PJM Interconnection, L.L.C. Docket No. ER15-738-000

ANSWER OF PJM INTERCONNECTION, L.L.C.

PJM Interconnection, L.L.C. (“PJM”), pursuant to Rule 213 of the Commission’s rules, 18 C.F.R. § 385.213, hereby answers 1 certain of the protests to and comments on PJM’s December 24, 2014 request ("December 24 Filing") for waiver of section 5.4(c)(3) of Attachment DD to PJM’s Open Access Transmission Tariff ("PJM Tariff"), which requires PJM in certain circumstances to offer to release prior capacity commitments. The requested waiver is narrow; PJM requests it solely as to the Third Incremental Auction ("IA") for the 2015/2016 Delivery Year, which is scheduled to begin on February 23, 2015. Ten parties filed substantive comments on the December 24 Filing; half of those parties support granting the waiver, in whole or in part. 2 Other parties

1 PJM seeks leave to answer the protests and comments to its December 24 Filing to assist the Commission’s decision-making process and clarify the issues. The Commission regularly allows answers in such cases. See, e.g., PJM Interconnection, L.L.C., 139 FERC ¶ 61,165, at P 24 (2012) (accepting answers to a protest because “they have provided information that assisted [the Commission] in [its] decision-making process”); PJM Interconnection, L.L.C., 104 FERC ¶ 61,031, at P 10 (2003) (accepting answer because “it will not delay the proceeding, will assist the Commission in understanding the issues raised, and will [e]nsure a complete record upon which the Commission may act”).

2 Comments of the Electric Power Supply Association ("EPSA"); Motion to Intervene and Comments of Old Dominion Electric Cooperative ("ODEC"); Comments of the Indicated PJM Utilities Coalition ("Coalition"); Motion to Intervene, Protest, and Comments of Dominion Resources Services, Inc.(“Dominion”); Comments of the Independent Market Monitor for PJM ("IMM").
oppose the request, contending that it does not meet the Commission’s waiver standards.\(^3\) A number of parties also propose conditions on any grant of the requested waiver, or propose alternatives to the requested waiver.\(^4\) PJM answers those arguments here, and shows that the requested waiver meets the Commission’s standards for a waiver. Accordingly, for the reasons provided here and in the December 24 Filing, the Commission should grant the waiver before the Third IA opens.

I.  **THE REQUESTED WAIVER COMPLIES WITH THE COMMISSION’S WAIVER STANDARDS.**

As demonstrated in the December 24 Filing, PJM’s waiver request meets the Commission’s waiver standards, as the requested waiver: (1) is of limited scope; (2) addresses a concrete problem that must be remedied; and (3) does not have undesirable consequences, such as harming third parties.\(^5\)

A.  **The requested waiver is limited in scope.**

As shown in the December 24 Filing, the requested waiver is of very limited scope. It applies only to one Incremental Auction for one Delivery Year, i.e., the Third IA for the 2015/2016 Delivery Year.\(^6\) And the only change it makes to that auction is to

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\(^6\) Some parties ask for confirmation that the requested waiver applies only to the Third IA for the 2015/2016 Delivery Year. *See, e.g.*, EPSA at 2, 7. PJM so confirms.
suspend the requirement that PJM offer in that auction to release some previously committed capacity. That capacity has previously cleared a Reliability Pricing Model (“RPM”) Auction for the 2015/2016 Delivery Year. As a prudent response to unique circumstances that raise resource adequacy concerns for the 2015/2016 Delivery Year, all that PJM asks here is that it not be required to offer to release that capacity.

JCA argue that the requested waiver is not limited in scope because it involves approximately 2,000 MWs of capacity. But this is barely over one percent of the resources committed in the Base Residual Auction for this Delivery Year. Moreover, there is no MW cap on a waiver request. The offer cap waiver request that the Commission granted in February 2014, for example, permitted energy market offers to be paid a clearing price above $1,000/Mwh, with no set limit on the total megawatts of offers that could receive such pricing.

CSPs similarly argue that the requested waiver is not limited in scope because the 2,000 MWs PJM would not have to sell back if the waiver is granted is “nearly twice” the amount of generation that remained uncleared after the Second IA. Contrary to CSPs, however, the relatively low amount of uncleared generation (well below 1% of the Reliability Requirement) after the Second IA underscores the wisdom of not releasing capacity that is already committed, because it highlights the considerable reduction in generation available for the 2015/2016 Delivery Year as a result of a record-high level of

7 JCA at 2-3.
9 *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,078 (2014).
10 CSPs at 4.
generation retirements. Indeed, the “tight” conditions in the 2015/2016 Delivery Year will likely be even more pronounced after the Third IA, given that some of the generation that is already committed typically will have various deficiencies and will need to find replacements from the relatively small pool of uncleared generation. Under these circumstances, PJM should not automatically offer to release the 2,000 MWs of committed capacity that the Tariff, absent waiver, would require PJM to relinquish.

JCA also argues that the waiver request is not limited in scope because it could result in the unfavorable treatment of similarly situated parties, citing Massachusetts Municipal Wholesale Electric Co., 148 FERC ¶ 61,227 (2014). But that case simply involved a market participant that missed a deadline for qualifying its resource to offer into a capacity auction. Waiving the deadline for that party, whose only excuse was “administrative oversight,” was obviously unfair to the others that had missed that deadline and consequently been barred from the auction. Here, by contrast, PJM proposes a waiver that is uniformly applicable to every capacity market seller that committed capacity for the 2015/2016 Delivery Year—PJM does not propose to let some market participants seek release from their capacity commitment but bar others from doing so. Moreover, every seller that committed capacity for the 2015/2016 Delivery Year also still has the same opportunity to seek replacement capacity in the Third IA—PJM is making no change to that rule, let alone any change for some sellers but not all. Finally, no party that previously committed capacity for the 2015/2016 Delivery Year has any entitlement to PJM over-procuring in earlier auctions and needing to offer to buy out some capacity in the Third IA. A seller that offers and clears a Capacity Resource should

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11 Id. at 13.
not do so only on the hope and expectation that PJM will later need to release it from its capacity commitment because of a change in the Reliability Requirement.

B. The requested waiver addresses a concrete problem.

PJM showed in the December 24 Filing that the requested waiver addresses a concrete problem because the relevant Tariff provision, absent waiver, would require PJM to worsen its resource adequacy position in the face of foreseeable risks to current resource commitments in both the summer and winter of the 2015/2016 Delivery Year. For the summer, those risks stem from the federal appeals court decision in *EPSA* ¹² and related litigation, which could unsettle, undermine, and in the worst case, effectively nullify, the over 11,000 megawatts of Demand Resources committed to the PJM Region’s reliability needs for the 2015 summer peak season. ¹³

Wintertime resource adequacy concerns for the 2015/2016 Delivery Year stem from an historic level of generation retirements for that Delivery Year, coupled with recent experience of poor winter performance. The retirements leave little room for error, and if PJM were to experience next winter conditions like those seen last winter, PJM might not have enough resources to serve all load.

Dominion argues that PJM’s concerns regarding the impact of *EPSA* and related litigation on Demand Resource commitments for the summer of 2015 are “premature and speculative” and therefore those possible impacts need not be considered in determining...

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¹² *Elec. Power Supply Ass’n v. FERC*, 753 F.3d 216 (D.C. Cir. 2014) (“*EPSA*”).

¹³ As PJM’s Executive Vice President of Operations, Mr. Michael J. Kormos, explained in his affidavit in support of the December 24 Filing, if PJM released the approximately 2,000 MWs required by the Tariff, and then lost the use of the committed Demand Resources, “then the reserve margin entering the 2015 summer would be approximately 11.2%—far below the 15.6% found necessary by PJM’s planners and approved by the PJM Board of Managers . . . [and] equivalent to a loss of load expectation of one event in every two to three years.” Kormos Aff. at ¶ 24.
whether some of the resources presently committed for the summer of 2015 should be released.\footnote{Dominion at 4, 6.}

Dominion ignores the resource adequacy planning context of PJM’s request. By its very nature, planning is forward-looking and prudently anticipates a variety of possible conditions and scenarios. Dominion’s argument is comparable to contending that the possibility that loads could substantially exceed forecast levels this summer is “premature and speculative;” or that the possibility that forced generation outages could greatly exceed average levels next winter is “premature and speculative.” Yet these are the very possibilities that resource adequacy planners routinely consider when determining an appropriate reserve margin. PJM’s reserve margin analyses are probabilistic and therefore include both a very wide range of peak load scenarios and a very wide range of generator availability scenarios, including some very low probability scenarios. Planners cannot wait for the actual scenario to materialize, because by then it will likely be too late to obtain the resources needed to ensure reliability.

Here, the possibility that the EPSA decision or associated litigation could degrade, undermine, or even nullify existing resource commitments for this summer is a reasonably foreseeable risk. Neither PJM nor the Commission needs to favor such a scenario or concede the merits of the EPSA decision in order to acknowledge such a risk. Indeed, the Solicitor General of the United States has warned the U.S. Supreme Court in the certiorari petition filed on the Commission’s behalf that EPSA’s holding “appears to reach much farther than the level of compensation,” and “throws into serious question” the Commission’s authority to review wholesale market operator rules on demand.
response participation, and “perhaps even whether [the Commission] has the authority to permit the participation of demand-response providers in wholesale-electricity markets at all.”\textsuperscript{15} It is reasonably foreseeable that the Supreme Court could deny that certiorari petition before the coming summer.\textsuperscript{16} If that were to occur, it is reasonably foreseeable that such a denial, and the resulting issuance of the \textit{EPSA} mandate, would cloud pre-existing Demand Resource commitments, even before Commission action in response to the mandate. Given the unprecedented nature of these circumstances, it is difficult to predict exactly what would happen, but the consequences for existing Demand Resource commitments clearly would not be good, and potentially could be quite problematic. PJM cannot ignore those contingencies as it considers its resource adequacy position just four months before the start of the Delivery Year.

Similarly, the Commission presently has before it the \textit{FirstEnergy Complaint}\textsuperscript{17} that seeks to remove all rules from the PJM Tariff that compensate demand response as a supply resource. Even though the \textit{FirstEnergy Complaint} does not seek to change the results of the RPM Auctions for the 2015-2016 Delivery Year, it does seek to remove all


\textsuperscript{16} Briefs in opposition to the pending certiorari petitions must be filed by February 17, 2015; any reply to those briefs must be filed by March 3, 2015. The Court could act at any time after March 3. Per the calendar posted on the Court’s website, the Justices will meet thereafter in conference to consider such petitions and other pending matters at least ten times before the June 1 start of the next Delivery Year, i.e., March 6, 20, and 27, April 3, 17, and 24, and May 1, 14, 21, and 28, 2015. The Court’s final scheduled conference date this term is June 28, 2015.

\textsuperscript{17} See Emergency Complaint and Request for Fast Track Processing of FirstEnergy Service Company, Docket No. EL14-55-000, at 1-2 (May 23, 2014); Amended Complaint of FirstEnergy Service Company, Docket No. EL14-55-000, at 1-5 (Sept. 22, 2014) (collectively, the “\textit{FirstEnergy Complaint}”).
Tariff authority for payment of Demand Resources committed for the near-term Delivery Years. The complainants’ resolute opposition\(^{18}\) to PJM’s argument that the resource commitments for the “near-term” Delivery Years, including 2015/2016, should be left intact\(^{19}\) leaves no doubt as to the threat posed by that complaint to the resources committed for this summer.

PJM does not need to concede (and expressly does not concede) the merits of the *FirstEnergy Complaint* to recognize the risk that the pending complaint poses to present resource commitments, and to prudently address that risk through resource adequacy planning. Absent the requested waiver, PJM would have to offer on February 23, 2015 to release the approximately 2,000 MWs at issue. It is precisely because *EPSA* and the *FirstEnergy Complaint* are unlikely to be resolved by that date that PJM asks for the waiver so it can mitigate the risk that the *further proceedings* in those and related cases could adversely affect the Demand Resources commitments for the 2015/2016 Delivery Year.

To leave no doubt, PJM urges the Commission, in acting on this waiver request, to make clear that such action is simply a response to PJM’s need for prudent planning; is in no way a concession of the merits of *EPSA*, the *First Energy Complaint*, or any related proceeding; and is expressly without prejudice to future Commission orders or actions concerning any of those matters.

\(^{18}\) See Motion for Leave to Answer and Answer of FirstEnergy Service Company, Docket No. EL14-55-000, at 45-47 (Nov. 14, 2014).

\(^{19}\) See Answer of PJM Interconnection, L.L.C. to Complaint, Docket No. EL14-55-000, at 6, 31 (Oct. 22, 2014).
AMP suggests that Demand Resources would still provide load reductions for PJM this summer even if PJM could not compensate those resources, citing PJM’s experience obtaining assistance from Demand Resources last winter (outside their normal summer obligation period). But that would not be a reasonable assumption for resource adequacy planning. Demand Resources that responded last winter were receiving year-round compensation as capacity, and also received energy market compensation for their load reductions. That experience provides no precedent for the assistance PJM could expect from the current Demand Resources if PJM could not pay them in either the capacity or energy markets—a foreseeable outcome given the pending proceedings.

Moreover, while PJM believes that alternative viable means of tapping the region’s load reduction capabilities can be developed, they would be difficult to implement on extremely short notice for the summer of 2015 following a Supreme Court denial of certiorari this spring. PJM’s recent filing of a wholesale load reduction alternative is focused on the Base Residual Auction (“BRA”) for the 2018/2019 Delivery Year, rather than earlier years, precisely because market participants will need time to adapt their arrangements and business practices to an LSE-based, demand-side approach to providing demand response in PJM’s markets.

AMP also suggests that it is possible that PJM could retain the 2,000 MWs but ultimately learn, as the year progresses, that sufficient Demand Resources and other

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20 AMP at 4.

21 See PJM’s January 14, 2015 tariff change filing in Docket No. ER15-852-000.
Capacity Resources remain committed.22 If that happens, AMP argues, loads’ payments for the 2000 MWs will have been wasted.

AMP’s perspective ignores that reliability always addresses uncertain contingencies that may not be realized. If PJM builds into its Installed Reserve Margin (“IRM”) the possibility that peak loads could substantially exceed average peak levels, but peak loads in a given year are below average, that does not mean that the committed capacity above that level was wasted or unnecessary. To the contrary, it means that the committed capacity ensured reliability. The same is true here. If Demand Resources do become unavailable this summer, and PJM releases the 2,000 MWs of previously committed capacity, then PJM will be far below its approved IRM and could face significant adverse reliability consequences. PJM cannot control what may happen with Demand Resources, but it can control whether it releases the 2,000 MW of capacity—if the Commission grants the requested waiver.

JCA similarly argues that PJM’s waiver request does not address a “concrete” problem because the possibility that EPSA or related litigation could adversely affect Demand Resource commitments for this summer should be discounted.23 JCA largely bases this contention, however, on an assumption that the Commission will agree with the arguments of JCA and allied parties in the pending First Energy Complaint proceeding. The problem is that PJM, for purposes of reliability planning, cannot simply assume that JCA’s arguments in that proceeding will prevail. The fact remains that a complaint is now pending before the Commission that seeks to deny compensation to the

22 AMP at 5.
23 JCA at 5-8.
Demand Resources presently committed as PJM capacity, including those committed for the 2015/2016 Delivery Year. Moreover, even aside from the FirstEnergy Complaint, if the only relevant event to occur before this summer is a denial of the pending certiorari petitions, and issuance of the EPSA mandate, that action by itself could create considerable market turmoil and uncertainty over the status and performance of the Demand Resources PJM is presently relying upon to ensure reliability this summer.

The issue here is not how the Commission will ultimately decide the FirstEnergy Complaint, or when and how the Supreme Court will actually dispose of the pending certiorari petitions. Rather, the issue is simply whether it is prudent for PJM to release approximately 2,000 MWs of capacity before it is known how those matters will be resolved.

JCA similarly contends that there is no “concrete” reliability issue to be addressed for next winter.24 To the contrary, PJM has shown that due to the extraordinarily high level of generation retirements for 2015/2016 (which JCA does not question), recurrence next winter of the type of high generator outages experienced just last winter would call into question PJM’s ability to serve all loads under a high peak load scenario. Contrary to JCA, it is not “highly speculative” to plan on the possibility that conditions actually experienced in the very recent past could recur in the near future. The PJM Region did in fact experience very poor resource performance and high generator outages on multiple occasions in January 2014. Therefore it is prudent and reasonable to take into account a possible recurrence of similar or comparable conditions when deciding whether PJM should release capacity resources for the 2015/2016 Delivery Year. By contrast,

24 JCA at 5.
adopting JCA’s preferred assumption that the poor performance experienced just last winter cannot recur would be imprudent.

Nor do the cases cited by CSPs\textsuperscript{25} show that PJM’s waiver request does not meet the Commission’s standards for resolving a concrete problem. The Commission denied the waiver request in \textit{MISO}\textsuperscript{26} because MISO had sought to implement a complex and poorly explained transition cost allocation proposal for its Entergy integration using the waiver process, rather than a section 205 tariff change filing.\textsuperscript{27} PJM’s waiver request, by contrast, is narrow, well-defined, and well-supported. \textit{Erie Power},\textsuperscript{28} also cited by CSPs, is inapposite because the Commission found in that case that there simply was no concrete problem to be resolved. “Simply having to follow” an RTO’s approved generation interconnection process in order to reinstate a generator that had been deactivated four years earlier “[was] not a concrete problem” that warranted a waiver of the rule on lapse of interconnection rights after three years.\textsuperscript{29} Here, by contrast, PJM has shown that presently foreseeable risks which, if realized, could put the region well below its established Reliability Requirement, indicate that PJM should not worsen its resource adequacy situation by offering to release in the Third IA approximately 2,000 MWs of previously committed capacity. That is a narrow, well-defined, and concrete problem. The fact that the feared contingency might not come to pass does not make the resource adequacy planning problem, i.e., how to account for that contingency, any less concrete.

\textsuperscript{25} CSPs at 8 & n.16.
\textsuperscript{27} \textit{Id.} at PP 27-29.
\textsuperscript{28} \textit{Erie Power, LLC}, 148 FERC ¶ 61,038 (2014).
\textsuperscript{29} \textit{Id.} at P 20.
As explained above, uncertainty is in the nature of every contingency addressed in the planning process.

C. **The requested waiver will not have undesirable consequences.**

PJM also showed in the December 24 Filing that the requested waiver would not have undesirable consequences, such as harming third parties. To the contrary, retaining the capacity would help PJM avoid harming loads, which could suffer adverse reliability consequences if PJM tried to manage emergency circumstances in either the summer or winter of 2015/2016 with resources that were needlessly reduced by 2,000 MWs. Payment for resources prudently retained to mitigate foreseeable risks and help ensure reliability is not an undue imposition on loads.

JCA contends that the waiver request “would result in undesirable consequences for third parties by preventing excess cleared capacity resources from being available in the Third Incremental Auction to be purchased as replacement capacity.” But the purpose of the sell-back requirement is not to ensure that some sellers that previously committed capacity have an opportunity to be bought out. Rather, it is intended to help PJM obtain the right amount of capacity to ensure reliability for a given Delivery Year. As previously noted, a seller that offers and clears capacity in an auction should not do so with an expectation that PJM will relieve it of its capacity commitment. PJM should not be forced to sell back capacity that otherwise should be retained to ensure reliability merely to satisfy the desire of a seller to be relieved of its commitment.

JCA also contends that “PJM seeks to intervene in the capacity market by making administrative determinations to address resource adequacy concerns rather than allowing

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30 JCA at 9.
Market Participants to assess and manage their own perceived risks,” which, JCA asserts, “could harm customers.”31 But the sell-back otherwise required by the Tariff also is an administrative determination—the Tariff provision embodies a resource adequacy policy determination that PJM should release some capacity if there has been a reduction in the administratively determined Reliability Requirement. That “automated” resource adequacy determination requires a waiver, however, because it does not take account of the highly anomalous circumstances affecting the 2015/2016 Delivery Year, i.e., the record-high level of generation retirements, combined with (1) possibly substantial adverse effects from EPSA and related litigation on committed Demand Resources, and (2) the need to address resource performance concerns for the 2015/2016 Delivery Year that PJM is addressing for all other future Delivery Years through its recent tariff change filing in Docket No. ER15-623-000 (“Capacity Performance Filing”). Contrary to JCA, these are system resource adequacy issues that cannot be resolved by the choices of individual sellers whether to buy out of their commitments. Individual Demand Resource providers do not consider the risk to the system of a resource shortage when considering whether to buy out of their individual commitments.

Nor would the waiver lead to undesirable consequences for customers, because the waiver would simply ensure that customers are paying for the right quantity of capacity resources to preserve reliability in the face of resource contingencies and concerns affecting the 2015/2016 Delivery Year. Retaining, and continuing to pay for, capacity needed to ensure reliability in these circumstances is just and reasonable.

31 Id.
II. ALTERNATIVE PROPOSALS, AND REQUESTED CONDITIONS OR CLARIFICATIONS.

A number of parties propose alternative means to address the resource adequacy concerns PJM has raised, or seek various conditions or clarifications regarding the waiver. PJM addresses those proposals here.

A. Proposed alternatives to the waiver.

The Pennsylvania Commission suggests that PJM’s waiver request “should be modified to allow sale of excess capacity summer DR resources.”32 As PJM understands this alternative, it means that PJM would still offer to release approximately 2,000 MWs of capacity in the Third IA, but only previously committed summer-only Demand Resources would be eligible to take advantage of that offer. Under this alternative, generation resources would not be eligible for release, such that all generation could remain available to ensure winter-time reliability. As to summer reliability, the Pennsylvania Commission argues that release in the Third IA of summer-only Demand Resources “will be of no import”33 because if the summer reliability concern is that prior Demand Resource commitments could be negated or undermined by further developments in the EPSA matter or related proceedings, the release of Demand Resources through the Third IA cannot make that situation any worse than it would be if EPSA nullified those same Demand Resource commitments.

PJM understands the Pennsylvania Commission is attempting to balance, through this proposal, the reliability concerns PJM has raised against a general desire to recoup for loads at least some of the payments they are now required to make to previously

32 Pennsylvania Commission at 3.
33 Id. at 4.
committed capacity. PJM is concerned, however, that the proposal for a selective waiver that allows only committed Demand Resources, but not committed Generation Capacity Resources, to be released from their commitments through the Third IA, could be subject to significant challenge as being unduly discriminatory. As such, that change could only add a new element of significant litigation uncertainty to a Delivery Year that already is burdened with considerable litigation uncertainty on the status of previously committed resources. PJM’s proposal, by contrast, is straightforward and prudent: given substantial uncertainties about resource adequacy for the 2015/2016 Delivery Year, PJM simply seeks approval not to make the situation worse by releasing approximately 2,000 MWs of capacity.

Dominion similarly explains that it “recognizes PJM’s concerns about winter resource adequacy during extreme weather events,” but discounts PJM’s concerns about summer reliability.\textsuperscript{34} Dominion therefore asks the Commission to grant PJM’s waiver request “only for the amount of capacity necessary to mitigate 2015/2016 winter resource adequacy issues.”\textsuperscript{35}

The flaw in Dominion’s proposal is that all resources previously committed in RPM were committed for a full Delivery Year, so any release of such prior commitments would release the resource for both the summer and the winter. Moreover, there is no clearly distinct amount of capacity that is necessary to mitigate winter resource adequacy issues, but not needed for summer reliability. Finally, to the extent Dominion is proposing a selective waiver that allows Demand Resources, but not generation

\textsuperscript{34} Dominion at 6.

\textsuperscript{35} \textit{Id.}
resources, to offer to buy out of their prior capacity commitments, that suggestion would raise the same discrimination concerns noted above in response to the Pennsylvania Commission.

For its part, the ICC proposes that, rather than waiving the Tariff’s sell-back requirement, PJM should instead: (1) increase its capacity deficiency charge to 150% of the resource clearing price; (2) make unspecified revisions to the Peak-Hour Period Performance Charge; (3) relax price caps for offers into the Third IA; and (4) establish a price floor for PJM’s offer in the Third IA to release prior capacity commitments.\(^{36}\)

PJM respectfully disagrees with the ICC’s suggested alternatives for the 2015/2016 Delivery Year. In the first place, the ICC’s focus on resource performance does not address the possible loss of committed resources as a result of EPSA and related proceedings. Moreover, while the approach of increasing penalties and relaxing offer price caps holds considerable promise for incenting and enabling future improvements in capacity resource performance (and PJM has proposed such an approach in the Capacity Performance Filing beginning with the 2016/2017 Delivery Year), the 2015/2016 Delivery Year begins in less than four months. Resource providers need a reasonable time to ensure their resources can perform to higher levels. Substantial changes to the deficiency and non-performance charges for that imminent Delivery Year therefore could simply result in increased non-performance charges but comparatively little improvements in performance. Such an approach therefore could end up being merely punitive, rather than transformational.

\(^{36}\) ICC at 10-11.
B. Proposed conditions and clarifications.

ODEC supports the waiver, but seeks clarification that, if the waiver is granted, the amount of capacity that PJM otherwise would have offered to release would not be considered capacity that PJM “sought to sell back [in an Incremental Auction] that does not clear such auction[ ]” as stated in Attachment DD section 5.12(viii); and therefore would not result in any Excess Commitment Credits which that section requires PJM to allocate to LSEs.37

PJM agrees with ODEC’s interpretation of section 5.12(viii) under these circumstances. If the waiver is granted, PJM will not seek to sell back those megawatts in the Incremental Auction—excusing that obligation is the very purpose of the requested waiver. PJM seeks to retain that capacity because, as explained in the December 24 Filing, the extraordinary contingencies that are unique to the 2015/2016 Delivery Year (i.e., record high generator retirements coupled with significant uncertainty concerning the status of Demand Resource commitments and winter-time generator performance) indicate that it would not be prudent to consider that capacity “excess.” And since those resources will not be offered for sell-back, the conditions for triggering an award of Excess Commitment Credits will not be met.

The Coalition also supports PJM’s requested waiver but suggests that if PJM has concerns about capacity resource performance, it should take such concerns into account in calculating the PJM Region’s Reliability Requirement, and should take that performance concern, as well as concerns about the impact of EPSA on Demand

37 ODEC at 4.
Resources, into account in determining the parameters to post for the forthcoming BRA for the 2018/2019 Delivery Year.\(^{38}\)

Neither such action is necessary. PJM has filed extensive Tariff changes in the Capacity Performance Filing expressly to address Capacity Resource performance concerns for the 2016/2017 and subsequent Delivery Years, including for the BRA that will be held in May of this year. The Coalition does not show that, in addition to all of those Tariff changes addressing capacity resource performance, PJM must also increase its level of capacity resource commitments (by raising the Reliability Requirement) to address those very same concerns. Similarly, PJM has filed in Docket No. ER15-852-000 Tariff changes to place demand response on a more sustainable, wholesale demand-side paradigm, beginning with the May 2015 BRA, explicitly to address the risks posed by EPSA to commitment of Demand Resources as capacity under the current rules. The Coalition does not show that any further changes are required.

**III. CONCLUSION.**

For the reasons stated above, PJM requests that the Commission grant the requested waiver of Attachment DD, section 5.4(c)(3) of its Tariff solely as to the Third Incremental Auction for the 2015/2016 Delivery Year. PJM also requests that the Commission issue an order granting this waiver before February 23, 2015, to be effective no later than that date.

\(^{38}\) Coalition at 2-3.
Respectfully submitted,

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February 5, 2015
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 5th day of February, 2015.

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