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March 31, 2017

Ms. Talina Mathews  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40601

**RE:** *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for a Declaratory Order Confirming the Effect of Kentucky Law and Commission Precedent on Retail Electric Customers' Participation in Wholesale Electric Markets: Case No. 2017-00129.*

Dear Ms. Mathews:

Regarding the above styled matter, PJM Interconnection (PJM) has met with East Kentucky Power Cooperative (EKPC) to address the concerns raised in their request for a Declaratory Order. PJM fully recognizes the concerns expressed in the Application and the Staff Advisory Opinion, and the conditions upon by which Kentucky utilities were authorized by the Commission to participate in PJM (the Integration Orders).

The emergence of transferable energy efficiency resources (EE) as a recognized product in wholesale electricity markets is a relatively new development. As such, they were not considered or discussed in the Integration Orders. However, PJM acknowledges that the concerns expressed by the Commission and Kentucky utilities regarding customer participation in Demand Response (DR) programs would similarly apply to EE products originating in Kentucky.

The Federal Energy Regulatory Commission (FERC) Order Nos. 745, 745-A and PJM's FERC approved governing documents allow third party EE resources to participate in PJM wholesale energy and capacity markets. In order to comply with the agreed upon conditions in the Kentucky Integration Orders given their possible application to EE, PJM is initiating a stakeholder process to amend its FERC tariff to further clarify how and under what conditions EE may participate in PJM markets. PJM agrees to engage its stakeholders in an effort to change

its Open Access Transmission Tariff (Tariff)<sup>1</sup> such that where the Relevant Electric Retail Regulatory Authority (RERRA) (which in the case of EKPC means the KY PSC) requirements include EE along with DR in the “opt in / opt out” provisions,<sup>2</sup> the Tariff will provide that PJM’s rules comport with that inclusion. In other words, PJM will enhance its processes to include a registration procedure whereby the location of any EE may be verified to determine whether it is in a jurisdiction that has opted in or opted out.

For EE already committed in any state where regulations include EE in such “opt in / opt out” provisions, PJM will propose that unless such resource subsequently complies with the state rule (for instance by entering into a state-Commission approved contract with the relevant electric distribution company) PJM would relieve such EE of its commitment and no longer obligate it to meet the Reliability Pricing Model (RPM) requirements and no longer provide it RPM credit after PJM executes a Base Residual Auction (BRA) for the Delivery Year in which such regulations take effect.

In parallel, for the new Tariff provisions to be relevant to EE in KY, the KY PSC would need to issue an order that confirms previous orders and regulation that EE is included with DR with respect to their requirements for demand side management to come through the electric utility or through an alternative contractual arrangement that the KY PSC has approved.

Notably, it will be the KY PSC who will determine the appropriate means by which EE in Kentucky participates in the wholesale market PJM administers in a similar fashion to how the KY PSC determines the appropriate means by which DR in Kentucky participates today pursuant to FERC Order No. 719-A.<sup>3</sup> As with Commission approval of Kentucky-jurisdictional utility participation in PJM, the actions of Kentucky utility retail customers in purchasing or selling transferable EE products derived from utility service or impacting retail rates are matters of Kentucky state law. As an ISO and RTO, PJM’s organization and operations are wholly governed by the FERC pursuant to the Federal Power Act and subsequent amendments (16 U.S.C. 791a et. seq.). PJM does not have the ability nor jurisdiction to enforce Kentucky law regarding the actions of third party EE aggregators in Kentucky, nor determine the legality of products being sold to utility customers as they may relate to retail rates and terms of service in Kentucky.

PJM values its relationship with the Commission and our member utilities, and is committed to working to address the concerns raised in the Staff Advisory Opinion and by EKPC. To that end, we will work expeditiously through the PJM stakeholder process and seek to obtain FERC approval of the above referenced tariff changes to uphold the agreed upon

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<sup>1</sup> PJM would also amend the parallel provisions in the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement) but for purposes of this letter we refer only to the Tariff.

<sup>2</sup> Tariff, Attachment K-Appendix, section 1.5A.3; Operating Agreement, Schedule 1, section 1.5A.3.

<sup>3</sup> See Wholesale Competition in Regions with Organized Electric Markets, FERC Order No. 719-A, 128 FERC ¶ 61,059, PP 50-55 (2009).

conditions in the Integration Orders. Should you have any questions or concerns, please feel free to contact me at the number above.

Sincerely,



Denise Foster  
Vice President, State & Member Services  
PJM Interconnection, L.L.C.

Cc: F. Stuart Bresler, PJM  
Jennifer Tribulski, PJM  
Kerry Stroup, PJM  
Evelyn Robinson, PJM  
David Sampson, EKPC