

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

PJM Interconnection, L.L.C.

Docket No. ER07-508-000

**MOTION TO INTERVENE
OF ELECTRICITY CONSUMERS
RESOURCE COUNCIL (ELCON)**

Pursuant to Rules 211 and 214 of the Federal Energy Regulatory Commission's ("FERC's") Rules of Practice and Procedure, and the Notice of Filing dated February 6, 2007, the Electricity Consumers Resource Council ("ELCON") hereby moves to intervene in the above-referenced proceeding in support of the protest filed today by Gerdau Ameristeel Corporation ("Gerdau").

Description and Standing of ELCON

ELCON is a national 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 consumer approximately five

percent of all electricity in the United States. Many ELCON members operate major facilities in the footprint of PJM and will be directly affected by the outcome of this proceeding.

Intervention

PJM's February 2, 2006 proposed revisions to its economic load response rules raise two serious concerns for ELCON members. First, PJM's proposed revisions fail to treat demand response symmetrically with generation. Second, PJM's assertion that a majority of stakeholders approved the plan does not paint an accurate picture of stakeholder support. An entire sector of stakeholder representatives – the End Use Customer representatives – objected to the proposal.

A. Asymmetrical Treatment of Resources

PJM's proposal does not treat demand response symmetrically with other resources. A decrease in a MW consumed has the same effect on the system as an increase in MW generated, therefore demand response should be treated symmetrically and priced on the same basis as a generator. As Gerdau has correctly pointed out, such treatment is not accorded demand response within PJM.¹ PJM's argument is that customers that take LMP prices should benefit only from the savings they receive by not buying power (the value of the LMP at the time) and not receive any incentive in addition to those savings. The same logic applied to a generator is that they save money (fuel costs) by not generating and therefore should be very happy if they are not generating. PJM also claims that some industrials might "game" the program by making the offer in the day-ahead market but not following through in the real-time market. PJM is not

¹ They cite as an example an early August 2006 heat wave that produced reductions estimated to be equivalent to more than \$650 million in payments for energy but note that PJM only paid \$5 million in demand response payments. See "Early Aug. Demand Response Produces \$650 million Savings in PJM: Reducing Electricity Use Stretches Power Supplies, Lowers Wholesale Electricity Prices," at p.1 (Aug. 17, 2006) available at <http://www.pjm.com/contributions/news-releases/2006/20060817-demand-response-savings.pdf>.

proposing to ban generators from the day ahead market because they might game their bids. This issue ignores the fact that the RTO's Market Monitoring Unit's job is to monitor such behavior regardless of the type of resource doing the bidding.

ELCON has long advocated functional demand response as an essential component of wholesale electricity markets. The problem with existing demand response programs is that demand has very limited opportunity to influence or react to prices.² Asymmetrical treatment of demand-side resources aggravates the problem. This inequality of resources runs contrary to recommendations made by PJM's MMU that a significant level of potential demand-side response be made available in the market,³ it is not in keeping with U.S. policy to encourage demand response,⁴ and it is inconsistent with recommendations made by FERC staff in the August 2006 report on demand response:

Demand Response deserves serious attention. Staff recommends that the Commission: (1) explore how to better accommodate demand response in wholesale markets; (2) explore how to coordinate with utilities, state commissions, and other interested parties on demand response in wholesale and retail markets; and (3) consider specific proposals for compatible regulatory approaches, including how to eliminate regulatory barriers to improve participation in demand response, peak reduction and critical peak pricing programs.⁵

² See, e.g., ELCON, "Today's Organized Markets: a step toward competition or an exercise in re-regulation?" (December 4, 2006), available at <http://www.elcon.org/Documents/Publications/12-4piom.pdf>; see also "Problems in the Organized Markets," p. 12 (April 2005), available at <http://www.elcon.org/Documents/Publications/ELCONSpecialReportApril2005.pdf>.

³ See PJM "2005 State of the Markets Report," at 70, available at <http://www.pjm.com/markets/market-monitor/downloads/mmu-reports/20060411-som-web-1.pdf>.

⁴ See Energy Policy Act of 2005, Pub. L. No. 109-58, § 1252(e)(1), 119 Stat. 594 (2005). See also PJM 2005 State of the Market Report at 25, available at <http://www.pjm.com/markets/market-monitor/downloads/mmu-reports/20060411-som-web-1.pdf>.

⁵ Federal Energy Regulatory Commission Staff Report, "Assessment of Demand Response and Advanced Metering" ("2006 Demand Response Report"), FERC Docket No. AD06-2-000 (August 2006) at xii, available at <http://www.ferc.gov/legal/staff-reports/demand-response.pdf>.

The numerous benefits of demand response have been widely cited.⁶ Market participants see lower or at least more stable wholesale and retail prices and can create additional choices in retail markets to manage customer load and costs. Less demand on the system translates to less need to build additional generation or transmission and distribution infrastructure, particularly since demand response resources can be called upon relatively quickly to relieve problems in load pockets. Customers save costs in their energy bills from reduced consumption and at the same time obtain reliability benefits. Demand response can also be a tool for mitigating generation market power in periods of high demand.

Over the past few years, FERC itself has repeatedly recognized the benefits of demand response. For example, in a 2001 order addressing the California crisis, the Commission stated:

Without a demand response mechanism, the [independent system operator] is forced to work under the assumption that all customers have an inelastic demand for energy and will pay any price for power. There is ample evidence that this is not true. Many customers, given the right tools, can and will manage their demand. . . . A working demand response program puts downward pressure on price, because suppliers have additional incentives to keep bids close to their marginal production costs and high supply bids are more likely to reduce the bidder's energy sales. Appropriate price signals to customers thus help to mitigate market power as high supply bids are more likely to reduce the bidders' energy sales. Suppliers thus have additional incentive to keep bids close to their marginal production costs. Demand-side price responsive bids will also help to allocate scarce supplies efficiently.

The Commission also noted the value of incentive-based demand response in maintaining grid reliability in a 2002 PJM order:

PJM is responsible for ensuring the short-term reliability of the interstate transmission system. When system reliability events require PJM to implement measures to protect the transmission system (i.e., PJM declares a Maximum Generation Emergency), encouraging load reductions and the

⁶ FERC 2006 Demand Response Report, at 10-13. *See also* U.S. Department of Energy, "Benefits of Demand Response in Electricity Markets and Recommendations for Achieving Them: A Report to the United States Congress Pursuant to Section 1252 of the Energy Policy Act of 2005," February 2006.

use of on-site generation is an important tool in maintaining transmission reliability.⁷

In order to maximize these recognized benefits to all market participants, resources must be treated on equal footing.

B. Stakeholder Objections to PJM’s Proposal

ELCON joins Gerdau in urging the Commission to act independently of the outcome of the skewed PJM stakeholder process. PJM states that its proposal “was endorsed by a clear majority.” PJM’s February 2, 2007, Filing at p.6. However, what PJM fails to reveal is that ten End Use Customer Sector representatives of the Members Committee had objected to the proposal and had requested that the objection be reflected in the record and minutes of the meeting during which the proposal was placed on the consent agenda. PJM never responded to this request. A stakeholder process that ignores the views of an entire class of stakeholders can hardly be said to be balanced and representative. As FERC stated elsewhere, “the stakeholder process cannot impede the larger goal of ensuring non-discriminatory terms and conditions and encouraging load reduction in PJM’s market... .”⁸ While it is appropriate for FERC to consider the stakeholder process, FERC is not bound by the outcome, particularly where the process is flawed.

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In consideration of the foregoing, ELCON respectfully requests that FERC grant its Motion to Intervene.

⁷ FERC 2006 Demand Response Report, at 13, *citing San Diego Gas and Electric Co.*, 95 FERC ¶61,148, at 62,555 (2001) and *PJM Interconnection, L.L.C.*, 99 FERC ¶ 61,139 at n.18 (2002).

⁸ *PJM Interconnection, L.L.C.*, 103 FERC ¶61,167 at P31 (2003).

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: February 23, 2007

Certificate of Service

I hereby certify that I have this day served the foregoing documents upon each person designated on the official service list compiled by the Secretary of this proceeding.

Dated at Washington, D.C.: February 23, 2007

/s/ Jennifer A. Morrissey
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