

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

Meeting the Challenge of Resource Adequacy)
In the Regional Transmission Organization and) **Docket No. AD25-7-000**
Independent System Operator Regions)

**PREFILED STATEMENT OF DENISE FOSTER CRONIN
ON BEHALF OF
EAST KENTUCKY POWER COOPERATIVE**

My name is Denise Foster Cronin. I am the Vice President of Federal and RTO Regulatory Affairs for East Kentucky Power Cooperative, Inc. (“EKPC”). I thank you for the opportunity to share EKPC’s resource adequacy concerns and perspectives on solutions that go beyond tinkering with the RPM Capacity Market rules.

EKPC is a not-for-profit generation and transmission cooperative (i.e., a “G&T”). EKPC generates and transmits wholesale energy to its 16 owner-member cooperatives, each of which is a consumer-owned, not-for-profit distribution cooperative. EKPC and its member-owners are regulated by the Kentucky Public Service Commission and reliably serve electric power to businesses and homes for over one million residents in rural Kentucky. EKPC integrated into PJM Interconnection, L.L.C. (“PJM”) in 2013, in order to gain the market efficiencies and reliability reinforcement derived from being part of a larger regional coordinated grid.

EKPC acts as agent for its 16 owner-member distribution cooperatives satisfying their PJM Load-Serving Entity (“LSE”) obligations under the PJM Reliability Assurance Agreement (“RAA”). EKPC participates in the RPM Capacity Market to satisfy the capacity requirements associated with its owner-members’ load. EKPC owns and

purchases through bilateral contracts sufficient capacity resources to meet its forecast load plus reserves. EKPC offers all of its capacity resources, both those owned by EKPC and those secured through bilateral contracts, into the RPM Capacity Market and takes on a capacity obligation for any resource that is committed to the PJM region through the auction clearing.

Our concern is that as the PJM region's supply and demand balance tightens and potentially falls short of the Reliability Requirement, entities like EKPC who endeavor to match their portfolio of owned and bilaterally contracted resources to their forecasted load needs will face additional, unreasonable load shed risk driven by LSEs that lean on the RPM Capacity Market to provide sufficient resources to meet their growing load needs. This concern becomes particularly acute as additional large loads, like data centers or large manufacturing, come on line without the resources necessary to serve them being secured.

It could be viewed as a testament to the success of the wholesale market that any LSE fully relies on it. A counter view is that a bet is being made that there will always be surplus supplies and low prices. We know that it will not always be true that there will be surplus and low prices. It certainly is not true today. The evidence lies in the Complaints filed with this Commission that allege the prices from the recently cleared RPM Capacity Market Base Residual Auction ("BRA"), as well as the anticipated clearing prices for the upcoming BRAs, are too high and claim this is unacceptable because the clearing prices flow directly into retail customer bills. If retail bills are mirroring the wholesale RPM Capacity Market prices, it seems reasonable to

assume those LSEs have not secured any significant measure of owned resources or bilateral contracts to provide price certainty and reliability assurance.

EKPC is an ardent supporter of competitive wholesale markets. We understand that the current RPM Capacity Market is far from perfect and more reforms are needed. For example, we have been on the record before this Commission suggesting that the ELCC accreditation methodology be reformed, including recognizing the winter capability of thermal resources. Finding the “secret sauce” for the perfect combination of RPM Capacity Market rules is important but may not be all that is required to reliably navigate the future.

As we think about the current challenge facing the region, EKPC questions whether we are asking the RPM Capacity Market alone to do too much. Can it bear this much weight? Electricity is an essential service; therefore, the RPM Capacity Market is unlike any other commodity market. It may require “guardrails” in the form of expectations placed upon the LSEs who utilize the RPM Capacity Market to satisfy their RAA obligations.

Thus, instead of focusing EKPC’s remarks on the various changes that could be adopted to improve the RPM Capacity Market design, we focus on the role of LSEs within the market design. Looking into the past could provide insights to think about what guardrails could be appropriate. An historical review of the evolution of PJM’s resource adequacy construct reveals that a key LSE-related resource adequacy assurance feature was eliminated when the RPM Capacity Market was adopted. In the past, LSEs were required to play an active role in assuring resource adequacy. It is

timely now to consider how we can restore that active role and put the “Serving” back into “Load Serving Entity.”

In this way our comments focus on how we could return the RPM Capacity Market to its residual role in assuring resource adequacy. The RPM Capacity Market was intended to be a “residual” market with the heavy lifting of resource adequacy assurance being provided through LSE bilateral contracting and ownership arrangements. It may be cliché to say its name reveals its purpose -- “Base Residual Auction.” However, as one of the internal PJM lawyers who worked to draft the initial tariff language that ultimately became the RPM Capacity Market, I can attest that the name of the forward auction was intentionally selected to highlight its intended role when the market design was adopted.

Background

PJM was formed by utilities that came together to pool their installed capacity resources to reduce costs and attain reliability benefits.¹ When the Commission approved its transformation into an Order No. 888 Independent System Operator in 1997, the installed capacity reserve sharing aspects of the pooling arrangement were incorporated into the RAA. All LSEs² that sell power to retail loads within PJM must be

¹ *Pennsylvania-New Jersey-Maryland Interconnection, et al.*, 81 FERC ¶61,257 at 89 (1997). “The PJM Pool developed a set of procedures for: (1) determining the pool-wide generation requirement needed to meet pool-wide loads, including reserves; (2) determining each member’s individual obligation to contribute to the pool-wide generation requirement; (3) measuring each member’s compliance with its obligation; and (4) developing charges that apply whenever a member fails to meet its individual obligation (referred to as a capacity deficiency).” *Id.*

² It was clear when the RAA was adopted that the LSE signatories would include traditional franchised utilities, municipals, cooperatives and power marketers who become authorized to sell power at retail in states within the PJM region. *Id.* at fn. 193. Further it was clear that an LSE that is a wholesale requirements customer of another utility may designate its supplier as the party responsible for meeting the requirements of the RAA. *Id.* (EKPC is the agent for its wholesale customer owner-member distribution cooperatives.)

parties to the RAA.³ One modification was made to the traditional reserve sharing arrangement when the RAA was adopted in order to accommodate retail choice in the restructured states: the time horizon for an LSE's plan demonstrating how it intended to meet its forecasted LSE obligation was adjusted.⁴ LSEs serving load according to their franchise agreements had to submit a two year forward plan, while an LSE under a retail choice program had to submit a three months forward plan. In any billing month, if an LSE failed to meet its installed capacity obligation, it was assessed a capacity deficiency charge.⁵

By becoming a Party to the RAA, each LSE agreed to work collectively and individually to satisfy the Reliability Requirement associated with the load they are obligated to serve. The purpose of the RAA articulated in the currently effective Schedule 2 makes clear that the "Agreement is intended to ensure that adequate Capacity Resources, including planned and Existing Generation Capacity Resources . . . will be planned and made available to provide reliable service to loads within the PJM Region, to assist other Parties during Emergencies and to coordinate planning of such resources consistent with the Reliability Principles and Standards."

³ Article 2 of the RAA adopted in 1997, required "every entity which is or will become an LSE within the PJM Control Area is to become and remain a Party to the Agreement . . ." Similar provisions are contained in Schedule 1 of the currently effective RAA. Additionally, Section 11.6(b) of the PJM Operating Agreement ("OA") adopted in 1997, required any LSE that intended to purchase power from the energy market must be a Party to the RAA. The currently effective OA Section 11.6(b) reads, "Certain Members that are Load Serving Entities are parties to the Reliability Assurance Agreement. Upon becoming a Member, any Applicant that is a Load Serving Entity in the PJM Region and that wishes to become a Market Buyer shall also simultaneously execute the Reliability Assurance Agreement."

⁴ *Id.* at 90.

⁵ *Id.* at fn. 197. The capacity deficiency charge was billed on a daily basis, equating to an annual charge of \$58.40/kW/year. The charge was based on the cost of installing a combustion turbine generator. Any revenues collected from assessed deficiency charges were distributed to LSEs that maintained installed capacity in excess of their forecasted LSE obligation.

The initial “whereas” clauses in the agreement outline specific commitments each Party makes when executing the agreement:

- “to share its Capacity Resources with the other Parties to reduce the overall reserve requirements for the Parties while maintaining reliable service”
- “to provide mutual assistance to the other Parties during Emergencies”
- “to coordinate its planning of Capacity Resources to satisfy the Reliability Principles and Standards”

After several years of experience with states adopting retail choice, PJM adopted a capacity credit market to support the ability of those with surplus capacity to transparently make it available to the LSEs that needed capacity to serve load that switched suppliers. LSEs under both regulated and restructured retail regulatory models remained subject to deficiency penalties should they fail to satisfy their installed capacity obligations.

Upon the adoption of the RPM Capacity Market, however, the risk of deficiency penalty⁶ being assessed on LSEs was removed and replaced with the obligation to pay the locational price that results from the auctions related to a Delivery Year.⁷ PJM includes all the load in the future forecast plus a reserve margin into the Variable Resource Requirement against which the RPM Capacity Auctions clear, and LSEs pay

⁶ The adoption of RPM removed the capacity deficiency penalty from LSEs and placed it on Capacity Resources that receive a commitment in an RPM Capacity Market auction. The change in application of deficiency charges is explained in the introduction of *PJM Open Access Transmission Tariff (“OATT”)*, Att. DD, “deficiency charges to ensure progress toward, and fulfillment of, forward commitments by demand and generation resources to satisfy capacity requirements.” This capacity resource deficiency charge is set forth in *OATT*, Att. DD, Section 8.1.

⁷ RAA, Article 7, Section 2 obligates all LSEs to pay a Locational Reliability Charge (unless their obligations are satisfied through the Fixed Resource Requirement Alternative). LSEs are no longer subject to a deficiency charge should they not secure sufficient reserves, including through reliance on the RPM Capacity Market.

the Locational Reliability charge applicable to their zone that results from the combination of the clearing prices from the Base Residual Auctions (“BRA”) and Incremental Auctions (“IA”) for each Delivery Year.

The RPM Capacity Market was intended to secure the “residual” needs of the region and not be sole means through which LSE obligations were satisfied. The RPM model provides “support for LSEs in satisfying Daily Unforced Capacity Obligations for future Delivery years through Self-Supply of Capacity Resources.”⁸ Reinforcing the residual nature, it is clear that an LSE may “offset their Locational Reliability charge, in whole or in part,” by:⁹

- Self-supplying Capacity Resources, or
- Offering and clearing Capacity Resources (owned or bilaterally contracted resources) into a BRA or an Incremental Auction.

In approving the RPM Capacity Market rules, the Commission recognized two key options for LSEs: “(a) build their own needed capacity or create an incentive for the construction of new capacity by entering into long-term bilateral agreements, (b) refrain from entering into bilaterals and pay (presumably higher) prices set by the demand curve. . . .”¹⁰ Additionally, in its rehearing order, the Commission highlighted the residual nature of the market design by explaining that PJM will hold an auction each year “to procure the remainder of the capacity requirement” in order to “meet the capacity needs

⁸ OATT, Att. DD, Section 1.

⁹ OATT, Att. DD, Section 5.1.

¹⁰ *PJM Interconnection, L.L.C.* 115 FERC ¶ 61,079 (2006) at P 172.

of Load Serving Entities that failed to procure enough capacity through self-supply or bilateral contracts.”¹¹

Today, however, it appears that the RPM Capacity Market is being relied upon to meet more than “residual” needs. PJM recently noted it has observed a level of reliance on the RPM Capacity Market beyond what was originally envisioned and has suggested that the region needs to shift towards greater reliance on bilateral contracting and other hedging mechanisms to ensure the long-term stability and efficiency of the market.¹²

We agree.

Comments

Under the RPM Capacity Market construct LSEs are not individually accountable should there be insufficient reserves available to meet the region’s Reliability Requirement for a Delivery Year, including in the situation where an LSE relied fully or substantially on the market to satisfy its portion of the Reliability Requirement. They are not assessed a capacity deficiency charge. Individual LSEs likely will experience the impact of elevated capacity market clearing prices in such situations, but they will have no additional specific repercussion under the RAA for that Delivery Year. EKPC views this as a reliability gap.

The impact of this gap is not limited to the load served by the LSEs who lean on others to provide the resources required to satisfy the obligation associated with their

¹¹ *PJM Interconnection, L.L.C.* 117 FERC ¶ 61,331 (2006) at P 13.

¹² *PJM Interconnection L.L.C.*, Docket No. ER25-1357-000, “Proposal for Revised Price Cap and Price Floor for the 2026/2027 and 2027/2028 Delivery Years, and Request for a Waiver of the 60-Days’ Notice Requirement to Allow for a March 31, 2025 Effective Date” (filed Feb. 20, 2025), Attachment C, Affidavit of Frederick S. Bresler III on Behalf of PJM Interconnection, L.L.C., Docket No. ER25-1357 (2025) at P 18.

load. Rather, it is spread to all load, even load served by LSEs who matched their load obligations with a supply portfolio. Should there be need for PJM to invoke emergency procedures due to insufficient capacity reserves, LSEs that committed resources may be asked to shed load despite having met the needs associated with their load. This is an unreasonable risk. This situation also highlights an inconsistency with the commitments all LSEs made when they became parties to the RAA: “the commitment to provide mutual assistance to the other Parties during Emergencies.” Arguably, those LSEs that lean do not have the capacity resources to cover their proportional share of mutual assistance.

Today the reliability gap is hard-coded into the RAA. Instead of requiring LSEs to have any skin in the game, we put all the weight on the market rules to incentivize capacity market sellers to bring resources into the market. Years of dampened market signals and delays in auctions challenge the ability of the market to perfectly align resources with the rapidly growing load. Although the RAA includes a backstop should the market not keep pace with the rapidly increasing load growth, that mechanism likely will be inadequate.¹³

In EKPC’s view, the answer is not to design a new backstop. Rather, the answer involves addressing the role of the LSE and incentivizing them to to be active in the good faith performance of their commitments under the RAA. When they signed the

¹³ OATT, Att. DD, Section 16. If in the RPM Capacity Market PJM clears an insufficient level of resources to meet the Reliability Requirement, it evaluates the situation. After that happens 3 times, it can go to FERC and seek approval to move forward with a backstop auction. One must expect that it would take a few years beyond that auction before MW materialize in response.

RAA, they agreed to be “serving” not to be PJM’s “billing agent” merely passing through the wholesale capacity market clearing prices.

Of course, not all LSEs are the same and we do not wish to disparage small players who may have legitimate constraints on bilateral contracting opportunities and generation asset ownership. We also recognize that some state retail rules may currently constrain other LSEs’ ability to bilateral contract or own generation assets. Nonetheless, we believe there is space for us to come up with options that could work with the various retail jurisdictions and limitations of entities.

EKPC believes we need to restore the BRA to its original purpose – meeting the “residual” needs of the region.

Importantly also, the region needs to revisit what “Serving” means in “Load Serving Entity.”

We believe that LSEs should be incentivized to develop a resource portfolio of some measure rather than, in the extreme, be permitted to bring no resources into the market to serve their load obligation.

Electricity is an essential service. If all have an obligation to serve but no responsibility to secure any measure of capacity resources to do so, does that lead to an overreliance on the pooled resources?

The RAA appears to recognize the pooled character of resource adequacy in PJM and the benefits it provides to individual LSEs and the region as a whole. However, it does not provide LSE-specific consequences or impose LSE-specific obligations to guard against unreasonable leaning on the pooled resources. Unreasonable leaning

leads to adverse consequences for all if there are insufficient capacity resources made available. Load served by LSEs who satisfy their obligation by bringing a portfolio of capacity supply resources, not just load served by those who do not, are at risk of disconnection from the system during emergency operations situations. Thus, the concern goes beyond being short of capacity, it goes to being short of energy in real time operations.¹⁴

Unreasonable leaning on the pooled resources also likely leads to under-investment, which necessarily drives prices higher when supplies tighten. Again, this seems to be the situation we face today in PJM. Various entities have challenged the recent BRA clearing prices and future BRA clearing prices and raised concerns about those costs flowing directly through to retail customer bills. Notably, the most vocal critics of PJM's RPM Capacity Market are policy leaders in states whose policies have driven generation retirements, advancement of new generation resources with low capacity accreditation values, and substantial reliance on the RPM Capacity Market to satisfy the obligation to serve large swaths of retail customers.

EKPC's Request of the Commission

1. EKPC urges the Commission to require **the information transparency** suggested below as a foundation to understand to what degree we might have

¹⁴ The energy shortage concern is not a speculative concern. The North American Electric Reliability Corporation ("NERC") has identified an elevated concern for the PJM region. Every year, NERC issues a Long-Term Reliability Assessment ("LTRA"). NERC's December 2024 LTRA report assesses that PJM is estimated as having a non-zero EUE (MWh) loss of load risk. This is notable in that it is the first NERC Probabilistic Assessment in which the PJM region shows a non-zero PJM EUE loss of load risk. See, *NERC December 2024 LTRA* at 16, which may be found at https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_Long%20Term%20Reliability%20Assessment_2024.pdf.

over-reliance on the pooled capacity resources in PJM's RMP Capacity Market. Understanding how LSEs across the region are approaching the satisfaction of their RAA obligation may provide insights helpful for PJM, its stakeholders and state regulators/policymakers to consider what more can be done to restore the active nature of "serving" in the obligation of LSEs and to return the RPM Capacity Market to the "residual" construct it was intended to be. Perhaps there are complementary changes that could be made to the PJM RAA requirements as well as to state retail program designs that may be considered.

2. EKPC additionally urges the Commission to **foster dialog** among PJM, its stakeholders and state regulators/policymakers to explore ideas that will assist in taking some of the weight off the RPM Capacity Market's role in ensuring regional resource adequacy. **EKPC offers a few suggestions below that would benefit from further dialog and exploration.**

Summary of Solution Alternatives

EKPC has identified a few ways to leverage LSE obligations to address the potential reliability gap in the current PJM construct. These ideas complement the RPM Capacity Market, not change its parameters or the mechanics of the auctions themselves.

The ideas presented below are intended to be conversation starters. We acknowledge that some elements may have been tried in other regions but not adopted for various reasons, some which may have been concerns unique to that region.

We urge open discussion and debate on these ideas for implementation in PJM. We encourage consideration of what may be needed to be improve upon these ideas rather than dismissal just because a concern may be flagged or the ideas may be complicated to implement.

1. Transparency

At a minimum, after each BRA, PJM should post data by Zone as to what percent of supply obligation is satisfied through bilateral contracts or owned resources.

- PJM should be able to identify the ownership and agency relationships that track to LSE accounts to do this calculation.
- Should there be concerns about posting the identity of each LSE and their associated percentage, PJM could determine what level of data aggregation is necessary while providing information with insights.

Such information likely would provide helpful insights to state regulators and policy makers who are considering changes to their retail markets. It is likely that they do not have the insights this data may provide. Additionally, such information would be necessary for FERC, PJM and stakeholders to fully consider the next two recommendations.

2. Re-instill the Deficiency Charge for LSEs

As discussed above, the current RAA leaves a gap in reliability assurance in the instance where there are insufficient resources offered into the RPM Capacity Market to meet the Reliability Requirement in that there is no specific repercussion for LSEs who may have brought little to no capacity resources into the market to meet their load

obligations. **Re-instilling a modified version of the deficiency charge** that had been in the RAA prior to the implementation of RPM may create the incentive for LSEs to take some measures to ensure they are not unreasonably leaning on the common pool of capacity resources.

Inherent in this suggestion is the idea that the incentive would be created for LSEs to bilaterally contract in longer durations than 3 years forward to the extent they do not own assets. This, in turn, may provide additional support for resources to be developed in the PJM region and remain committed to supply the PJM region.

- Analysis should be done to determine what percent of the load obligation should be self-satisfied in order to avoid a deficiency charge assessment. In other words, what percent of self-supply requirement would best incentivize LSEs to secure resources outside of the RPM Capacity Market.
- Perhaps consideration would need to be given the business model and/or size of the LSE to determine whether the deficiency charge would apply to all LSEs or only certain LSEs.
- Perhaps consideration would need to be given as to support PJM could provide for bilateral contracting, such as administering a bulletin board to facilitate price transparency and liquidity in the trading.
- A decision would need to be made about what to do with any Deficiency Charge penalties collected. Should it go toward reducing cost to the region should PJM have to pursue Backstop auctions? Should it go to the LSEs who did not get

assessed a deficiency charge, or to those who met their load obligation with a high percentage of self-supplied resources?

3. Impose a “No Leaning” Requirement

LSEs sign the RAA and share a mutual agreement that they will strive to satisfy the Reliability Requirement PJM establishes. They should do more than hope there will be sufficient supplies in the common pool. Hope is not a plan for satisfying the Reliability Requirement.

Imposing a “no leaning” requirement could take the form of require LSEs to demonstrate they have a **certain percentage of their forecasted load needs met through bilateral or owned resources** either (a) in advance of the BRA for a Delivery Year, or (b) for a period of time beyond the BRA Delivery Year.

- This suggestion could be tailored to focus only on the new, large load additions. Some have suggested that large loads could be connected to the grid even if there is a projected shortage of reserves. They argue that the load could be curtailed when the system is in an emergency. However, there are a number of concerns with how that will play out in practice, in addition to the price pressure it will place on markets. Imposing a requirement that a substantial amount or all of this new load will be satisfied through resources the LSE serving it made available to the market should serve to discipline the new load entry in a manner that does not jeopardize reliability or affordability.

EKPC understands that a similar idea was explored in the Midcontinent ISO. The discussion there highlighted various benefits and various concerns. We believe it is

worth exploring what incentives and disincentives may be adopted by PJM to encourage different behaviors by LSEs.

Conclusion

In summary, it is EKPC's view that by adopting measures to incent more active engagement by LSEs in ensuring future resource adequacy and to discourage leaning on the pooled resources will serve to create the necessary guardrails that will allow the RPM Capacity Market to return to its residual status and better ensure future resource adequacy.

Thank you for your time. I look forward to further discussion.