Submitted Via Email to David.Anders@pjm.com and Jaclynn.Lukach@pjm.com August 18, 2023

COMMENTS OF ADVANCED ENERGY MANAGEMENT ALLIANCE TO THE PJM BOARD REGARDING THE RESOURCE ADEQUACY CRITICAL ISSUE FAST PATH PROPOSALS

Advanced Energy Management Alliance (AEMA) appreciates the opportunity to share our thoughts with the PJM Board on various Critical Issue Fast Path (CIFP) proposals, particularly the PJM proposals. AEMA members are providers and supporters of distributed energy resources, including demand response (DR) and advanced energy management, united to overcome barriers to nationwide use of demand-side resources. Many of our members are also PJM members and active PJM market participants. The comments herein reflect the opinion of AEMA as a whole rather than those of any individual member.

AEMA supports many of the enhancements to the capacity market construct proposed by PJM and other stakeholders. However, several of the proposals have not fully considered the implications to DR, have done so in ways that seem like an afterthought, or have made the information regarding DR available very late in the process. AEMA herein highlights these concerns and will bring them before the PJM Board given the timeline.

I. PAI Trigger Changes and Non-PAI dispatch

AEMA has no objection to changes in Performance Assessment Interval (PAI) triggers that eliminate the dispatch of Load Management DR (LM DR) resources as a trigger—which were recently approved by FERC and further cemented by PJM in their CIFP proposal. However, as explained below, this change creates a potentially serious legal liability for DR customers and Curtailment Service Providers (CSPs) which should be addressed via the CIFP proposal. Prior to this recent change in PAI triggers, LM DR performance was assessed through either a) a PAI event, or b) a test if no PAI event occurred that year, both of which carry an associated non-performance penalty rate. The elimination of an LM DR dispatch as a PAI trigger can result in LM DR being dispatched without there being a PAI event, a scenario that does not currently have an associated non-performance penalty. As a result, CSPs that underperform in these non-PAI events are exposed to potentially serious legal jeopardy. PJM recently noted that "DR resources that do not perform may be referred to IMM and/or the FERC Office of Enforcement for investigation."[1] This exposure exists due to PJM's recent filing for changes to the PAI triggers, which was supported by stakeholders as a short-term solution for the current and subsequent delivery years, but has continued to be discussed and refined through the CIFP process. While we understand that some stakeholders may view this as a small legal risk, the consequences of this lack of clarity could be substantial for DR customers and CSPs, ultimately negatively impacting resource adequacy. The lack of a quantifiable consequence or penalty for underperformance violates the principles of good market design, and it is something that can be directly addressed through the CIFP proposal. **AEMA requests that the Board consider directing PJM to fix this market design issue by establishing a non-performance penalty for LM DR dispatched outside a PAI event.**

AEMA noted this omission of penalties to PJM staff and the Independent Market Monitor (IMM) prior to PJM submitting its filing changing the PAI triggers. There has been further engagement with PJM staff on the concern during the CIFP process, but PJM has declined to include a remedy in its proposals. **AEMA**

[1] August 16, 2023 Distributed Resources Subcommittee (DISRS) meeting, "New PAI Triggers and Impact on Load Management" https://www.pjm.com/-/media/committees-groups/subcommittees/disrs/2023/20230816/20230816-item-05---new-pai-trigger-and-impact-on-load-mgt.ashx

has suggested a non-performance penalty based on a percentage of the PAI penalties (i.e., 30% of PAI non-performance penalty). This would be a straightforward mechanism that would a) maintain internal consistency between the PAI and non-PAI mechanisms; and b) ensure a meaningful penalty rate while recognizing the difference in levels of emergency between PAI and non-PAI events. Furthermore, any penalties assessed to LM DR for underperformance, during both PAI and non-PAI events, should count toward the stop loss provision.

II. DR Testing

AEMA is pleased that PJM has updated its proposal such that performance data for a non-PAI LM DR dispatch of at least 30 minutes can be used as test performance data, instead of the 2-hour provision in an earlier draft; however, AEMA believes that there is space for further improvements as part of the CIFP proposal. **A better design would implement the same relief from testing after a non-PAI event as there is for a PAI event**. A key design element of PJM's DR program, which has become a core commitment of CSPs to DR customers, is that if there is an emergency event of at least 30 minutes, then no test is required for that delivery year. Test reliefs are a way to keep DR customers committed and aware of the important role they play in maintaining grid stability. PJM should want to incentivize this same behavior for non-PAI dispatches. If DR customers are dispatched during a meaningful non-PAI event during a time of serious grid strain, and they then either have their performance subjected to the much-higher test penalty rates or still face a subsequent test event, it will cause confusion and disappointment, leading to degradation of the DR resource in future years. The non-performance penalty for non-PAI events suggested in Part I above would allow PJM to implement the test relief provision for non-PAI events.

III. Bonus eligibility

The PJM proposal would cap credited performance of all resources at committed ICAP for bonus purposes. Because DR is accredited based on full ICAP performance (as best we understand it at the moment, since the ELCC expectations are a moving target), and because, unlike generators, DR will not have its expected performance reduced by the balancing ratio, DR will never be able to be credited for performing above their accredited amount, even if they overperform and reduce by more than their committed levels. As a result, DR will be subject to penalties, but, unlike generation, will not be eligible for bonuses. AEMA and others have voiced that this is unjust and unreasonable.

While PJM's thinking is still not fully clear to us, we think we understand that PJM asserts that a DR's ability to net its performance within a portfolio is a "balancing" mechanism commensurate with the application of the Balancing Ratio to generators—which ultimately allows generators to receive bonuses. However, if DR is penalized, with no opportunity for bonuses, a balance will not be achieved. Rather, a net transfer of DR penalties to generators will result. In addition, overperformance by DR will have the effect of lowering the Balancing Ratio and thereby increasing the bonus revenues available to overperforming generators. **The bonus-penalty structure should be designed to accommodate transfer of penalty revenues between market participants, with overperforming portfolios benefiting, regardless of resource type.**

As such, AEMA believes it is fair to apply the Balancing Ratio to DR as well as to generation to alleviate this imbalance. Or, as an alternative approach, AEMA urges PJM to exempt DR from the performance ICAP limit. This would mean that, if dispatched DR curtails to below its collective Firm Service Level, it will become eligible for bonuses. AEMA concurs with PJM proposals to limit bonus eligibility to Committed resources.

IV. ELCC & Product definition (24/7 option)

AEMA requests that the Board consider directing PJM to accommodate an additional DR product with an expanded availability window, such as 24 hours. Today, DR is assumed to be unavailable outside of program hours, which is in part a legacy provision based on assumptions of a DR customer's availability to physically act during certain hours. However, technology and communications options have progressed to the point where at least some customers can effectuate a response at any time. Furthermore, there in fact are many customers who operate 24/7 and would be able to participate as DR with a 24-hour availability window. The lack of a 24/7 product results in a reduction of the DR ELCC based mostly on a few "unavailable" hours in winter, and results in PJM not counting with additional DR resources during hours that have been identified as high-risk in the modeling. **An expanded-hours option with a greater ELCC value would be more attractive to many customers who could provide additional reliability to the grid.**

V. Energy Must Offer

Some proposals call for an energy must-offer for DR, including a requirement to make cost-based offers. While DR has a requirement to make a price-based standing energy offer capped by criteria related to Operating Reserve Penalty Factors, there has been no requirement for cost-based offers so far. Cost-based offers result from market power concerns, and such concerns do not apply to DR. DR does not have an incentive to set higher prices. Also given the universally applied strike prices, no single DR customer or CSP can reasonably expect to unilaterally set LMP. Moreover, we are not aware of any serious proposal that offers a viable approach to developing unique cost-based offers for each of the thousands of energy consumers participating as DR. **Any such effort would likely result in substantial reduction in DR participation in capacity markets due to the complexity. AEMA requests that the Board reject any proposal that requires cost-based offers for DR.**

VI. MSOC

For DR, the capacity product is the main product type in PJM based on customer participation. The DR capacity product gives DR customers the needed revenue certainty, and it also serves as a gateway and foundation for participation in other DR markets. DR is sensitive to capacity prices, and recent declines in cleared DR can be attributed to low BRA prices. **AEMA strongly believes that enhancements to the current MSOC rules are appropriate to support long-term reliability needs.**

VII. Buckeye Power's proposal

Buckeye Power's proposal includes several particularly problematic provisions for DR that should be rejected. Buckeye's proposal is beyond the scope of the CIFP. Determining lost opportunity costs and other costs for innumerable industries is complex, daunting, unprecedented, and costly.

Thank you for consideration of these comments and recommendations. Please do not hesitate to reach out should you have any questions.

Respectfully submitted,

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