

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

PJM Interconnection, L.L.C.

)

Docket No. ER24-99-000

**PROTEST AND COMMENTS OF
AMERICAN MUNICIPAL POWER, INC.**

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”),¹ American Municipal Power, Inc. (“AMP”) hereby files its protest and comments relating to the October 13, 2023 filing by PJM Interconnection, L.L.C. (“PJM”) in the above-captioned docket,² in which PJM proposes to revise the PJM Open Access Transmission Tariff (“Tariff”) and Reliability Assurance Agreement Among Load Serving Entities (“RAA”) to implement changes to PJM’s administrative capacity construct.

As discussed below, the Commission should reject the PJM Filing (and the companion filing in Docket No. ER24-98-000)³ and encourage PJM to renew its prematurely truncated stakeholder process with the goal of developing a just and reasonable set of reforms to its resource adequacy framework. In the alternative, the Commission could institute a proceeding under section 206 of the Federal Power Act (“FPA”)⁴ to investigate whether PJM’s currently effective Reliability Pricing Model (“RPM”)

¹ 18 C.F.R. § 385.211.

² *PJM Interconnection, L.L.C.*, Docket No. ER24-99-000, *Capacity Market Reforms to Accommodate the Energy Transition While Maintaining Resource Adequacy* (October 13, 2023) (“PJM Filing”).

³ *PJM Interconnection, L.L.C.*, Docket No. ER24-98-000, *Proposed Enhancements to PJM’s Capacity Market Rules - Market Seller Offer Cap, Performance Payment Eligibility, and Forward Energy and Ancillary Service Revenues* (October 13, 2023) (“ER24-98 Filing”).

⁴ 16 U.S.C. § 824e.

rules may be unjust and unreasonable, and, if so, implement procedures to develop and file just and reasonable replacement tariff provisions.

I. INTRODUCTION AND OVERVIEW

AMP agrees that resource adequacy reform is necessary in PJM, however for different reasons than argued by PJM in its companion filings. As PJM found in its February 2023 whitepaper, *Energy Transition in PJM: Resource Retirements, Replacements & Risks* (“4R Report”), the characteristics of the current resource fleet and profiles of consumer demand have changed and will continue changing over the foreseeable future.⁵ These changes present long-term operational and reliability challenges, and the events that occurred during Winter Storm Elliott in December 2022 demonstrate that the current capacity construct requires substantial change to accommodate them. Although RPM has historically over-procured capacity, it needs reform to be an efficient mechanism to ensure long-term grid reliability as the industry navigates the current energy transition, including expected retirements of thermal resources. The Commission has recognized the importance of ensuring that the PJM capacity construct responds to evolving challenges, having recently convened a Commissioner-led forum to discuss reforms with interested stakeholders.⁶

PJM and its stakeholders have attempted to identify solutions to the problems with the existing capacity construct through the Resource Adequacy Senior Task Force

⁵ *Energy Transition in PJM: Resource Retirements, Replacements & Risks* (Feb. 24, 2023), <https://www.pjm.com/-/media/library/reports-notice/special-reports/2023/energy-transition-in-pjm-resource-retirements-replacements-and-risks.ashx>.

⁶ See *PJM Capacity Market Forum*, Second Supplemental Notice of Forum, Docket No. AD23-7-000 (June 9, 2023) (explaining that “[t]he purpose of this forum is to solicit varied perspectives on the current state of the PJM capacity market, potential improvements to the market, and to consider related proposals to address resource adequacy.”).

("RASTF") and the Critical Issue Fast Path process on resource adequacy ("CIFP-RA") initiated by the PJM Board in the wake of Winter Storm Elliott. AMP actively participated in the RASTF and CIFP-RA processes, seeking to develop solutions that best address future reliability challenges by minimizing potential supply shortages and right-sizing the risk exposure associated with RPM participation. As a public power entity, implementing reforms designed to produce the most efficient market outcomes is critically essential to the member communities AMP supports in nine of the thirteen states comprising the PJM region.⁷

AMP, together with J-Power USA, offered a detailed reform proposal in the CIFP-RA process.⁸ In general, AMP and J-Power proposed a phased move away from the flawed Capacity Performance model in favor of a resource adequacy framework based on the Sustainable Capacity Market ("SCM") approach developed by the Independent Market Monitor for PJM ("IMM").⁹ AMP and J-Power emphasized that consensus on resource adequacy reform was most likely to be achieved through holistic discussions, expressing concern that the PJM Board had inappropriately limited the scope of the items open for discussion in the CIFP-RA process. The CIFP-RA stakeholder process is a flawed method to develop holistic solutions, as it allows the PJM Board to delimit the scope and PJM staff to define the problem without stakeholder input; PJM staff then offers

⁷ AMP is a non-profit wholesale power supplier and service provider for 132 member-owned municipal electric systems in the states of Ohio, Pennsylvania, Michigan, Virginia, Kentucky, West Virginia, Indiana, and Maryland, along with the Delaware Municipal Electric Corporation, a joint action agency with nine members in Delaware.

⁸ See AMP and JPower USA Proposal, https://www.pjm.com/-/media/committees-groups/cifp-ra/2023/20230823/20230823-item-01i---cifp-state-4_amp-jpower-executive-summary_final-version.ashx.

⁹ IMM Capacity Market Design Proposal: Sustainable Capacity Market (June 13, 2023), <https://pjm.com/-/media/committees-groups/cifp-ra/2023/20230628/20230628-item-02a---imm-rastf-proposal---part-2---memo.ashx>.

the solution. Only afterward are the PJM stakeholders able to begin considering solutions of their own. But the PJM Board has taken the position that stakeholder solutions are not binding on the PJM Board, citing the FPA section 205 rights PJM has over its Tariff. AMP continues to believe that PJM's capacity construct must evolve toward a simplified and stable market structure that recognizes the intermittent nature of future supply and the dynamic nature of future demand. The PJM Filing is, however, yet another reactive piecemeal revision bolted onto an already complex design that lacks support from the majority of members and fails to address the underlying fundamental flaws of the PJM capacity construct.¹⁰

Notably, a proposed solution cosponsored by AMP and J-Power received the greatest percentage of member support.¹¹ Nevertheless, the PJM Board communicated that the vote was indicative-only, and it sided with PJM staff's overly complicated and flawed proposal despite the lack of member support. Consequently, the PJM Board truncated the CIFP-RA process and directed PJM to file changes with FERC reflecting a limited set of specific issues.¹² PJM now offers a bifurcated package of proposed Tariff and RAA changes in this docket and in Docket No. ER24-98-000 that did not receive

¹⁰ See PJM Members Committee Supplemental Voting Results, Item 3B (August 23, 2023), <https://www.pjm.com/-/media/committees-groups/committees/mc/2023/20230823-special/mc-voting-results---item-3b---pjm---2---annual-proposal.ashx>.

¹¹ See PJM Members Committee Supplemental Voting Results, Item 3C (August 23, 2023), <https://www.pjm.com/-/media/committees-groups/committees/mc/2023/20230823-special/mc-voting-results---item-3c-3f-3i---imm-1-daymark-ekpc-1-and-amp-jpower-1.ashx>. The co-sponsored proposal focused on reforming calculation of Non-Performance Charges and the stop-loss limit.

¹² See PJM Board Letter Substantive Direction (September 27, 2023), <https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20230927-pjm-board-letter-re-its-decision-within-the-cifp-ra.ashx> ("September 27 Board Letter").

stakeholder endorsement and are not just and reasonable, either on a standalone basis or as a complementary set of reforms.¹³

Neither PJM filing can be approved on a standalone basis, as each contains major components that are not just and reasonable. PJM, for example, has not adequately supported its complex marginal Effective Load Carrying Capability (“ELCC”) approach,¹⁴ which will increase costs to consumers without any assurances of commensurate improvement in reliability. Nor should the Commission approve PJM’s flawed proposal to modify the stop-loss limit without *also* revising the calculation of the Non-Performance Charge rate.¹⁵ PJM’s proposed partial fix would likely have a negative impact on reliability under the Capacity Performance model.¹⁶

Although PJM has not shown that its proposed Tariff and RAA revisions, as an overall package, are just and reasonable, there are components of PJM’s filing that AMP supported in the CIFP-RA process and that would reflect appropriate revisions to the PJM capacity construct if it continues in its current general form, including: (1) moving toward more granular modeling requirements, including the use of the Expected Unserved Energy (“EUE”) metric, without adopting a marginal ELCC accreditation approach;¹⁷ (2) the new binding notice requirement to more effectively calculate Locational Deliverability

¹³ See PJM Filing, Transmittal Letter at 2-3.

¹⁴ See *id.* at 23-55.

¹⁵ See *id.* at 92-99.

¹⁶ On November 7, 2023, the IMM filed a complaint pursuant to FPA section 206 asking the Commission to “find that the rules for determining penalty rates for Performance Assessment Intervals . . . in the [RPM] rules under the Capacity Performance . . . approach are unjust and unreasonable and should be replaced.” IMM, Complaint Docket No. EL24-12-000, at 1 (November 7, 2023). The IMM proposes as a remedy that “[t]he penalty rate would be based on the value of capacity as determined in the PJM Capacity Market, the capacity market clearing price. The stop loss would be 1.5 times the capacity market revenue.” *Id.* at 2.

¹⁷ See PJM Filing, Transmittal Letter at 55-71.

Area (“LDA”) Reliability Requirements in situations when Planned Generation Capacity Resources are not offered in the Reliability Pricing Model (“RPM”) Auction;¹⁸ (3) enhanced testing requirements;¹⁹ and (4) revisions to the insufficiency and deficiency charge rates for entities that use the Fixed Resource Requirement (“FRR”) Alternative to address their capacity obligations.²⁰

While these features of PJM’s proposal would be sound revisions to the existing capacity construct, AMP nonetheless urges the Commission to reject the PJM Filing and encourage PJM to renew its consensus-based stakeholder process with the goal of developing a just and reasonable set of reforms to its resource adequacy framework. In the alternative, the Commission could institute a proceeding under FPA section 206 to investigate whether the currently effective RPM rules may be unjust and unreasonable, and, if so, implement procedures to develop and file just and reasonable replacement Tariff and RAA provisions. In either case, PJM and its stakeholders should have the ability to consider reforms on a holistic basis, including moving away from the failed Capacity Performance experiment. If the scheduled date for holding the Base Residual Auction for the 2025/2026 Delivery Year is incompatible with developing reforms through the stakeholder process, PJM should run that auction as soon as possible under the existing rules.

¹⁸ See *id.* at 72-77.

¹⁹ See *id.* at 80-91.

²⁰ See *id.* at 98-103.

II. PROTEST

A. PJM has not demonstrated that its proposed Tariff and RAA revisions are just and reasonable.

PJM has not satisfied its burden under FPA section 205 to show that the complete package of Tariff and RAA revisions proposed in this docket is just and reasonable. As discussed in greater detail below, several key aspects of PJM's filing relating to the proposed use of marginal ELCC and changes to the stop-loss limit are unreasonable and must be rejected. Given limitations on the Commission's authority to accept discrete portions of PJM's FPA section 205 filing,²¹ the Commission must reject the entire filing, even though there are certain components of the filing that could improve the current RPM framework.²²

PJM's decision to bifurcate its Tariff and RAA changes into two separate filings is an implicit acknowledgment that components of PJM's proposal may not withstand scrutiny by the Commission.²³ Moreover, this bifurcation complicates review of the filings and further undercuts PJM's attempt to support its proposals. PJM argues that the two "filings represent a comprehensive set of reforms,"²⁴ yet claims that the Commission can approve each on a standalone basis.²⁵ In fact, a full and fair review of each filing would require consideration of matters that are at issue in the other proceeding. For example, at least some of the Tariff changes proposed in this docket appear to have prompted

²¹ See *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, 114-15 (D.C. Cir. 2017).

²² See section III, *infra*.

²³ See September 27 Board Letter (explaining that "PJM is contemplating grouping specific topics together and submitting multiple filings, all to be filed on or before October 13, to mitigate the risk of a single component of the filing causing the delay or rejection of the entire suite of enhancements.").

²⁴ PJM Filing, Transmittal Letter at 5.

²⁵ *Id.* at 3.

proposed Tariff revisions included in Docket No. ER24-98. The Performance Assessment Interval (“PAI”) Obligation Transfer mechanism included in the ER4-98 Filing appears to have been prompted by a perceived need to provide a hedging mechanism for resources that may face additional non-performance risks under PJM’s proposed modeling and ELCC changes in this docket.²⁶ While each filing has deficiencies that prevent its approval, PJM’s choice to divide its proposal into distinct silos undermines the ability of the Commission and interested parties to fully assess either filing. Because PJM has failed to demonstrate that its proposed Tariff and RAA revisions are just and reasonable, the Commission should reject the PJM Filing.

B. PJM’s complex marginal ELCC accreditation approach is likely to increase costs to consumers without commensurate reliability benefits.

A primary component of the PJM Filing is the proposal to shift from the current average ELCC methodology to a marginal ELCC capacity accreditation approach.²⁷ In conjunction with this change, PJM would significantly “expand application of the new marginal ELCC approach to include all Generation Capacity Resources and Demand Resources,” rather than the current practice of restricting application of the ELCC construct to Variable Resources, Limited Duration Resources, and Combination Resources.²⁸

²⁶ See PJM IMM Comments on PJM’s CIFP-RA Proposals at 3 (August 18, 2023), <https://pjm.com/-/media/committees-groups/cifp-ra/2023/20230823/20230823-stakeholder-written-comments---imm-cifp-resource-adequacy.ashx> (“IMM CIFP-RA Comments”).

²⁷ See PJM Filing, Transmittal Letter at 23-55. PJM explains that “[i]n a ‘marginal’ accreditation framework, resources are accredited based on their marginal contribution to system resource adequacy given an anticipated resource mix and a number of scenarios across which resource performance is analyzed.” *Id.* at 28.

²⁸ See *id.* at 25-26. PJM would not apply ELCC to Energy Efficiency Resources. *Id.* at 26.

AMP agrees that resource accreditation (or expected actual availability) should be improved for all resource types in PJM, but the complex marginal ELCC approach that PJM proposes here may increase costs to consumers without any commensurate improvement in reliability. Further, the proposed ELCC method is largely a “black box” to market participants and is highly dependent on PJM’s assumptions about future system conditions. There is also an inherent disconnect between the marginal ELCC approach and the Capacity Performance framework.

The primary output of the revised and expanded ELCC calculation is the ELCC Class Rating,²⁹ which will be applied, for most types of resources, to determine the capacity accreditation of each Generation Capacity Resource (“Accredited UCAP”) in a given resource class.³⁰ As part of this proposal, PJM would define multiple ELCC resource classes to which the marginal ELCC model applies.³¹ Applying the complex marginal ELCC class method to Unlimited Resources and Demand Resources for the first time could send price signals to build additional resources that are not needed for reliability, at significant cost.

During the CIFP-RA process, PJM was asked to provide a comprehensive cost-benefit analysis for the suite of changes that PJM proposes, including analysis of how the

²⁹ PJM Filing, Transmittal Letter at 35, 50-54. The ELCC Class Rating for most classes of resources is the “ratio of the expected unserved energy improvement resulting from adding an incremental quantity of the subject ELCC Class to the expected unserved energy improvement resulting from adding an incremental quantity of an Unlimited Resource with no outages, where expected unserved energy improvement is calculated relative to the Portfolio EUE for the Delivery Year.” PJM Filing, Transmittal Letter at 48-49 (quoting Proposed RAA, Schedule 9.2, section C(1)).

³⁰ See *id.* at 35, 50-54. In general, Accredited UCAP for a resource will be the product of: (1) its installed capacity; (2) the ELCC Class Rating; and (3) the ELCC Resource Performance Adjustment, a resource-specific adjustment based on the historical performance of the resources relative to other resources in the same ELCC Class. *Id.* at 50-51.

³¹ See *id.* at 39.

PJM proposal would impact particular LDAs.³² To support the same proposal, the PJM Filing includes only a relatively high-level analysis by Dr. Graf (“Graf Analysis”) comparing Base Residual Auction (“BRA”) results that might be expected under the status quo to the results that might be produced under PJM’s capacity construct after incorporating the accreditation and risk modeling reforms.³³

Limited as it is, the Graf Analysis does not present a compelling case for the application of marginal ELCC across resource classes. The analysis shows almost a ten percent increase in total Delivery Year costs to consumers, from \$2.2 billion to \$2.4 billion – an amount that PJM dismisses as “modest.”³⁴ The analysis also indicates that the Variable Resource Requirement (“VRR”) Curve would shift upwards and to the left as a consequence of changes in the Forecast Pool Requirement and in the Net Cost of New Entry (“Net CONE”), resulting in a tighter supply-demand balance.³⁵ Notably, the Graf Analysis does not include assumptions about implementation of PJM’s proposed changes to the Capacity Performance Quantified Risk (“CPQR”) component of RPM Sell Offers.³⁶ In a presentation on Dr. Graf’s analysis posted during the CIFP-RA process, however, PJM presented results of a scenario that assumed a \$15/MW-Day CPQR adder for all

³² See Maryland Office of People’s Counsel Comments on PJM’s CIFP-RA Proposals at 1 (August 18, 2023), <https://www.pjm.com/-/media/committees-groups/cifp-ra/2023/20230823/20230823-stakeholder-written-comments---md-opc-cifp-resource-adequacy.ashx> (“Maryland OPC CIFP-RA Comments”).

³³ See PJM Filing, Transmittal Letter at 65-66; *id.*, Graf Affidavit at ¶¶ 32-36. The analysis is based on data from the BRA for the 2024/25 Delivery Year conducted in December 2022. *Id.* While the PJM Filing does not include any supporting exhibits for the Graf Analysis, additional information on the study was posted in connection with the August 14, 2023 CIFP-RA meeting, PJM, Simulation Analysis of PJM CIFP-RA Proposals, <https://www.pjm.com/-/media/committees-groups/cifp-ra/2023/20230814/20230814-item-05d---2023-08-14-market-simulation-analysis.ashx> (“Graf Analysis CIFP Presentation”).

³⁴ PJM Filing, Transmittal Letter at 66.

³⁵ PJM Filing, Graf Affidavit at ¶ 35.

³⁶ See ER24-98 Filing at 6-25.

resources, which raised total consumer costs considerably to \$3.0 billion from the status quo figure of \$2.2 billion, an increase of nearly 40 percent.³⁷

	Cleared Quantity (MW UCAP)	Clearing Price (\$/MW-Day UCAP)	Annual Capacity Cost	
Status Quo	139,145	\$ 43.33	\$ 2,200,640,790	
CIFP Annual + CPQR	124,280	\$ 67.19	\$ 3,047,886,218	
Delta			\$ 847,245,428	38.5%

Moreover, the Graf Analysis indicates that consumers would not receive reliability benefits to justify these additional costs. The status quo approach produced a 1 in 40 Loss of Load Expectation (“LOLE”) (already well in excess of the 1 in 10 LOLE requirement) and EUE of 350 MWh, while the revised PJM approach produced a 1 in 50 LOLE and reduced EUE to 260 MWh.³⁸ While these are notable reliability improvements, they are improvements at a level already well above the 1 in 10 reliability standard, which suggests that the additional cost and complexity of the expanded ELCC framework may not be warranted.³⁹ Said differently, a reduction in EUE of 90 MWh incurs a total cost of \$847 million, or approximately \$9.4 million per MWh. Even assuming the more “modest” increase of \$200 million that Dr. Graf highlights in his affidavit, consumers would be paying \$2.2 million for each MWh reduction in EUE.

It is also important to observe that the Graf Analysis reflects an “unconstrained” modeling approach that ignores LDA internal capacity and Capacity Emergency Transfer

³⁷ Graf Analysis CIPF Presentation at 10.

³⁸ PJM Filing, Graf Affidavit at ¶¶ 34-35.

³⁹ While it may not be possible to isolate the effects of the expanded, marginal ELCC proposal from effects of other RPM changes (e.g., revised modeling) on the results of the Graf Analysis, as discussed above, the fact that the analysis indicates that PJM’s proposed Tariff and RAA revisions could significantly increase consumer costs with only minimal reliability benefits does not provide meaningful support for the marginal ELCC approach.

Limit constraints.⁴⁰ This is a crucial simplifying assumption that masks the potential effects of the revised ELCC approach on both prices and reliability for LDAs and the region as a whole.⁴¹ PJM's proposed approach could very plausibly constrain certain LDAs and considerably raise clearing prices. As the Maryland Office of People's Counsel noted in CIFP-RA comments, PJM's analysis should "include investigation of the specific impacts of the reform package on [LDAs] with constrained transmission transfer capacity, which is particularly the case in Maryland. Impacts on these LDAs can be outsized and disproportionate compared to PJM footprint wide effects and get lost or hidden by a PJM footprint wide analysis."⁴²

Beyond the lack of compelling cost-benefit evidence to support PJM's marginal ELCC approach, the PJM Filing shows that implementation of the expanded and revised methodology would be extremely complex, opaque, and highly dependent on assumptions about future system conditions. As Dr. Rocha-Garrido's affidavit indicates, the move to a marginal ELCC for all classes of resources except Energy Efficiency Resources would introduce an exceptional amount of complexity to an already extraordinarily complicated administrative construct, raising concerns about unforeseen implementation difficulties and unintended consequences.⁴³ Part and parcel of the increased complexity, the marginal ELCC approach is highly opaque, making it difficult for market participants to project likely outcomes or analyze results. The complexity of the

⁴⁰ PJM Filing, Graf Affidavit at ¶ 33.

⁴¹ See PJM Filing, Transmittal Letter at 72 (explaining that "PJM's capacity market is a locational market").

⁴² Maryland OPC CIFP-RA Comments at 1.

⁴³ See, e.g., PJM Filing, Rocha-Garrido Affidavit at ¶ 16 (providing an overview of the ELCC analysis).

proposal would only be increased if it were to be implemented in conjunction with all the other changes PJM has proposed in this proceeding and in Docket No. ER24-98-000.

The marginal ELCC approach is also highly assumption-driven, which is particularly problematic given that the PJM capacity construct projects system conditions three years in advance. Among other inputs, PJM's marginal ELCC method would require PJM to make projections about the resource mix in the future Delivery Year,⁴⁴ running the risk that "[t]he load carrying capability of the resulting system, and the individual contributions of each cleared resource may or may not match the assumptions and the clearing may be distorted due to the assumptions made."⁴⁵

AMP has argued that PJM should move to a capacity construct that *reduces* administrative burdens and the complexity of rules to promote transparency and understanding of capacity construct performance. The shift to an expanded, marginal ELCC approach only two years after PJM implemented an average ELCC method for certain resources, together with PJM's other proposals, is the antithesis of reducing complexity and promoting transparency.

A particular example of the way that PJM's complex ELCC approach could create unreasonable outcomes can be seen in the interplay between marginal ELCC and the Capacity Performance construct. The marginal ELCC approach attempts to provide a more granular assessment of a resource class's contribution to reliability under varying system conditions, expressed through the ELCC Class Rating, yet RPM still treats a

⁴⁴ See, e.g., *id.* at ¶¶ 9, 16, 34.

⁴⁵ EKPC Packages Executive Summary, at 4 (August 16, 2023), <https://www.pjm.com/-/media/committees-groups/cifp-ra/2023/20230823/20230823-item-01h---ekpc-cifp-packages-executive-summary---final-aug-16-2023.ashx>.

capacity commitment as a promise to provide energy when called upon, regardless of whether fulfilling that commitment is consistent with the assumptions underlying the ELCC Class Rating. This disconnect is most evident in the case of solar resources, which can face Non-Performance Charges for being unable to operate at night, as the IMM and others have noted.⁴⁶ As the IMM also observed, this lack of alignment between the Capacity Performance model and use of ELCC apparently prompted PJM to add even more complexity to its proposal – such as the novel PAI Obligation Transfer mechanism proposed in the ER24-98 Filing.⁴⁷

AMP and J-Power offered a detailed reform proposal in the CIFP-RA process that would avoid the problems with the expanded marginal ELCC approach (and other deficiencies in the current capacity construct).⁴⁸ The proposal reflected a phased transition from the flawed Capacity Performance model to a construct based on the IMM’s SCM approach.⁴⁹ The AMP/J-Power proposal would among other features: (1) adopt

⁴⁶ See, e.g., IMM CIFP-RA Comments at 2 (“PJM has stated that when a solar resource is assigned a derating factor, the derated MW are equivalent to a perfect resource accredited at that MW level. PJM assigned penalties to solar resources during Elliott when they did not generate power after dark. This is clearly not correct and illustrates the flaws in the ELCC logic compared to hourly availability.”); Sierra Club, *et al.*, Post-Forum Comments, Docket No. AD23-7-000, at 19 (August 14, 2023) (“ELCC resources’ limits are already reflected in their ELCC values, and so requiring them to deliver during periods they were not expected to perform is equivalent to penalizing them for not providing services they aren’t being paid for. The most obvious example of this is PJM penalizing solar for not being available at night. Market rules must be corrected so that ELCC resources’ obligations match the assumptions used in their accreditation.”).

⁴⁷ IMM CIFP-RA Comments at 3. The IMM also suggests that “[t]he ELCC approach leads PJM to draw the conclusion, based on this illogical result, that solar resources and other intermittent resources should therefore not have a must offer obligation because a must offer obligation would require resources to take on the illogical obligation to produce when they cannot.” *Id.* at 2.

⁴⁸ See AMP and J-Power USA Proposal, https://www.pjm.com/-/media/committees-groups/cifp-ra/2023/20230823/20230823-item-01i---cifp-state-4_amp-jpower-executive-summary_final-version.ashx (“AMP/J-Power Proposal”).

⁴⁹ IMM Capacity Market Design Proposal: Sustainable Capacity Market (June 13, 2023), <https://pjm.com/-/media/committees-groups/cifp-ra/2023/20230628/20230628-item-02a---imm-rastf-proposal---part-2---memo.ashx>.

improved accreditation based on a Modified Equivalent Availability Factor (“MEAF”), which essentially represents the proportion of hours in a year when a resource is available at full capacity;⁵⁰ (2) implement “pay-as-you-go compensation” based on hourly availability; and (3) perform risk modeling on a locational and seasonal basis that is automatically incorporated into the model and market clearing mechanism, as it looks at hourly availability based on season, weather, and other conditions. Other stakeholders also offered proposals that would have moved off Capacity Performance to a more granular hourly construct (which does not need to be based on ELCC). If, as AMP requests, the Commission rejects the PJM Filing, stakeholders would have the opportunity to consider the AMP/J-Power approach and other proposals in renewed stakeholder discussions.⁵¹

Finally, the fact that the Commission has approved a marginal ELCC approach for the New York Independent System Operator (“NYISO”) is not a persuasive reason to approve PJM’s proposal here.⁵² The Commission has long recognized that market design rules need not be identical among different regions, and, in particular, that “PJM’s markets are fundamentally different from NYISO’s, such that what may be appropriate for PJM is not necessarily appropriate for NYISO.”⁵³ Among other notable differences between the PJM and NYISO markets, PJM’s forward capacity construct commits capacity for a

⁵⁰ See *id.* at 4. The IMM notes that “[w]hile ELCC is initially based on hourly data, ELCC applies flat derating factors by broad technology classes that do not vary by hour or by location. In Elliott, that approach resulted in the assessment of penalties to solar resources for not producing in the middle of the night, a clearly illogical result.” *Id.* at 7.

⁵¹ See EKPC Packages Executive Summary (August 16, 2023), <https://www.pjm.com/-/media/committees-groups/cifp-ra/2023/20230823/20230823-item-01h---ekpc-cifp-packages-executive-summary---final-aug-16-2023.ashx>.

⁵² See PJM Filing, Transmittal Letter at 31-33.

⁵³ *N.Y. Pub. Serv. Comm’n v. N.Y. Indep. System Operator, Inc.*, 153 FERC ¶ 61,022, at P 78 (2015), *reh’g denied*, 154 FERC ¶ 61,088 (2016).

delivery year three years in the future, whereas NYISO conducts capacity auctions on a seasonal and monthly basis. Because of the more “prompt” auction nature of NYISO’s construct, it may be appropriate for NYISO to take a different approach to accrediting capacity, as NYISO’s planning horizon is so much more truncated. In its current RPM design, PJM has multiple incremental auctions where it can procure additional capacity if load forecasts increase, or sell capacity if load forecasts decrease. Thus, in this case, the particular considerations relevant to application of marginal ELCC in the PJM capacity construct – including potential costs and benefits, PJM’s three-year advance auction, and the interplay with Capacity Performance – distinguish PJM’s proposal from the NYISO model.

C. The Commission should reject proposed changes to the VRR Curve that are premised on use of a marginal ELCC approach.

PJM proposes changes to the inputs used in determining the VRR Curve, including discontinuing the use of a percentage based on “one minus the pool-wide EFORd” as the factor to convert the Net CONE price from a \$/MW-day value on an installed capacity basis to an Unforced Capacity basis.⁵⁴ In its place, PJM proposes to use the Reference Resource’s ELCC Class Rating as the conversion factor.⁵⁵

As noted above, PJM’s analysis indicated that adoption of marginal ELCC, along with other changes proposed in the PJM Filing, would shift the VRR Curve upward and to the left.⁵⁶ Consistent with AMP’s concerns regarding adoption of marginal ELCC to an expanded universe of resources, PJM should not make changes to the VRR Curve inputs

⁵⁴ PJM Filing, Transmittal Letter at 79.

⁵⁵ *Id.*

⁵⁶ PJM Filing, Graf Affidavit at ¶ 35.

that are premised on the use of a marginal ELCC approach. As with expanded application of marginal ELCC, PJM's proposed changes to the VRR Curve inputs may increase costs to consumers without any commensurate improvement in reliability. Thus, the Commission should not accept the proposed use of the Reference Resource's ELCC Class Rating as the factor to convert Net CONE from an installed capacity basis to an Unforced Capacity basis. Nor should the Commission approve PJM's proposal to modify the method for calculating the Forecast Pool Requirement (used in setting the Reliability Requirement in the VRR Curve) so that it will be calculated using pool-wide average Accredited UCAP Factor,⁵⁷ which is based on resource accreditations using marginal ELCC.⁵⁸

D. The Commission should reject PJM's proposed reduction of the stop-loss limit because it could degrade reliability.

Under Capacity Performance, the Non-Performance Charge Limit – commonly referred to as the stop-loss limit – “caps the amount any Capacity Performance Resource can lose in Non-Performance Charges during a delivery year.”⁵⁹ A resource's stop-loss limit is currently set at 1.5 times *net CONE*, multiplied by committed megawatts of unforced capacity times the number of days in the Delivery Year.⁶⁰ PJM proposes to change the index price used in the stop-loss limit calculation from Net CONE to the *BRA clearing price*,⁶¹ which “would result in a reduction of the stop-loss limit in years that the

⁵⁷ PJM Filing, Transmittal Letter at 58-59

⁵⁸ “Pool-wide average Accredited UCAP Factor” is defined as “the ratio of the total Accredited UCAP to total installed capacity of all resources, as determined pursuant to RAA, Schedule 9.2, that are included in the determination of the Forecast Pool Requirement, stated in percent.” PJM Filing, proposed RAA schedule 4.1.

⁵⁹ PJM Filing, Transmittal Letter at 92.

⁶⁰ *Id.*

⁶¹ *Id.* at 93.

capacity prices fall below net CONE, as has been the case in recent history.”⁶² PJM seeks to justify the change on the grounds that Capacity Market Sellers’ exposure to Non-Performance Charges is currently excessive relative to the compensation they can receive in the capacity construct.⁶³

PJM is correct that it is unreasonable to expose a Seller to Non-Performance Charges that may be multiples of what the Seller might expect to earn in capacity revenues in a year. The PJM Filing, however, offers a flawed solution to this problem insofar as it proposes to modify the stop-loss limit without also revising the calculation of the Non-Performance Charge rate. Implementing this partial fix would likely have an adverse effect on reliability under the Capacity Performance model.

The Non-Performance Charge rate, like the stop-loss limit, is currently calculated with reference to Net CONE.⁶⁴ As an administratively determined estimate of the amortized cost of constructing certain new hypothetical generating resources in PJM, Net CONE bears no direct relationship to the revenues to be earned by Capacity Resources in PJM when they are awarded a capacity obligation in the BRA, and it does not represent a reasonable input for calculating either the Non-Performance Charge rate or the stop-loss limit. In the PJM stakeholder process that preceded PJM’s filing in Docket No. ER23-1996-000 to revise the Tariff definition of Emergency Action used for the purpose of determining when PAIs are triggered,⁶⁵ AMP calculated that, for the 2024/2025 Delivery

⁶² *Id.*

⁶³ *See id.* at 94 (arguing that the “high level of exposure relative to compensation in the market may not represent the best balance between incentives and risk, and results in significant tail risk for Capacity Market Sellers, which could have an impact of chilling future investment in PJM’s capacity market or even inducing premature retirements.”).

⁶⁴ *Id.* at 95-96.

⁶⁵ *See PJM Interconnection, L.L.C.*, 184 FERC ¶ 61,058 (2023).

Year, the Non-Performance penalty charge rate based on Net CONE is more than ten times higher than the BRA clearing price in dollars per megawatt-day.⁶⁶ This means that for every five-minute PAI of non-performance, a resource is effectively penalized ten days of RPM revenue.⁶⁷ Similarly, the annual stop-loss under the status quo is more than fifteen times the annual RPM capacity revenue available to PJM Capacity Resources.⁶⁸ Exposure to Non-Performance Charges at these levels is indeed unreasonable.

While using Net CONE to calculate the Non-Performance Charge rate and the stop-loss limit is unreasonable, utilizing the *same* index price in both calculations is important to promoting resource performance under the Capacity Performance construct. By retaining an unreasonably high Non-Performance charge rate, while reducing substantially the annual stop-loss, the PJM Filing would create a situation in which the overall annual Non-Performance charges faced by Capacity Resources could be exhausted in just a few hours of non-performance during consecutive PAIs, leaving those resources with no further Non-Performance Charge incentive to operate reliably during the entire remainder of the Delivery Year.

To illustrate, on a day like December 24, 2022, where PJM experienced more than six hours of PAIs, a committed generator that was off line for the day would have faced penalties of more than fifteen times the annual RPM capacity revenue available to PJM Capacity Resources for its non-performance on that day, but would have no RPM-based

⁶⁶ AMP, , *Comparison of Market Design Options for Non-Performance Charge Rate and Stop-Loss Rate*, <https://pjm.com/-/media/committees-groups/committees/mc/2023/20230511-special/item-01a---2-amp-supplement-to-may-11-special-mc.ashx> (“AMP Non-Performance Rate/Stop-Loss Calculations”).

⁶⁷ *Id.* This calculation would be unaffected by the Tariff changes recently approved by the Commission that are likely to reduce the number of future PAIs by modifying the definition of Emergency Action under the Tariff. See *PJM Interconnection, L.L.C.*, 184 FERC ¶ 61,058.

⁶⁸ AMP Non-Performance Rate/Stop-Loss Calculations, *supra*.

incentive to get back on line and stay operational going forward for the balance of the 2022/2023 Delivery Year, which concluded on May 31, 2023, spanning 159 days.

A reasonable solution would be to tether *both* the stop-loss limit *and* the Non-Performance Charge rate to the BRA clearing price in the LDA – a fix that PJM stakeholders endorsed in the process preceding PJM’s PAI trigger filing in Docket No. ER23-1996-000, but which PJM refused to file.⁶⁹ Materials from that stakeholder process showed, for example, that using a Non-Performance Charge rate equivalent to each Capacity Resource’s LDA BRA clearing price, non-performance during each five-minute PAI would result in a forfeiture of one-day’s RPM revenue as a penalty.⁷⁰ Similarly revising the stop-loss to tether it to the BRA clearing price (as PJM proposes here) would establish a maximum potential loss of 1.5 times available annual revenue.⁷¹

Importantly, however, while the total *magnitude* of Non-Performance Charge exposure would be reduced to a reasonable level by tethering both the Non-Performance Charge rate and the stop-loss limit to the BRA clearing price, it would take a greater number of PAIs to reach the stop-loss limit than if the stop-loss limit alone is tied to BRA clearing prices, thereby preserving the incentive to continue to operate reliably during the balance of the Delivery Year. In the Emergency Action stakeholder process, calculations showed that exposure to Non-Performance charges faced by Capacity Resources under this approach would not reach the stop-loss limit until after approximately 45.6 hours of

⁶⁹ See *PJM Interconnection, L.L.C.*, 184 FERC ¶ 61,058 at PP 8, 17.

⁷⁰ AMP Non-Performance Rate/Stop-Loss Calculations, *supra*.

⁷¹ *Id.*

PAIs,⁷² providing a performance incentive almost eight times as long as if only the stop-loss were tied to the BRA price.

PJM maintains that keeping the Non-Performance Charge rate tied to Net CONE “will continue to serve as a strong impetus for resource performance during emergency conditions,”⁷³ but this “impetus” could be exhausted during a single event, leaving the Capacity Resource with no Non-Performance Charge incentive to perform for the remainder of the Delivery Year. Nor are enhanced testing requirements a substitute for the incentive provided by maintaining exposure to performance penalties over the course of the Delivery Year;⁷⁴ both of these components should be features of any ongoing use of Capacity Performance. Finally, as noted above, the likelihood that there may be *fewer* PAIs going forward does not necessarily address the concern that Non-Performance Charge exposure will be concentrated in a small number of PAIs, undermining the incentive for future performance.

III. COMMENTS

Although PJM has not shown that its proposed Tariff and RAA revisions, as an overall package, are just and reasonable, there are several components of PJM’s filing that would be appropriate changes to the existing PJM capacity construct, should it remain in its current general form: (1) moving toward more granular modeling requirements, including the use of the EUE metric, without the use of an ELCC accreditation approach; (2) the new binding notice requirement to more effectively calculate LDA Reliability Requirements in situations when Planned Generation Capacity

⁷² *Id.*

⁷³ PJM Filing, Transmittal Letter at 95-96.

⁷⁴ *See id.* at 96. As discussed below, AMP supports PJM’s proposed Tariff revisions to enhance testing.

Resources are not offered in the RPM Auction; (3) enhanced testing requirements; and (4) revisions to the insufficiency and deficiency charge rates for FRR Entities.

A. PJM’s risk modeling enhancements appropriately reflect more granular analysis.

While the PJM Filing does not show that the application of a marginal ELCC approach to a broader set of resource classes will promote reliability at reasonable cost, risk modeling enhancements along the lines of those proposed in the PJM Filing would be an improvement on current practices and could be pursued apart from the use of marginal ELCC.⁷⁵ Use of an hourly model in the Reserve Requirement Study,⁷⁶ for example, may be a positive step, as a more granular market design that recognizes the expectations of supply and demand on an hourly basis will be critical as the region moves through the energy transition. Similarly, assessment of resource adequacy risk using the EUE metric (while retaining the 1-day-in-10 LOLE standard) would also provide more granularity regarding “the depth of loss of load events and therefore a more useful characterization of the events for resource adequacy planning purposes than relying solely on LOLE.”⁷⁷

B. PJM’s proposed LDA Reliability Requirement reforms will properly account for Planned Generation Capacity Resources.

PJM proposes enhancements to the existing Tariff provisions that account for Planned Generation Capacity Resources that are not offered in the RPM Auction for purposes of calculating the LDA Reliability Requirement.⁷⁸ Specifically, PJM proposes “to

⁷⁵ See PJM Filing, Transmittal Letter at 55-72.

⁷⁶ *Id.* at 56-60.

⁷⁷ *Id.* at 60.

⁷⁸ PJM Filing, Transmittal Letter at 72-77.

require all Capacity Market Sellers of any Planned Generation Capacity Resource to provide a binding notice of intent if such resource will be offered into [] the relevant RPM Auction before the auction parameters are posted.”⁷⁹

In Docket No. ER23-729-000, the Commission approved PJM Tariff revisions that sought to address the unreasonable outcomes that can result in certain situations when planned generation that is modeled in calculating a LDA Reliability Requirement does not offer into the RPM auction as expected.⁸⁰ The Commission emphasized the importance of RPM rules that “help ensure that load-serving entities are charged for capacity based on an LDA Reliability Requirement that reflects actual reliability needs in a manner consistent with supply and demand fundamentals.”⁸¹

PJM’s proposed binding notice requirement is an important further Tariff enhancement to ensure that the LDA Reliability Requirement aligns with the LDA’s actual reliability needs, by identifying which Planned Generation Capacity Resources will participate in the RPM Auction. Although existing Tariff provisions approved in Docket No. ER23-729-000 allow PJM to exclude Planned Generation Capacity Resources that do not participate in the BRA from the LDA Reliability Requirement if a one percent materiality threshold is reached,⁸² the materiality threshold approach alone is not an

⁷⁹ *Id.* at 74 (citing proposed Tariff, Attachment DD, section 5.5). The notice requirement would not apply to Existing Generation Capacity Resources that are not subject to the capacity must offer requirement. *Id.*

⁸⁰ *PJM Interconnection, L.L.C.*, 182 FERC ¶ 61,055, at PP 6-10 (2023), *order on reh’g*, 184 FERC ¶ 61,055 (2023), *petitions for review pending*.

⁸¹ *PJM Interconnection, L.L.C.*, 182 FERC ¶ 61,055, at P 150.

⁸² See PJM Filing, Transmittal Letter at 72-74; see also Tariff, Definition of Locational Deliverability Area Reliability Requirement, Attachment DD, sections 5.12(a) and (b). Specifically, PJM revised the Tariff definition of Locational Deliverability Area Reliability Requirement to specify that, effective with the 2024/2025 Delivery Year, PJM:

shall exclude from the Locational Deliverability Area Reliability Requirement any Planned Generation Capacity Resource in an LDA that does not participate in the relevant RPM Auction as

adequate solution to the unjust and unreasonable outcomes that can result when modeled Planned Generation Capacity Resources fail to submit Sell Offers. As AMP argued in Docket No. ER23-729-000,⁸³ the record in that proceeding suggested that clearing the RPM auction based on a LDA Reliability Requirement that results from modeling *any* Planned Generation Resources that do not participate in the BRA could, all else equal, increase the LDA Reliability Requirement beyond a level “that reflects actual reliability needs in a manner consistent with supply and demand fundamentals.”⁸⁴

The binding notice requirement proposed in the PJM Filing would provide additional assurance that LDA Reliability Requirements are calculated consistent with reliability needs, while minimizing the possibility that PJM will be required to make unexpected adjustments as it conducts the RPM auction.⁸⁵ As PJM explains, the notice requirement will also “provide greater transparency to Market Participants while reducing

projected internal capacity and in the Capacity Emergency Transfer Objective model where the Locational Deliverability Area Reliability Requirement for the Base Residual Auction increases by more than one percent over the reliability requirement used from the prior Delivery Year’s Base Residual Auction (for Incremental Auctions the Locational Deliverability Area Reliability Requirement would be compared with the reliability requirement used in the prior relevant RPM Auction associated with the same Delivery Year) for that LDA due to the cumulative addition of such Planned Generation Capacity Resources.

PJM also made conforming changes to Tariff Attachment DD, sections 5.12(a) and (b) to specify that PJM’s optimization algorithm must consider the “Locational Deliverability Requirement Reliability Requirement, including any revised Locational Deliverability Area Reliability Requirement based on the actual participation of Planned Generation Capacity Resources.”

⁸³ AMP Comments, Docket Nos. ER23-729-000, at 5-7 (January 20, 2023).

⁸⁴ *PJM Interconnection, L.L.C.*, 182 FERC ¶ 61,055 at P 150. Importantly, the PJM Filing does not propose to remove the Tariff provisions approved in Docket No. ER23-729-000 that allow exclusion of planned resources that do not participate in the BRA from the LDA Reliability Requirement if the materiality threshold is reached. These existing Tariff provisions, in conjunction with the new binding notice provision will help ensure just and reasonable outcomes in calculation of LDA Reliability Requirements.

⁸⁵ See PJM Filing, Transmittal Letter at 76 (explaining that the notice requirement “is an improvement over the existing rules as it will not require PJM to recalculate the Locational Deliverability Area Reliability Requirement during the conduct of the RPM Auction.”).

the administrative tasks that are needed for PJM to complete [] running the optimization algorithm during the conduct of the RPM Auctions.”⁸⁶

C. PJM’s proposed enhancements to resource testing requirements are reasonable.

In an effort “[t]o strengthen the Capacity Performance framework,”⁸⁷ PJM proposes a number of resource testing enhancements for committed Capacity Resources.⁸⁸ PJM’s proposal includes: (1) modifications to existing testing rules to add a requirement to perform a capability test in both the summer and winter seasons,⁸⁹ and (2) creation of an entirely new test – the Generator Operation Test – that is intended “to test resource capability and operating parameter accuracy prior to periods of the year where PJM may experience extreme weather conditions.”⁹⁰ PJM would also make conforming changes to the testing requirements for Demand Resources.⁹¹

AMP generally supports the proposed testing enhancements if PJM maintains the existing Capacity Performance construct, as the expanded testing framework will help provide “actual demonstrations of capacity resource capability” to balance the financial incentive components of Capacity Performance.⁹² In implementing the expanded testing

⁸⁶ *Id.*

⁸⁷ *Id.* at 80.

⁸⁸ *See id.* at 80-91.

⁸⁹ *Id.* at 80, 82-85. PJM also proposes changes to its test failure charge “to assess the resource’s MW shortfall on the daily installed capacity commitment of the resource in calculating the MW shortfall rather than annual average of the installed capacity committed on the resource.” *Id.* at 84.

⁹⁰ *Id.* at 81; *see also id.* at 85-89.

⁹¹ *Id.* at 89-91.

⁹² PJM Filing, Transmittal Letter at 81; *id.*, Keech Affidavit at ¶ 21.

requirements, however, PJM should seek to conduct tests when resources are committed and dispatched to avoid unnecessary uplift.⁹³

D. PJM’s proposed revisions will better synchronize the FRR rules with RPM.

AMP supports PJM’s proposal to adjust the FRR Insufficiency Charges and Deficiency Charges so that they are priced the same as RPM capacity shortfalls, i.e., “at the price-level corresponding to Point 1 on the LDA VRR curve where the FRR obligation exists.”⁹⁴ PJM correctly explains that a change to the current FRR deficiency charge rate (tied to BRA clearing prices) is particularly important, as this penalty level does not provide adequate financial incentive to procure needed capacity given that it may be less expensive for an FRR Entity simply to pay the deficiency charge than to procure sufficient capacity.⁹⁵ PJM’s proposed reforms will also better align the FRR Alternative approach with the Capacity Performance model. AMP also supports PJM’s proposed transition period as a reasonable approach to implementing these important reforms while affording FRR Entities sufficient time to address the revised obligations.

IV. THE COMMISSION SHOULD ENCOURAGE PJM TO RESUME THE STAKEHOLDER PROCESS OR INITIATE A PROCEEDING UNDER FPA SECTION 206.

PJM’s current administrative capacity construct clearly needs reform, but the PJM Filing does not offer just and reasonable solutions. The Commission should therefore reject the PJM Filing and encourage PJM to renew its stakeholder process with the goal of developing a just and reasonable set of reforms to its resource adequacy framework.

⁹³ Testing requirements were a key component of the AMP/J-Power proposal presented during the CIFP-RA process. See AMP/J-Power Proposal at 13.

⁹⁴ PJM Filing, Transmittal Letter at 99.

⁹⁵ *Id.* at 100.

Commission rulings on the proposals included in the filing in this docket and in Docket No. ER24-98-000 may help inform the discussion of what may be included in a just and reasonable package of reforms that could be resubmitted to the Commission. Stakeholders, however, should remain free to consider reform on a holistic basis, including moving away from Capacity Performance.

In the alternative, the Commission could institute a proceeding under FPA section 206 to investigate whether the currently effective RPM rules may be unjust and unreasonable, as AMP and others urged in Docket No. ER23-1996-000 in relation to PJM's changes to the PAI trigger via revisions to the definition of Emergency Action under the Tariff.⁹⁶ While the Commission rejected that proposal, it did so on the grounds that PJM and stakeholders were engaged in the CIFP-RA process with plans to file Tariff revisions by October 1, 2023.⁹⁷ Those Tariff revisions have now been filed and, as discussed above, they are not just and reasonable. Accordingly, in the absence of further meaningful PJM stakeholder process, it would be appropriate for the Commission to step in and initiate an FPA section 206 proceeding to determine whether the existing RPM rules are unjust and unreasonable, and if so, establish a just and reasonable replacement framework.

These further proceedings could be incompatible with running the BRA for the 2025/2026 Delivery Year on its current schedule. However, in the proceedings in which the Commission approved the current BRA schedule reflected in the Tariff, PJM indicated that the BRA for the 2025/2026 Delivery Year could be run later than June 2024 to

⁹⁶ AMP, *et al.*, Answer, Docket No. ER23-1996-000, at 15-16 (July 5, 2023).

⁹⁷ *PJM Interconnection, L.L.C.*, 184 FERC ¶ 61,058, at P 43 (2023).

accommodate further Commission deliberation.⁹⁸ In the related stakeholder process, PJM indicated that this BRA could be run as late as October 2024 under the new rules.⁹⁹ While the current date for the BRA for the 2025/2026 Delivery Year is properly specified in the Tariff, PJM retains the ability to seek a modification of that schedule with the Commission's approval, as the Commission noted in accepting the current BRA schedule.¹⁰⁰ If a delay becomes necessary, PJM should run it as soon as possible under the existing rules.

⁹⁸ See PJM Filing, Docket No. ER23-1609-000, at 6 (April 11, 2023) (“given that the actual schedule of the auction will depend on when FERC issues a workable order on PJM’s forthcoming capacity market reform filing, PJM is not specifying the auction dates in the Tariff.”).

⁹⁹ See PJM, *Potential revised RPM auction schedule*, at 3 (April 4, 2023), <https://pjm.com/-/media/committees-groups/committees/mc/2023/20230404-special/item-01---1-potential-revised-rpm-auction-schedule--presentation.ashx>.

¹⁰⁰ *PJM Interconnection, L.L.C.*, 183 FERC ¶ 61,172, at P 39 (2023) (encouraging PJM to include any appropriate proposed updates to the BRA schedule in its capacity market reforms proposal, and noting “that PJM has the ability to make an additional FPA section 205 filing for a further modification of future auction deadlines should it so choose.”).

V. CONCLUSION

WHEREFORE, for the foregoing reasons, American Municipal Power, Inc. respectfully requests that the Commission: (1) reject PJM's filing; (2) encourage PJM to renew its stakeholder process with the goal of developing a just and reasonable set of reforms to its resource adequacy framework, or, in the alternative, institute a section 206 proceeding on its own initiative; and (3) grant such further relief as the Commission may deem appropriate.

Respectfully submitted,

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November 9, 2023

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 9th day of November, 2023.

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