Transmission Tariff, Attachment K – Appendix, Attachment DD-1, §J; PJM Reliability Assurance Agreement, Schedule 6, §J (each stating that, for Guaranteed Load Drop customers "[t]he maximum credit nominated shall not exceed the customer's Peak Load Contribution.").

<sup>9</sup> Transcript, pp. 85-86, citing Stu Bresler.

<sup>10</sup> See, e.g., *Comments of the New Jersey Board of Public Utilities* at 3, "If CBL is used as a benchmark in the capacity market and reduction is measured from an entity's demand in the energy market, then it is likely that PJM would need to increase reserves and procure greater amounts of capacity to meet its reliability requirements. This would unfairly increase costs to consumers. The NJBPU believes that a capacity reduction measured from an energy baseline threatens reliability, undermines the efficiency and effectiveness of the markets, and unjustly increases costs to end users." Docket No. ER11-3322-000 (filed August 12, 2011).

resources comparably to traditional supply resources. In Order No. 719, the Commission directed ISOs and RTOs to “accept bids from demand response resources on a basis comparable to any other resources.”<sup>11</sup> In Order No. 745, the Commission’s final rule on demand response compensation in the energy markets, the Commission also emphasizes comparability as the basis for its actions.<sup>12</sup> While Order Nos. 719 and 745 discuss the energy market and not the capacity market, EPSA asserts in the instant proceeding that the principle of comparability regardless of the resource should similarly guide the Commission’s decisions concerning capacity products in PJM’s tariff.

In order to decide what is comparable, it is helpful to look at the discussion in Section A above. Capacity resources are planning horizon commitments by resources to make their energy available. Thus, a resource will commit to offer its energy for delivery (or abstain from consumption to an agreed level below its firm capacity payment responsibility, its PLC, in the case of DR) at the level of capacity it sold on a forward basis. PJM’s rules clearly state that a demand resource cannot provide more capacity than its PLC.<sup>13</sup> Logically, a demand resource – or a portfolio of DR resources – cannot abstain from a planning level of consumption of capacity beyond the level it was obligated to procure; a demand resource cannot forego a commitment that it hasn’t undertaken. All resources, generation and DR alike, can offer real time capability, including

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<sup>11</sup> Order No. 719, P 47.

<sup>12</sup> Order No. 745, P 18 and P 66.

<sup>13</sup> See, *supra*, fn. 7.

curtailment of any amount of energy above the capacity commitment threshold, on a day-to-day basis, but whether generation or load reduction, that incremental capability is addressed solely within the real time or day-ahead energy market programs. This is consistent with the fact that the resource owner has elected to retain its own option for future period delivery and has not committed to provide that service on the planning horizon. It is also consistent with the fact that while a generator or DR resource may realize additional capability on a day to day basis, the capacity market sale level cannot exceed the capacity market rating of the generator or DR resource. Specifically, a generation resource is capped at its audited level of capability performance and a DR resource is capped at its historic level of peak load consumption. At the July 29 technical conference, PJM's Andy Ott gave the following example:

Think about a generator. A generator is committed to 90 megawatts capacity. Today the generator is generating 110 megawatts. I've got to pay him 110 megawatts for the energy, but their capacity payment remains unchanged. Every day, 365 days a year, they get the same capacity payment. All I'm measuring is, did they comply with what their obligation was, which is giving me at least 90 megawatts. And the answer was, absolutely, that's what they gave me.<sup>14</sup>

Mr. Ott continued the same example with regard to demand response resources,

All I'm going to make sure is they gave me at least what they committed to give me in the capacity market, just like with the generator. If they gave me more, great, they get a payment in energy and everybody's happy, including us.<sup>15</sup>

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<sup>14</sup> Transcript, p. 216, lines 6-13, citing Joe Bowring.

<sup>15</sup> Id., lines 15-19.

In light of Mr. Ott's statements, which were undisputed at the conference, it would violate comparability principles for demand response resources to be compensated for curtailments that do not decrease the load's purchase obligation, as other resources cannot receive similar compensation. Capacity markets are designed to assure resource adequacy commitments. To allow one type of resource to collect compensation supplemental to the energy market payment for emergency situations, which are outside the scope of capacity market design, would be incongruous and unjust.

## **II. Conclusion**

Wherefore, EPSA respectfully requests that the Commission consider the comments and protest herein and approve PJM's requested revisions in this docket.

Respectfully submitted,



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Nancy Bagot, Vice President of Regulatory Affairs  
Tara Ormond, Director of Regulatory Affairs  
Electric Power Supply Association  
1401 New York Ave, NW  
11<sup>th</sup> Floor  
Washington, D.C. 20005  
(202) 628-8200

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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the comments via email upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., August 15, 2011.

A handwritten signature in cursive script that reads "Nancy Bagot".

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Nancy Bagot, VP Regulatory Affairs