PJM Interconnection, L.L.C. ("PJM"), pursuant to Rule 213 of the Commission’s rules, 18 C.F.R. § 385.213, hereby answers¹ certain of the protests to and comments on PJM’s December 24, 2014 filing in this proceeding ("December 24 Filing") to amend its Open Access Transmission Tariff ("Tariff") under section 205 of the Federal Power Act, 16 U.S.C. § 824d. By that filing, PJM seeks to add a means to recover from Load Serving Entities ("LSEs") the costs of separately authorized out-of-market capacity agreements that PJM proposes to pursue as a limited, prudent measure to mitigate resource adequacy concerns specific to the 2015/2016 Delivery Year² that have recently arisen from the confluence of several unusual events.

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 Capitalized terms not defined herein have the meaning set forth in the Tariff. In the Reliability Pricing Model ("RPM"), a Delivery Year is a twelve-month period beginning on June 1 of a calendar year and ending on May 31 of the following calendar year. See Tariff, Attachment DD, section 2.19.
I. BACKGROUND

PJM showed in the December 24 Filing that, as a result of recent developments, the PJM Region faces certain risks to current Capacity Resource commitments in both the summer and winter of the 2015/2016 Delivery Year. As PJM showed, wintertime resource adequacy concerns stem from recent experience of poor winter performance by Capacity Resources, raising particular concerns for the 2015/2016 Delivery Year in light of an historic level of generation retirements for that Delivery Year. The retirements leave little room for error, and if PJM were to experience next winter conditions like those seen last winter, PJM could experience a resource shortage of up to 2,600 MW and be forced to shed load.3 For the summer, the resource adequacy risks stem from the May, 2014 federal appeals court decision in EPSA4 and related litigation,5 which could unsettle, undermine, and in the worst case, effectively nullify, the over 11,000 MW of Demand Resources committed to the PJM Region’s reliability needs for the 2015 summer peak season.

3 November 24 Filing at 9-10; Affidavit of Michael J. Kormos (“Kormos Aff.”) ¶¶ 18-21.


5 See, e.g., Complaint of FirstEnergy Service Company, Docket No. EL14-55-000 (May 23, 2014); Amended Complaint of FirstEnergy Service Company, Docket No. EL14-55-000 (Sept. 22, 2014) (collectively, the “FirstEnergy Complaint”). PJM emphasizes that this filing is intended to provide a resource adequacy planning response to possible contingencies, including Commission action on the FirstEnergy Complaint. Nothing herein is intended to address the merits of that complaint, nor should such prudent contingency planning be interpreted as a concession to any point raised in that complaint.
PJM does not contend that either the winter or summer scenario described here is more likely than not to occur. Each, however, falls in the category of a reasonably foreseeable risk, similar to other contingencies that PJM takes into account in its resource adequacy planning. While the high level of generation retirements have been known for some time and were anticipated in the prior RPM Auctions for the 2015/2016 Delivery Year, the ramifications of poor resource performance (highlighted by events in January 2014) and the EPSA decision (issued in May 2014) were not factored into those forward capacity auctions.

There is no single perfect approach to address this unique confluence of resource adequacy concerns arising well into PJM’s three-year capacity commitment process. As a reasonable approach to help mitigate these risks, PJM has proposed through a related waiver request\(^6\) to retain for the 2015/2016 Delivery Year approximately 2,000 MWs of capacity that its Tariff would otherwise require PJM to release; and proposes in connection with this Tariff filing to pursue a limited amount of supplemental capacity from potential resources that are not required to offer into the RPM Auctions for the 2015/2016 Delivery Year. These are limited and prudent measures. They are not a guarantee against all risk, but they can help PJM maintain reliability if either or both of these low-probability but high-impact scenarios were to arise during the forthcoming Delivery Year.

While a number of parties filed comments on, or protests to, the December 24 Filing, none has shown that the proposed Tariff change is not a reasonable and prudent

response to this unique set of resource adequacy concerns. Accordingly, for the reasons
given in the December 24 Filing and this answer, PJM asks that the Commission accept
the narrowly focused Tariff change in this docket as just and reasonable, effective
February 23, 2015, as proposed.

II. ANSWER

A. The Proposed Tariff Change is Narrow, and the Associated Supplemental Capacity Procurement Is Limited and Carefully Targeted.

At the outset, PJM stresses the limited nature of this Tariff change. PJM is adding
a provision to its RPM rules to permit PJM to recover from LSEs, which are responsible
for the costs of capacity in PJM, the costs of supplemental agreements PJM enters for
capacity solely for the 2015/2016 Delivery Year. The Tariff change is merely enabling—
it only establishes a cost recovery mechanism in the Tariff so that PJM and potential
providers of supplemental capacity know there is a path to cost recovery for these novel
agreements. Notably, the Tariff change does not approve any such supplemental capacity
agreement, nor does it require the Commission to approve any such agreement. Charges
will be assessed to LSEs for such supplemental capacity agreements only to the extent the
Commission approves such agreements, following separate section 205 filings addressing
the specific agreements.

While the Commission and all interested parties will have an opportunity to
comment on any capacity agreements when they are filed, some parties in this proceeding
nonetheless seek further information from PJM on the nature and scope of the
supplemental capacity PJM is seeking. PJM reported on its plans at a recent stakeholder meeting,\(^7\) and repeats those clarifications here for the benefit of the record in this case.

First, in response to commenters seeking confirmation on this point,\(^8\) PJM reiterates that it is seeking capacity agreements only for the 2015/2016 Delivery Year. The Tariff change in this docket permits cost recovery only for capacity for the 2015/2016 Delivery Year.

Second, contrary to protestors,\(^9\) PJM does not seek “a blank check.” PJM showed in the December 24 Filing that if generator outage and peak load conditions like those seen in January 2014 were to recur in the 2015/2016 winter, the PJM Region could be short by up to 2,600 MWs.\(^10\) PJM therefore is seeking supplemental capacity agreements of no more than 2,600 MWs. PJM will accept a Commission condition or express Tariff limitation to that effect. As to the summer resource adequacy concern, while 2,600 MWs would not provide a replacement for all of the current Demand Resources that could be nullified under a worst-case scenario, it would be sufficient to keep PJM close to its

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\(^7\) See Capacity Procurement Information for 2015/2016, PJM Interconnection, L.L.C. (Jan. 22, 2015), http://pjm.com/~/media/committees-groups/committees/mrc/20150122/20150122-information-item-capacity-procurement-for-2015-2016.ashx. This information was provided to stakeholders at the January 22, 2015 Market and Reliability Committee meeting.

\(^8\) See, e.g., Comments of the Electric Power Supply Association (“EPSA”) at 10-11.


\(^10\) Contrary to Direct Energy (at 10-11), this conclusion about overall system resource adequacy is not affected by transmission upgrades that are being implemented in May 2015, which will enable the retirement of certain generators. The December 24 Filing is a response to conditions that are not studied in PJM’s transmission and generator deactivation analyses, i.e., possible extreme load and outage conditions in winter.
approved Installed Reserve Margin, even under that worst-case scenario. Waiver of the Tariff’s sell-back rule, plus the supplemental capacity described here, therefore would provide a reasonable amount of “insurance” against adverse resource adequacy impacts of EPSA and related proceedings that could arise as early as this summer.  

Exelon Corporation (“Exelon”) argues that PJM should seek over five times the 2,600 MWs PJM proposes to seek.  

PJM, which has been assigned responsibility by Exelon and other Load Serving Entities for assessing capacity requirements for the PJM Region, respectfully disagrees. The scenario that assumes recurrence of both the level of generator outages and the level of peak loads from January 2014 already bounds the risks for which PJM reasonably should plan; that scenario leads to a shortage of 2,300 to 2,600 MWs. As noted, that amount of supplemental capacity also provides reasonable insurance against possible adverse impacts from pending litigation on Demand Resource commitments.

PJM also clarifies that while it will seek no more than 2,600 MWs of supplemental capacity agreements, it may seek less. PJM will only enter agreements that help mitigate the identified resource adequacy risks on reasonable terms, taking into account such factors as the capacity level, the in-service date, dual-fuel or firm-fuel

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11 As discussed below (at pp. 14-15), PJM separately filed Tariff changes to provide a more sustainable means of committing load reductions, as a demand-side, LSE-driven product, for use in PJM’s May 2015 Base Residual Auction in the event the U.S. Supreme Court denies certiorari of EPSA. That filing does not address the potential near-term consequences of EPSA, such as the summer of 2015.

12 Protest of Exelon Corporation (“Exelon”) at 10.

13 Reliability Assurance Agreement Among Load Serving Entities in the PJM Region (“RAA”), Schedule 14.
arrangements, any environmental or other restrictions, and cost.\textsuperscript{14} If that evaluation yields agreements providing less than 2,600 MWs, then PJM will enter agreements for less than 2,600 MWs. Of course, PJM’s balancing of these factors will not be the last word. The Commission ultimately will decide which agreements to approve.

Third, given the need for capacity above and beyond that provided by resources that can currently provide capacity (or energy during emergencies) for the PJM Region,\textsuperscript{15} PJM’s search is focusing on resources that are not presently Capacity Resources. In particular, PJM is seeking capacity from resources that otherwise have retired or would retire, and from planned resources that can accelerate their in-service dates so as to be available during the critical peak periods in the 2015/2016 Delivery Year.\textsuperscript{16} Such resources (which would not otherwise be in service for the 2015/2016 Delivery Year) can provide an incremental increase in the energy available to PJM during emergencies, above and beyond that available from current Capacity Resources and other existing resources (which might provide energy—at least to some degree—when prices are high

\textsuperscript{14} As suggested by the Pennsylvania Public Utilities Commission (“PaPUC”), at 4, PJM also will monitor developments that affect winter resource performance or the status of the EPSA decision, and adapt its supplemental capacity contracting plans if necessary.

\textsuperscript{15} As discussed below (at pp. 10-11), it is likely that all presently registered but uncommitted Generation Capacity Resources, which already are required to offer into the Third Incremental Auction, will be committed by the end of that auction, even though the overall quantity of capacity committed to the PJM Region might not increase as a result of that auction, because those resources replace other, capacity-deficient, resources.

\textsuperscript{16} PJM is open to considering external resources on the same basis, i.e., they would not otherwise be in service for the 2015/2016 Delivery Year, if they also satisfy PJM’s other requirements for external capacity.
during emergencies, even if they are not Capacity Resources). The resources that otherwise would not be in service, therefore, can offer the most value to PJM loads (in terms of energy that would not otherwise be provided during emergencies) in return for LSEs’ payments through the supplemental capacity contracts.\(^\text{17}\)

Fourth, the identified resource adequacy concerns are for the PJM Region as a whole, rather than for specific Locational Deliverability Areas (“LDAs”). Therefore, PJM is not seeking LDA-specific capacity agreements. This is consistent with the Tariff language proposed in the December 24 Filing, which does not include LDA-specific cost allocation.

In short, PJM’s proposed Tariff change and associated capacity procurement effort are narrow, and are limited to addressing only the very specific resource adequacy concerns PJM has identified.

**B. Out-of-Market Contracts, Although Not Generally Preferred, Provide a Reasonable Option in These Unique Circumstances.**

PJM is a strong supporter of market solutions to reliability issues, and proposes this limited reliance on out-of-market agreements solely because it is, on balance, a reasonable approach to address the unique set of concerns that has arisen for the 2015/2016 Delivery Year. PJM takes to heart the Commission’s policy\(^\text{18}\) that out-of-

\(^\text{17}\) PJM is not seeking additional Demand Resources through this process, because commitment of additional Demand Resources would only increase, rather than mitigate, the resource adequacy concern over adverse impacts on Demand Resource commitments from EPSA and other pending litigation.

market contracts should be used sparingly, and PJM’s plan to rely on such contracts here resulted from consideration of the alternatives. Review of the alternatives proposed in the comments and protests is helpful in this regard, as it underscores that PJM’s proposed approach is reasonably tailored to solve the problem at hand in these unique circumstances.

(1) **Reliance on Existing Incremental Auction.**

Some parties suggest that PJM could meet its needs for supplemental capacity through this month’s scheduled Third Incremental Auction.\(^{19}\) The essential problem with this suggestion, as affirmed by the Independent Market Monitor for PJM,\(^ {20}\) is that there is very little capacity available to provide a meaningful source of supply in such auction. It is true, as some parties note, that approximately 1,180 MWs of internal PJM generation that offered into, but did not clear, the Second Incremental Auction, will have to offer as supply in the Third Incremental Auction. But it appears that supply will likely be exhausted by the demand for replacement capacity for *pre-existing* capacity commitments that have become deficient.

As is always the case as the Third Incremental Auction approaches, PJM currently has a reasonably good view of (i) possible capacity deficiencies among currently committed resources, versus (ii) the pool of uncommitted capacity remaining available.

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\(^{19}\) See, *e.g.*, Motion to File Comments Out of Time and Comments of the Illinois Commerce Commission (“ICC”) at 4; Protest of Old Dominion Electric Cooperative (“ODEC”) at 2-5.

For generation resources, deficiencies arise from such matters as reductions in Unforced Capacity due to final Equivalent Forced Outage Rate Demand ("EFORd") values, other de-ratings, and at-risk in-service dates. Available generation capacity comes from such sources as EFORd-related increases in Unforced Capacity, other uprates, Buy Bids that cleared earlier Incremental Auctions, and generation that offered into, but did not clear, prior auctions. Based on current information, it appears that the available remaining PJM generation capacity (including uncleared generation and successful Buy Bids from the prior auctions) will not exceed the deficiencies among the presently committed Generation Capacity Resources. Therefore, PJM likely cannot rely on the Third Incremental Auction as a source of supplemental capacity to increase overall capacity commitment levels and help mitigate the identified resource adequacy concerns.

PJM clarifies, however, in response to comments,21 that the results of the Third Incremental Auction can inform this process. At a minimum, the Commission will have available PJM’s informational report on that auction as it considers any specific supplemental agreements PJM files.

(2) Reliance on New Incremental Auction.

Some parties suggest that PJM could have requested a Tariff amendment to authorize a special incremental auction to secure additional capacity for the 2015/2016 Delivery Year.22 That approach suffers the same drawback as reliance on the Third Incremental Auction: the typical source of supply in RPM Auctions, i.e., recognized PJM

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21 See, e.g., ODEC at 5; ICC at 4.

22 See, e.g., Direct Energy at 4-5.
Capacity Resources, likely have little capacity available to offer in such an auction. As a result, although PJM favors market approaches to meeting reliability needs, in these unique circumstances, an auction is unlikely to yield much if any capacity, and would not be well suited to addressing the specialized concerns of retiring or planned resources that have previously assumed they would not be in service for the 2015/2016 Delivery Year.

Nor is much additional supply likely to be available from external resources. PJM already has a substantial quantity of external resources committed as capacity for the 2015/2016 Delivery Year.  Because neighboring systems also are facing substantial levels of generation retirements from new emissions regulations that have a compliance deadline in April 2015, PJM cannot count on significant additional quantities of imported capacity being available for the 2015/2016 Delivery Year. Moreover, to the extent existing external resources might provide energy to the PJM Region during emergencies, PJM loads would obtain less benefit from a supplemental capacity contract with such resources, compared to the value received from resources (as described above in section 23).


24 For example, the Midcontinent Independent System Operator, Inc. (“MISO”) projected that its resources would be only 0.2% above its planning reserve margin. Policy and Economic Studies Department, MISO Summer 2014 Reliability Assessment, Midcontinent Independent System Operator, Inc., 5 (May 30, 2014), https://www.misoenergy.org/Library/Repository/Study/Seasonal%20Assessments/2014%20Summer%20Resource%20Assessment.pdf. MISO, therefore, does not have much excess capacity even before fully accounting for generator retirements driven by environmental compliance deadlines in April, 2015. MISO has not yet released its Summer 2015 Reliability Assessment.
II.A of this response) that would not otherwise be in service during the 2015/2016 Delivery Year.

(3) Permitting Committed Capacity Resources to Offer and Clear as Capacity Performance Resources.

Some parties\(^{25}\) suggest that PJM should conduct for the 2015/2016 Delivery Year a supplemental auction similar to the auctions PJM has proposed in its Capacity Performance Filing\(^{26}\) for the 2016/2017 and 2017/2018 Delivery Years. Those auctions: (i) will secure commitments of resources that must perform during both summer and winter emergencies or else incur high non-performance charges; (ii) have an offer price cap above “going-forward” costs, up to a percentage of Net CONE; and (iii) permit Capacity Resources that are already committed for the Delivery Year to offer and clear as Capacity Performance Resources and thereby secure higher compensation.

This approach does not appear narrowly targeted to the problem at hand. ICC argues that, because the winter resource adequacy issue arises from resource performance concerns, PJM should seek to commit better performing resources. PJM agrees the ICC’s approach makes sense for later Delivery Years as part of a balanced package of resource performance reforms. But for the immediate Delivery Year, a supplemental capacity procurement is a more targeted and appropriate option. A shortcoming of the ICC’s approach is that tens of thousands of MWs of Generation Capacity Resources performed poorly, i.e., suffered outages, last winter. The ICC’s approach begs the question of which

\(^{25}\) See Exelon at 19-20; ICC at 6-7, 16-17.

\(^{26}\) See PJM’s December 12, 2014 tariff change filing in Docket No. ER15-623-000 (“Capacity Performance Filing”).
of those resources to replace for the 2015/2016 Delivery Year. That approach also
implies that PJM would need to obtain far more capacity than the 2,600 MWs proposed
by PJM.

For the long term, PJM wholeheartedly agrees that poorly performing resources
should be replaced, displaced, or incented to perform better. Reforms that achieve that
goal, such as those in the Capacity Performance Filing, will benefit customers in both the
medium and long term. But for the immediate Delivery Year, PJM’s approach of
procuring only enough additional capacity to ensure peak winter load is served, despite a
recurrence of poor winter resource performance, is a more targeted, lower-cost, and
reasonable approach.

PJM’s approach also avoids the issue, highlighted by Exelon, of permitting
previously committed resources to offer as Capacity Performance Resources for the
2015/2016 Delivery Year. Exelon argues that there is enough time for existing resources
to make improvements, such as weatherization changes, before the start of next winter,
such that they could meet a Capacity Performance standard that winter.27 PJM welcomes
Exelon’s analysis, as it reinforces PJM’s expectation that there is ample time before the
2016/2017 winter for sufficient and widespread resource improvements to provide
meaningful competition among Capacity Performance Resources in the transitional
auction for that Delivery Year, as proposed in the Capacity Performance Filing. For the
2015/2016 winter, Exelon’s analysis that resources technically could install
improvements in time still leaves the question of whether enough of them actually would

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27 Exelon at 3.
install those improvements in the next 8-9 months, such that there would be meaningful competition in an auction for the 2015/2016 winter. Because any such offers would be voluntary, resource participation would be the critical issue—and it is an issue over which PJM has no control. At bottom, an assumption of widespread installation of performance improvements seems safer for a winter starting in 20-21 months (i.e., for the 2016/2017 winter) than it does for one starting in 8-9 months (i.e., for the 2015/2016 winter). For this reason also, PJM’s approach is reasonable for the 2015/2016 Delivery Year.

(4) **Reliability Backstop Auction.**

While some parties cite RPM’s tariff provision for a Reliability Backstop Auction,\(^\text{28}\) that approach is simply not available for the 2015/2016 Delivery Year. That auction is triggered only if three successive BRAs clear below the Reliability Requirement.\(^\text{29}\) That has not happened. Therefore, the Reliability Backstop Auction does not provide a means to address the resource adequacy concerns PJM has identified for the 2015/2016 Delivery Year, and underscores the need for PJM’s proposed narrowly crafted Tariff change.

(5) **Shifting Demand Resources to the Demand Side.**

Some parties contend that PJM could address its concern with the threat posed by EPSA to Demand Resources committed for the 2015/2016 Delivery Year by accelerating

\(^{28}\) See, e.g., Direct Energy at 4-5; Protest of Joint Consumer Representatives at 7-8 & n.27.

\(^{29}\) See Tariff, Attachment DD, section 16.3.
into that Delivery Year PJM’s proposal in Docket No. ER15-852-000 to shift demand response to a demand-side product provided by LSEs.\textsuperscript{30}

However, it would be very aggressive to require PJM, market participants, and state regulators to implement PJM’s proposed demand response model for load reductions as early as this summer. PJM proposed that change beginning with the 2018/2019 Delivery Year in recognition that it is a substantial change from the current demand response model. PJM has proposed, moreover, to tie implementation of that change to a Supreme Court decision to deny certiorari of \textit{EPSA}, which could not happen for at least another month.\textsuperscript{31} Implementing the new demand-side, LSE-based approach for summer 2015, i.e., with a forward period of only a few months rather than the three-year-forward period proposed in PJM’s pending filing, would be challenging, to say the least.

In short, review of the various alternatives suggested by the parties simply underscores that PJM’s proposed reliance on out-of-market agreements is a reasonable and narrowly targeted approach to mitigating the unique combination of resource adequacy concerns in the 2015/2016 Delivery Year.

\textsuperscript{30} \textit{See, e.g.}, Direct Energy at 8; \textit{see also} Exelon at 4.

\textsuperscript{31} Responses to the pending certiorari petitions are due on February 17, 2015; replies to those responses may be filed within two weeks thereafter.
C. The Commission Need Not Decide Now the Proper Level of Compensation for the Agreements that Are yet to Be Filed.

Various parties assert that PJM has failed to define the charges under the supplemental capacity contracts.\textsuperscript{32} PUCO maintains that waiting until subsequent filings to review the costs of the supplemental capacity agreements harms competitive choice states, and asks the Commission to decide that issue in this proceeding.\textsuperscript{33} The IMM argues that PJM should be allowed to pay the supplemental capacity suppliers no more than the Deactivation Avoidable Cost Credits that are permitted under PJM’s Tariff to generators that defer retirement for reliability reasons.\textsuperscript{34}

There is no need for the Commission to determine the capacity contract compensation mechanisms now. The Commission should instead allow PJM and the affected generators to agree upon a pricing mechanism that is appropriate for the specific circumstances, subject to Commission review once the agreement is filed. Parties will then have a full opportunity to address any specific contract cost or compensation issues in the agreement-specific section 205 proceedings.

In particular, the Commission should not adopt the IMM’s proposal to limit payment to supplemental capacity resources to no more than the Deactivation Avoidable Cost Credits. There can be more than one measure of a just and reasonable rate; avoidable costs are not and should not be considered the only option available in this

\textsuperscript{32} See, e.g., Comments and Limited Protest Submitted on Behalf of the Public Utilities Commission of Ohio (“PUCO”) at 4-6; Motion to Intervene and Comments and, in the Alternative, Protest of the Retail Energy Supply Association (“RESA”) at 7-8.  
\textsuperscript{33} PUCO at 7-8  
\textsuperscript{34} IMM at 2-3 (citing Tariff, section 114).
instance. Indeed, the Commission found just last year that a generator that must forego retirement because it is needed for reliability reasonably should be paid more than its avoidable costs, including the embedded costs of its existing plant.\(^\text{35}\) For the types of resources likely to provide supplemental capacity in this instance, e.g., planned resources that are accelerating their in-service date, their costs and risks simply were not contemplated in the formulaic approach prescribed for Deactivation Avoidable Cost Credits. PJM does not contend that a supplemental capacity resource must be paid embedded costs—only that compensation should not be limited to avoidable costs.

Similarly, RPM offers another alternative for a just and reasonable rate, i.e., the auction clearing price that is paid to every Capacity Resource that clears an auction, regardless of its specific costs. A rate produced by PJM’s approved Tariff that is just and reasonable for every infra-marginal Capacity Resource could likewise be considered just and reasonable for a capacity resource that is committed through a supplemental capacity contract.

The Commission should neither dictate, nor foreclose, any such payment approaches now, and should instead wait until supplemental capacity contracts are placed before it.

PUCO requests clarification as to whether the cost recovery will be similar to make-whole payments in RPM.\(^\text{36}\) The December 24 Filing and proposed section 5.14(b-1) describe how these costs will be recovered. They will be recovered from all LSEs on


\(^{36}\) See PUCO at 5-6.
an uplift basis, similar to the current rules on recovery of “make-whole” payments under Attachment DD, section 5.14.

RESA requests that PJM include a line item on invoices, similar to that used for costs attributable for generation deactivation, to identify the costs of supplemental capacity contracts billed to a customer.\textsuperscript{37} PJM agrees to do so.

D. The Costs of the Supplemental Capacity Contracts Are Appropriately Allocated to FRR Entities.

The FRR Utilities assert that they meet their capacity and reserve requirements through self-supply or bilateral contracts, and should not be allocated any costs associated with the supplemental capacity contracts.\textsuperscript{38} The Indiana Utility Regulatory Commission agrees.\textsuperscript{39} The ICC and PUCO, recognizing that both types of entities benefit from the supplement supply contracts, argue that costs should be allocated to both RPM market participants and FRR Entities.\textsuperscript{40}

Contrary to the FRR Utilities and the IURC, the supplemental supply contracts will provide reliability benefits to both FRR Entities and RPM market participants, and the allocation of their costs to both is just and reasonable.

The potential for poor performance exists for any Capacity Resource, whether it is committed in an RPM Auction or in an FRR Plan. By the same token, the supplemental capacity needed to address the identified resource adequacy concerns will be available to

\begin{itemize}
\item RESA at 5-6.
\item Protest of the Fixed Resource Requirement Utilities at 2-5.
\item Notice of Intervention and Protest of the Indiana Utility Regulatory Commission (“IURC”) at 2-3.
\item ICC at 17; PUCO at 6-7.
\end{itemize}
the entire PJM Region, and not just the RPM market regions. If a resource adequacy problem arose next winter but PJM had not secured supplemental capacity, the capacity shortfall could adversely affect loads anywhere on the system; the emergency would not stop at the edge of an FRR Entity’s service territory. As a result, because the capacity will support service to the entire PJM Region in an emergency, it is reasonable for all LSEs in the region, including FRR Entities, to share in the costs of these contracts.

Moreover, PJM is not seeking to impose on FRR Entities the cost of capacity obtained above IRM by operation of the Variable Resource Requirement (“VRR”) Curve—costs that are appropriately allocated to RPM LSEs but not FRR Entities. Rather, this filing concerns PJM’s effort to ensure that it can still come close to its IRM even if certain foreseeable risks (such as poor capacity resource performance) were to arise. That is a planning determination in support of the IRM; it is not a market determination. Just as FRR Entities must satisfy the IRM determined through the PJM planning process, they also should be responsible for this planning-driven need for supplemental capacity to help ensure PJM can have resources at a level closer to its IRM even if these contingencies arise.

Finally, the IURC claims that PJM’s proposal impermissibly intrudes on state jurisdictional authority because it lacks a state opt-out mechanism.\(^{41}\) The IURC understates the Commission’s jurisdiction. Requiring LSE responsibility for the costs of capacity needed to ensure reliability within a power pool, regional transmission

\(^{41}\) IURC at 3.
organization, or other integrated system is well within the Commission’s authority.\textsuperscript{42} That is all PJM is doing here.


Some parties seek to restrict the price that parties to supplemental capacity agreements can offer in the energy markets, or limit the circumstances when they can submit such offers, or limit when PJM can dispatch such resources.\textsuperscript{43} The Commission should reject these requests, which are at best premature. Parties seeking these restrictions assume that the supplemental capacity agreements will guarantee cost recovery to the affected generators in such a way that their participation in energy markets will be subsidized, and their offers in the energy market will improperly distort the market. PJM does not anticipate such a result, and in any event, the Commission can better address any such concerns once the actual contracts and payment terms are before it in the separate section 205 filings.

F. Other Issues.

1. Non-Performance Charges.

PaPUC expresses concern that the December 24 Filing does not address what non-performance charges will apply in the event out-of-market resources do not perform

\textsuperscript{42} See, e.g., \textit{N.J Bd. of Pub. Utils. v. FERC}, 744 F.3d 74, 96-98 (3rd Cir. 2014) (Commission had jurisdiction to set a minimum offer price in PJM’s wholesale capacity market for a power plant favored by a state, even if the power plant might not clear the market as a result of that offer price level); \textit{Conn. Dep’t of Pub. Util. Control v. FERC}, 569 F.3d 477, 479 (D.C. Cir. 2009) (Commission can approve the rates, terms, and conditions of a wholesale capacity market).

\textsuperscript{43} Comments of Calpine Corporation at 3; EPSA at 7-8; Exelon at 20-1; Comments of the PJM Power Providers Group at 3-4.
as planned. PaPUC presumes that the generators will be held to the same standards as proposed in PJM’s Capacity Performance Filing.44

PJM intends that supplemental Capacity Resources will be subject to the same performance requirements and charges as apply to Capacity Resources for the 2015/2016 Delivery Year. Such resources will not be subject to the requirements of PJM’s Capacity Performance Filing because the changes proposed in that filing do not apply to the 2015/2016 Delivery Year.

2. IMM Review.

The IMM proposes that language should be added to Attachment M-Appendix to give the IMM a specific right to review any supplemental capacity contracts prior to PJM signing or filing such contracts.45 The Commission should not accept that proposal. PJM is a public utility with responsibility for its tariff and jurisdictional agreements, all of which must be filed with and reviewed by the Commission. There is no basis for mandating, by Tariff, an IMM role in any PJM discussions or negotiations over such agreements. PJM notes that it has involved, and intends to continue to involve, the IMM in the supplemental capacity discussions. But a tariff provision to govern the details of a negotiating process would not be appropriate, particularly given that all parties, including the IMM, can make their concerns over any such agreements known to the Commission in the resulting section 205 proceeding.

44 PaPUC at 4.
45 IMM at 3-4.
III. CONCLUSION

Accordingly, PJM requests that the Commission accept the Tariff revision proposed in the December 24 Filing, effective February 23, 2015, as proposed.

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.

/s/ David S. Berman  
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