September 12, 2012

Via E-Mail
Terry Boston
President and CEO
PJM Interconnection
955 Jefferson Avenue
Norristown, Pennsylvania, 19403-2497

Re: *Comments of the Mid-Atlantic Renewable Energy Coalition to PJM on the FERC Order 1000 Process*

Dear Mr. Boston:

The Mid-Atlantic Renewable Energy Coalition ("MAREC") and its members[1] want to take this opportunity to summarize concerns that we have voiced throughout the PJM Stakeholder process regarding the direction PJM is headed as it prepares its FERC Order 1000 compliance filing, especially with respect to transmission planning for "Public Policy Requirements" ("PPR") and cost allocation for Public Policy driven transmission projects. While MAREC appreciates the burden that PJM has shouldered as a "public utility transmission provider" under Order 1000, we believe that the approach PJM appears ready to take is in direct conflict with the requirements of the Order in several critical areas. We also want to voice our support for the comments submitted to PJM dated July 31, 2012 by the Sustainable FERC Project on behalf of NGO Stakeholders, which raise similar concerns with the PJM approach to compliance with Order 1000 requirements.

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[1] The following companies are members of both MAREC and PJM: AES, EDP Renewables (Horizon Wind), BP Alternative Energy, Iberdrola Renewables, EverPower Wind Holdings, Invenergy Wind and EON Climate & Renewables North America.

State Agreement Approach

PJM's reliance on the OPSI State Agreement Approach misconstrues the apparent intent of the OPSI members, which have endorsed this approach only as it relates to states proposing "as a Supplemental Project an enhancement or expansion of the transmission system" for the purpose of meeting its PPR.[2] The OPSI motion does not indicate in any respect that the State Agreement Approach was intended to be utilized as the sole basis for identification and inclusion of projects needed to meet the PPR of FERC Order 1000.

Moreover, it is telling that the OPSI motion specifically uses the words "Supplemental Project", which indicates that the states were not intending to supplant Public Policy driven transmission projects that would be identified through the RTEP process as a result of the planning requirements of FERC Order 1000. There is no language in the OPSI motion to indicate otherwise. In fact, it seems that OPSI states supporting the motion were only trying to make clear that they did not want to pay for a Supplemental Project proposed by another state that they did not endorse or sponsor. If State A sponsored a PPR transmission project, not included in the RTEP, and wanted States B and C to help pay for it, then according to the motion, States B and C would have to agree to pay for it before any of the costs of the project could be recovered from their ratepayers. There is no language in the motion to suggest that OPSI ever intended to replace PJM in its responsibility for planning for PPR under the RTEP, as PJM is similarly responsible for planning for reliability and market efficiency needs under Order 1000. If PJM were to rely on the State Agreement Approach as the sole methodology for planning for PPR, then MAREC believes that PJM would have gone well beyond the intended purpose of the OPSI motion, and would not be compliant with the requirements of Order 1000.[3]

Also of significance is the apparent mistaken reliance on the OPSI motion as some sort of binding or authoritative document or pronouncement. It is clearly not. While OPSI and its individual member states should have a major role in the stakeholder process, they are not the legal entity that can bind their own states, let alone other states within OPSI. We note that three states and the District of Columbia did not join in the motion for the State Agreement Approach. OPSI has just not been delegated the specific authority by their legislatures to speak on behalf of the states in this regard. Moreover, OPSI's own bylaws recognize that OPSI itself has no authority to bind any of its members by any vote of its Board as is explicitly stated in Article X of the OPSI bylaws, titled "STATES NOT BOUND", which reads as follows:

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[2] OPSI letter dated June 12, 2012 to Terry Boston, President and CEO, PJM Interconnection. The letter informed PJM of the approval of an OPSI motion recommending language for the State Agreement Approach.

[3] In fact, at the September 7, 2012 RPPTF meeting, PJM proposed draft language to Schedule 6 of the Operating Agreement (Section 1.5.9), which in effect accepts the limited State Agreement Approach offered by OPSI. In addition to all of the concerns we have raised in this letter, the proposed language presumes that the States will authorize agencies in their respective states to be responsible for cost allocation under the State Agreement Approach. This language will create additional inconsistencies with Order 1000 as it will be hard to imagine states being able to authorize state agencies to decide intra-regional cost allocation issues and will not lead to a scenario where a cost allocation methodology is determined in advance as required by Order 1000. See Paragraph 560 of Order 1000.

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> No vote of, or resolution passed by, the Board of Directors has any binding effect upon any state regulatory authority, or any individual member thereof, in the exercise of the authority's powers, neither shall any such vote of, or resolution passed by the Board of Directors be deemed an official action of, by or for any individual Member Regulatory Authority.

So it is disconcerting to MAREC that the discussion on both the planning and cost allocation components of PPR has been dominated by the State Agreement Approach, which seems to have been misconstrued by PJM and has no legal significance. Regardless, as discussed in more detail below, using the State Agreement Approach as the sole consideration for transmission planning to meet PPR and utilizing it as the methodology for cost allocation is in direct conflict with the requirements for PRR in FERC Order 1000.

<u>FERC Order 1000 Planning Requirement</u>

PJM is the regional entity required under Order 1000 to plan the system to comply with the Order, not the states. With input from all stakeholders, including OPSI, PJM needs to plan the transmission system to meet reliability, market efficiency and PPR needs. It simply cannot delegate its authority to OPSI or any other stakeholder group. FERC states in Paragraph 11 of Order 1000 in relevant part:

> At its core, the set of reforms adopted in this Final Rule require the public utility transmission providers in a transmission planning region, in consultation with their stakeholders, to create a regional transmission plan. This plan will identify transmission facilities that more efficiently or cost-effectively meet the region's reliability, economic and Public Policy Requirements.

The simple and obvious reason for this is that PJM, as the "public utility transmission provider", is the entity that has the expertise to plan a regional transmission system. It already does this as part of the RTEP process for reliability and market efficiency projects. While PJM appears to be reluctant to take on the responsibility of planning for PRR on a region-wide basis, it is the only entity that has the capability to do so in the PJM footprint. There is no basis under Order 1000 for it to cede its authority. If PJM decides to relinquish its transmission planning responsibility by relying solely on the State Agreement Approach, PJM will have failed to meet the core principle of the Order to "identify transmission facilities more efficiently or cost–effectively" to meet regional reliability, economic and PPR needs. Under the State Agreement Approach, the region could be left with an inefficient and costly project-by-project approach for PRR that would not have the benefit of regional planning to ensure that the most prudent projects are identified and selected in the regional plan.[4] In addition, this approach could just result in

[4] MAREC and its members support the inclusion of a Multi-Driver Approach to transmission planning and cost allocation, as was described in the presentation made by PJM during the July 19, 2012 RPPTF which includes consideration for allocating the costs of projects that meet reliability, market efficiency, and public policy objectives, in their FERC Order 1000 compliance filing. While PJM indicated during the September 7, 2012 RPPTF that it ran out of time to include the Multi-Driver Approach as part of the compliance filing to FERC, it stated it would continue to develop Operating Agreement language for this Approach and would subsequently file a tariff

gridlock with the state commissions unable to agree to any projects - - not what FERC envisioned by issuing Order 1000.

Cost Allocation

Another serious concern is the current direction PJM appears to be taking related to their compliance with the FERC principles on cost allocation. It is entirely inconsistent with Order 1000 to address cost allocation for the PPR generated projects on a "project-specific basis" as reliance on the State Agreement Approach would involve.[5] While PJM has yet to provide draft language in its Operating agreement on cost allocation, the PJM presentations and discussions to this point make it clear that PJM will essentially rely on principles agreed to by the PJM Transmission Owners in their compliance filing. The principles proposed by the PJM Transmission Owners essentially address a methodology for cost allocation for reliability and market efficiency projects consistent with Order 1000 requirements, but fail to include a cost allocation methodology for PPR.[6] Without addressing the appropriateness of relying on the Transmission Owners proposal as the cost allocation principles PJM will use to comply with the Order, we think it would be inappropriate for PJM to fill the void on cost allocation for PRR with the State Agreement Approach, which essentially leaves it up to the states to apportion the costs of Supplemental Projects on a project-specific basis; an approach explicitly dismissed by FERC in Order 1000.[7]

A PPR driven transmission facility should be incorporated in a regional plan for purposes of cost allocation and the cost allocation must be set out clearly and in detail in the compliance filing not on a project-by-project basis per the Commission's Principle 6. One solution would be to extend the same

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revision to request incorporation of this Approach. PJM should include a statement in its compliance filing that it will make the Multi-Driver Approach tariff filing no later than December 31, 2012

[5] See Order 1000 at Paragraph 690, which reads:

> "However, a public utility transmission provider must have a regional cost allocation method for any transmission facility selected in a regional transmission plan for purposes of cost allocation. It may not designate a type of transmission facility that has no regional cost allocation method applied to it, which would effectively exclude that type of transmission facility from being selected in a regional transmission plan for purposes of cost allocation. In response to New York ISO and Long Island Power Authority, a transmission facility proposed to address a Public Policy Requirement must be eligible for selection in a regional transmission plan for purposes of cost allocation and must not be designated as a type of transmission facility for which the cost allocation method must be determined only on a project-specific basis. However, in contrast to what New York ISO's comment implies, the regional cost allocation method for such a transmission facility may take into account the transmission needs driven by a Public Policy Requirement, who is responsible for complying with that Public Policy Requirement, and who benefits from the transmission facility. If a regional transmission plan determines that a transmission facility serves several functions, as many commentators point out it may, the regional cost allocation method must take the benefits of these functions of the transmission facility into account in allocating costs roughly commensurate with benefits."

[6] In the August 28, 2012 "Responses of Attachment H Transmission Owners to Comments on Proposed Cost Allocation Principles for Order No. 1000 Compliance" document, the Transmission Owners indicate that the "Proposed Principles state that cost allocation for multi-driver and Public Policy projects that are not yet defined in Schedule 6 will be addressed upon further development of the planning criteria for those projects in Schedule 6.".

[7] Id. at Paragraph 690 of Order 1000.

cost allocation methodology that the Transmission Owners have proposed for reliability and market efficiency projects that are part of the RTEP to PPR projects.

Conclusion

MAREC requests that:

1. PJM propose tariff amendments to adequately address the process for evaluating and selecting PPR driven transmission projects in the regional plan for purposes of cost allocation to comply with Order 1000;

2. PJM and the Transmission Owners propose tariff amendments to adequately address the cost allocation methodology for PPR driven transmission projects that are part of the regional plan; and

3. PJM include a placeholder for the Multi-Driver Approach in its October 11, 2012 compliance filing to FERC on Order 1000 and make a tariff filing on this Approach no later than December 31, 2012.

Sincerely,

Bruce H. Burcat

Bruce H. Burcat
Executive Director
Mid-Atlantic Renewable Energy Coalition

cc: Steve Herling (via e-mail)
Sean McNamara (via e-mail)
PJM Transmission Owners (via e-mail)