

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

PJM Interconnection LLC

Docket No. ER09-412-000

**MOTION TO INTERVENE AND COMMENTS OF
ELECTRICITY CONSUMERS RESOURCE COUNCIL (“ELCON”)**

Pursuant to Rule 214 of the Federal Energy Regulatory Commission’s (“FERC’s”) Rules of Practice and Procedure, 18 C.F.R. § 385.214, the Electricity Consumers Resource Council (“ELCON”) hereby moves to intervene in the above-captioned proceeding and comment on the December 12, 2008 tariff filing of PJM Interconnection, LLC. (“PJM”). By a Notice of Extension of Time issued December 19, 2008, FERC extended the filing deadline for responsive comments to January 9, 2009. In its comments submitted herewith, ELCON explains that the compromise measurement and verification provision proposed by PJM for energy efficiency resources bid in its Reliability Pricing Model (“RPM”) auctions is acceptable as an interim measure until more accurate national standards and protocols for measurement and verification of energy efficiency programs have been adopted by the industry.

Description and Standing of ELCON

ELCON is a national trade association of industrial consumers of electricity organized to promote the development of coordinated and rational federal and state policies that will assure an adequate, reliable and efficient electricity supply for all users at competitive rates. ELCON

member companies produce a wide range of products from virtually every segment of the manufacturing community. The member companies of ELCON consume approximately five percent of all electricity in the United States. Many ELCON members operate major facilities and are consumers of electricity in the footprint of the PJM region, and therefore participate in PJM's markets, including the forward capacity market at issue in this proceeding. ELCON has actively participated in prior PJM proceedings, including the recent proceeding in Docket No. EL08-67-000 regarding the capacity prices set in PJM's first four "transitional" base residual auctions under its RPM. Accordingly, ELCON and its members have a direct and substantial interest in the outcome of this proceeding and will not be adequately represented by any other party.

Background on Tariff Revisions to PJM's RPM Mechanism

On March 19, 2008, a group of PJM customers and stakeholders (the "RPM Buyers") filed a motion asking FERC to convene a technical conference to examine the performance of RPM. PJM subsequently initiated a stakeholder dialogue, encouraged by FERC, to address a number of serious shortcomings that had been observed in initial implementation of RPM. Improvements in the participation of energy efficiency and demand resources in RPM auctions was one of the eight issues highlighted by FERC as requiring improvement. In partial response to FERC's directives, on December 12, 2008 PJM filed in this docket proposed amendments to the PJM Open Access Transmission Tariff and its Reliability Assurance Agreement among Load-Serving Entities in the PJM Region ("RAA"), the documents that establish the terms for PJM's implementation of RPM.

ELCON's Motion to Intervene and Comments

PJM proposes new amendments to its tariff to enable energy efficiency resources to participate in the RPM auctions. PJM currently allows limited participation by demand resources ('DR') that are dispatchable as a capacity (reliability) product by PJM. Any similar reliability value of non-dispatchable resources such as energy efficiency programs is recognized only on an after-the-fact basis in historic load data. PJM's transmittal letter accompanying its proposed tariff amendments, Dec. 12, 2008, at pages 38-39, in Docket ER09-412-000 (the "Transmittal Letter"). FERC directed PJM to revisit this issue, noting that "to the extent possible, energy efficiency solutions should be able to compete on an equal footing with demand response, generation and transmission solutions" and ordering PJM to establish additional processes to pursue and support demand response and incorporate energy efficiency applications in RPM. *PJM Interconnection, LLC*, 119 FERC ¶ 61,318 at P 201 (2007).¹

ELCON has long recognized the value of energy efficiency investments as an integral part of a large industrial customer's energy management portfolio. In addition, most ELCON members have decades of experience coordinating their power consumption with their local utility's least-cost operations by means of interruptible tariffs or contracts, emergency load reduction programs and other more sophisticated forms of demand response. These actions can confer substantial economic benefits to the large industrial and other customers of utilities by deferring or avoiding the short-term costs that would be incurred to deploy more expensive resources. The requirement that such resources be "dispatchable" is a stringent form of "measurement and verification" ("M&V"). Its primary purpose is to ensure that the resource is

¹ FERC subsequently reiterated that "PJM should develop and implement provisions to enable energy efficiency resources to participate in the RPM auctions" by December 2008. *PJM Interconnection, LLC*, 124 FERC ¶ 61,272 at P 46 (2008).

appropriately delivered (from the system operator’s perspective) and appropriately compensated (from the resource provider’s perspective). M&V also gives consumers in general some confidence that they are not unwittingly subsidizing certain resources in excess of their true economic or reliability value.

Energy efficiency resources—by their very nature—are not dispatchable, and the resource values (kW and kWh) can only be indirectly measured and verified. Historically, impact evaluation of energy efficiency programs emphasized net energy savings (in kWh), not capacity savings. As energy efficiency investments increase in response to economic and climate concerns, and consequently growing opposition to building new generation and transmission infrastructure, it would be foolish not to recognize the net capacity savings (in kW) during peak periods.² But there is little industry consensus on the tools needed to estimate the net capacity savings.³

In fact, draft report by the US Department of Energy’s Electricity Advisory Committee (“EAC”), which will be presented to the incoming Obama Administration’s new Secretary of Energy, highlights the lack of current consensus for assessing energy efficiency programs:

There are currently no nationally recognized standard protocols for the impact evaluation of energy efficiency programs. Nor is there agreement on when and how to use specific measurement and verification (M&V) approaches. Additionally, the transparency of protocols that are currently in use varies from state to state, making it difficult to ascertain which protocols are reasonable and which are not.

² Energy efficiency programs that induce greater savings in off-peak periods have the potential to decrease system load factors and therefore increase total production costs. This potential problem is greater under nodal (LMP) pricing than under cost of service regulation where rate are based on average costs.

³ See ELCON, *Utility Energy Efficiency Programs: Too Cheap to Meter?* A Policy Brief of the Electricity Consumers Resource Council, November 2008. <http://www.elcon.org/Documents/112608/UtilityEEPrograms-TooCheaptometer-Nov%2026,08.pdf>

Impact evaluation is necessary to determine credible estimates of net savings in both energy (kWh) and capacity (kW) and when those savings occur. Commonly accepted standards for baseline calculations, the estimation of net-to-gross ratios, the estimation of free-ridership and spillover effects, and persistence analysis, among others, are needed to better predict the supply of and utilize demand-side resources nationwide. Without greater attention and resources devoted to the measurement and verification of utility energy efficiency programs, it is difficult to quantify the resource value in terms of firm energy and capacity savings (kWh and kW) that allows the consideration of demand-side resources on comparable terms with generation resources. It also further complicates any attempt to identify the generation types whose outputs are reduced as well as measurement of any concomitant emissions.

In addition, the lack of consensus program metrics also prevents the definition of energy efficiency program impacts in terms of discrete, measurable, time-based products (energy, capacity, and ancillary services) that can be understood and used by system operators and system planners, and which warrant recognition by NERC. This results in uneven efforts to integrate energy efficiency programs with resource planning and operations. These concerns increase as the proportion of load to be met by demand-side resources increases.⁴

In recognition of these problems, the EAC recommends “the development of measurable and verifiable (M&V) metrics for estimating reliable resource values (kW and kWh) of mass-market energy efficiency programs, if the intent of such programs is to defer or avoid new utility infrastructure or obtain net reductions in GHG emissions. These protocols and standards will enable savings to be more reliably counted upon as a substitute for or to defer the need for new power plant construction, while maintaining reliability. They will also help to better ensure that demand-side investments are cost-effective.” EAC Report at 15.

In order to advance the application of energy efficiency resources in its RPM auctions, PJM’s December 12, 2008 tariff filing crafts an appropriate compromise proposal for M&V. The relevant provisions appear in new section M to Schedule 6 of RAA. If the Capacity Market Seller submits updated M&V data each year, and clears in the RPM auction each year, it will be

⁴ US Department of Energy, Electricity Advisory Committee, Report on Electricity Supply Adequacy, Draft, December 10, 2008, at chapter 3, page 9. (“EAC Report”) <http://www.oe.energy.gov/1158.htm>

paid based on 100% of the capacity value (as determined by PJM) multiplied by the RPM Resource Clearing Price each year. If the Capacity Market Seller submits M&V data only for the first year, it still may collect RPM auction revenues for up to three more Delivery Years, but the revenues it can receive will decrease, recognizing the uncertainty in the continuing benefit provided by the project absent such verification data. Specifically, an energy efficiency resource that does not submit updated M&V data for the subsequent years will be paid based on 75% of the capacity value for the second year, 50% for the third year and 25% for the fourth year. Transmittal Letter at 33.

PJM's proposal is a compromise between two extremes that are discussed in PJM's filing. One alternative ("Suppliers Group") would deny an energy efficiency resource any revenue for subsequent delivery years if it does not provide M&V data for those years, *i.e.*, assume zero impact. The other alternative ("Synapse") would allow full capacity payments for the "measure life" of the energy efficiency resource even if it exceeds the four-years of the auction. This, according to PJM, would result in a double payment for the measure's benefits. Transmittal Letter at 33-35.

Under the present circumstances, ELCON believes that the PJM "compromise" proposal on M&V is a just and reasonable placeholder methodology until such time as more reliable national consensus M&V protocols/standards—as recommended by the EAC—have been developed and adopted by the industry. We strongly urge FERC to approve the PJM compromise proposal, but in doing so to acknowledge the fact that it is an interim measure.

Finally, ELCON is deeply concerned about any factor that needlessly increases electricity prices that will further stress the already embattled manufacturing sector in the current economic downturn. Electricity prices were increasing dramatically even before the economic crisis, and

energy-intensive industries cannot sustain any further increases. It is essential that claims that energy efficiency measures are the lowest cost alternative are accurately measured and verified.

PJM's compromise proposal meets the spirit of that need

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In consideration of the foregoing, ELCON respectfully requests that FERC grant its Motion to Intervene and approve, as an interim measure, PJM's proposed tariff revisions to incorporate energy efficiency in RPM as set out in its new section M to Schedule 6 of the RAA.

Notices and Communications

Notices and communications with regard to these proceedings should be addressed to:

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Respectfully submitted,

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Dated: January 9, 2009

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 of this proceeding.

Dated at Washington, D.C.: January 9, 2009

/s/ W. Richard Bidstrup
W. Richard Bidstrup