

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

Grid Resilience in Regional Transmission)
Organization and Independent System) **Docket No. AD18-7-000**
Operators)

**REPLY COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION
IN RESPONSE TO COMMENTS OF
PJM INTERCONNECTION, L.L.C.**

In accordance with the Notice issued by the Federal Energy Regulatory Commission (“Commission”) on March 20, 2018, the Retail Energy Supply Association (“RESA”)¹ hereby files these Comments in response to the Comments filed on March 9, 2018, by PJM Interconnection, L.L.C. (“PJM”) to the Federal Energy Regulatory Commission’s (“Commission’s”) resiliency inquiry articulated in the Grid Resilience Order² in the above-referenced proceeding. In the Grid Resiliency Order, the Commission asked a series of questions to Regional Transmission Orders/Independent System Operators (“RTO/ISOs”) on resiliency-related issues. While all RTO/ISOs subject to the inquiry submitted comments, RESA hereby responds to PJM’s Comments, specifically related to PJM’s attempts to circumvent the stakeholder process and PJM’s inappropriate requests to the Commission to make changes to the interstate natural gas pipeline capacity market that would disrupt the well-functioning natural gas transportation capacity markets and impair the rights of shippers that hold such capacity. RESA

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

² *Grid Resilience in Regional Transmission Organizations and Independent System Operators*, 162 FERC ¶ 61,012 (2018) (“Grid Resiliency Order”).

supports competitive wholesale markets and a reliable and resilient grid. RESA believes that PJM is adequately addressing what it needs to do to ensure its system is resilient. The stakeholder process is the proper place in which to address any concerns or issues that arise to improve system reliability and to maintain resilience short of an emergency situation. PJM's stakeholder process has been very successful in improving grid-wide operations and relationships between RTO/ISOs. In addition, PJM's suggested modifications to the natural gas transportation capacity markets must be rejected. Pipeline markets function very well and the modifications that PJM seeks would require significant restructuring of those markets, without any guarantee that neither the gas market nor the electric market would be improved through such restructuring. In support of these Reply Comments, RESA submits as follows:

I. BACKGROUND

A. RESA

RESA is a non-profit trade association of independent corporations that are involved in the competitive supply of electricity and natural gas. RESA and its members are actively involved in retail electricity and natural gas markets throughout the United States in states that have implemented markets that allow entities other than the incumbent electric or natural gas utility to provide commodity electric and gas service. RESA members are active in the following RTO/ISOs: PJM Interconnection, L.L.C. ("PJM"), ISO New England, Inc. ("ISO-NE"), Midcontinent Independent System Operator, Inc. ("MISO"), New York Independent System Operator, Inc. ("NYISO"), and California Independent System Operator, Inc. ("CAISO"). RESA members possess market-based rate authority from the Commission.

Under the retail supply model, a retail supplier of gas or electricity will provide the commodity gas or electricity to an end-use customer – generally a commercial, industrial or

residential consumer. The utility will remain as the distributor of the commodity, generally through distribution-level natural gas pipelines or distribution electric lines. The retail supplier will purchase the gas or electricity in competitive wholesale markets and deliver it (or have it delivered) pursuant to Commission-approved tariffs to the local utility's city-gate or distribution system.

RESA's members are a diverse group of companies. Some are independent companies and others are subsidiaries of larger energy-related companies. RESA's members serve customers in approximately 22 states and the District of Columbia. All RESA's members, however, share the common belief that competitive wholesale and retail markets deliver a more efficient, customer-oriented outcome than the regulated utility structure.

B. RESA's Participation in Competitive RTO/ISO Wholesale Markets

RESA's members purchase services in the RTO/ISO markets, but they offer more than just electricity service to their customers. Competitive retail suppliers may: (1) provide commodity retail energy based on fixed or variable prices which are tied to wholesale prices; (2) offer demand response services; (3) offer energy efficiency services; and/or (4) offer electricity with a certain component of renewable energy – or all renewable energy. There is no one model – competitive wholesale markets and retail choice policies in the states have allowed significant innovation which has reduced consumption of energy, lowered prices, and provided valuable services to consumers.

To offer the valuable and innovative services at competitive prices, retail suppliers participating in competitive wholesale markets require market certainty, transparency and stability. Market certainty, transparency and stability allows retail suppliers to offer products and services that they know they can deliver during the term of the applicable contract. While some contracts

offered by retail suppliers contain a “change in law” provision, whereby any increased costs caused by a change in law may be passed on to customers, many jurisdictions do not permit change in law provisions in fixed-price arrangements. In addition, even when the contract contains a change in law provision, no retail supplier wants to go to its customer and tell them that they will be responsible for added and unexpected charges. Market certainty and transparency benefits all market participants.

C. RESA Participation in Retail Natural Gas Markets

A number of RESA members provide competitive natural gas service to retail customers. While there is a great amount of variation in state program rules, many competitive retail suppliers hold interstate transportation capacity on the interstate pipelines. Retail suppliers such as RESA members may hold long-term firm capacity in their own name, or may acquire primary firm transportation capacity from the local distribution company (“LDC”) pursuant to a retail access program. Retail suppliers use the transportation capacity to bring gas to the LDC city gate where it is delivered over the distribution system to retail customers, whether such customers are commercial, industrial or residential. Shippers that hold interstate pipeline capacity have rights to the capacity. They can release it to replacement shippers. Replacement shippers may take the capacity without condition, or may take capacity subject to it being recalled. LDCs may release capacity to replacement shippers. However, ultimately it is the shipper that holds the capacity – and pays the demand charges for the capacity – that controls the capacity for the term of the transportation agreement.

D. PJM’s Response to the Grid Resiliency Rule

In its March 3 Comments, PJM seeks to bypass the stakeholder process, and, in its place, essentially operate under significant Commission oversight and direction purportedly to ensure

resilience. Specifically, PJM seeks a Commission order requiring PJM to implement a number of specific changes to the PJM market structure, as well as additional gas-electric coordination. RESA submits that these changes should be discussed in the stakeholder process and not be mandated by the Commission. First, PJM has identified what it needs to be resilient and on an on-going basis continues to pursue ways in which it can be more resilient using the stakeholder process.³ While there is always room for improvements, the stakeholder process has been adequate to implement necessary market changes to respond to changing market conditions and developments in order to ensure PJM's system is and remains resilient.

With respect to natural gas-related issues, and gas-electric coordination issues, specifically, PJM's suggestions should be rejected. Mandating NERC-type reliability obligations are inappropriate for the pipeline industry. Interstate pipeline transportation capacity is held by shippers who have rights to that capacity. Any entity can seek to obtain transportation capacity on an interstate pipeline. If there is no firm capacity available, then the pipeline may expand to provide the additional capacity. PJM's suggestions, detailed below, would result in possible confiscation of shipper capacity and result in evisceration of the current transportation capacity program at FERC, which has been functioning smoothly for decades.

II. PJM's Call for Commission Orders to Direct Market Design Changes to Address Resilience Must be Rejected Because Such Action is Unnecessary

PJM notes in its Comments (at 4) that "resilience involves preparing for, operating through, and recovering from events that impose operational risk, including but not limited to high-impact, low-frequency events." PJM goes on to state that the RTOs should "address verifiable

³ See, PJM "Valuing Fuel Security," <http://www.pjm.com/-/media/library/reports-notice/special-reports/2018/20180430-valuing-fuel-security.ashx>

vulnerabilities and threats.” In addition to asking the Commission to order RTOs to implement resilience planning criteria and develop processes for the identification of vulnerabilities, threat assessment and mitigation, restoration planning and related procedures to advance resilience planning, PJM seeks an order from the Commission that mandates market reforms and changes to generator compensation mechanisms. PJM acknowledges that the PJM stakeholder process is already considering potential reforms in this area, but seeks a Commission order requiring PJM to make changes to its market rules including: (1) improvements to the Operating Reserves market rules and shortage pricing; (2) improvements to Black Start capabilities; (3) improvements to energy price formation that “properly values resources based upon their reliability and resilience attributes;”⁴ and (4) integration of distributed energy resources, storage and other emerging technologies.⁵

While PJM conflates these market design changes as necessary to address *events* that impact resiliency, PJM’s request that the Commission issue orders mandating specific action would bypass the stakeholder process and implement changes that have not been shown to be just and reasonable.

To be sure, generator compensation-related issues are important to having a workably competitive wholesale energy market, and necessary to ensure resource adequacy – a reliability issue. However, generator compensation is not a resiliency issue that should be taken out of the stakeholder process. If, through the stakeholder process, it can be shown that generation with certain characteristics should receive additional compensation to reflect the value it

⁴ PJM Comments at 6.

⁵⁵ See also PJM Comments at 75-82.

provides to the market, then PJM can make that demonstration in the stakeholder process and appropriate changes to the tariff can be made.

There is simply no urgency to immediately address these matters outside the stakeholder process. The PJM stakeholder process has been extremely successful in developing -- and PJM has implemented -- necessary tariff changes to address price formation and other related concerns. For example, PJM's new capacity program was the result of an active stakeholder process and the resulting tariff changes addressed specific issues with resource performance during times of stress on the bulk electric system.

In addition, what is missing in PJM's approach and that what the stakeholder process will consider are technological improvements and solutions that aide in maintaining a resilient grid while reducing overall peak demand, thus creating efficient market and reliability outcomes that could reduce our customers' costs. Such matters include transmission upgrades, microgrids, smart grids and additional penetration of distributed energy resources. Importantly, retail suppliers such as RESA members who may offer innovative services must be part of the conversation. All perspectives can be considered in the stakeholder process in designing just and reasonable market improvements that assure reliability and resilience.

III. Gas-Electric Coordination Must Remain Voluntary and Consistent with Order No. 787

In its Comments, PJM asks the Commission to open a new docket to explore additional requirements for pipelines and the RTO to "coordinate"⁶ in addition to the guidance issued by the Commission in Order No. 787.⁷ Under Order No. 787, the Commission permits the sharing

⁶ PJM Comments at 27.

⁷ *Communication of Operational Information Between Natural Gas Pipelines and Transmission Operators*, Order No. 787, 145 FERC ¶ 61,134, FERC Stats. & Regs. ¶ 31,350 (2013); *order on reh'g*, Order No. 787-A, 147 FERC ¶ 61,228 (2014).

of information between interstate natural gas pipelines and public utilities. Information that may be shared includes non-public, operational information, for purposes of “promoting reliable service or operational planning on either the public utility’s or pipeline’s system.”⁸ According to PJM, because information sharing “differs notably” among pipelines PJM believes that information sharing should be mandatory and “analogous to the equivalent level of coordination responsibility that the Commission through NERC has assigned Reliability Coordinators in the NERC standards for example IRO-0413-3.”⁹ PJM also seeks mandatory communication requirements between RTOs and LDCs, something which the Commission declined to do in Order No. 787. This level of mandatory coordination – essentially imposing some sort of NERC-type regulation on pipelines – is unnecessary and must be rejected.

First, other than broad statements that information sharing is not uniform among interstate natural gas pipelines that serve the PJM region, PJM has not provided any specific information that would justify the significant additional burdens upon the industry. In fact, PJM’s Comments note that there are significant coordination activities undertaken between pipelines and the RTO. Second, as the Commission is well aware, it does not have Natural Gas Act jurisdiction over LDCs. While PJM acknowledges that the Commission does not have jurisdiction over LDCs, PJM suggests that the Commission assert jurisdiction over LDCs “indirectly” as shippers on the pipeline.¹⁰ Of course, the Commission cannot do indirectly what it cannot do directly.¹¹

⁸ Order No. 787 at P.1.

⁹ PJM Comments at 27.

¹⁰ PJM Comments at 28.

¹¹ *Altamonte Gas Transmission Co. v. FERC*, 92 F.3d 1239, 1248 (D.C. Cir. 1996).

PJM's request that the Commission should "investigate the degree of real-time modeling capability available in each gas pipeline and the robustness of the system in place to communicate information as to the effects of [an interruption on the pipeline] on downstream generators to RTO system operators" is misplaced.¹²

It is important to understand that shippers who hold interstate pipeline transportation capacity control their transportation capacity. To be sure, the pipeline is always operating and monitoring the system to ensure that all firm shippers receive reliable service to which they have contracted. Pipelines maintain scheduling priorities to ensure that shippers receive what they pay for. The pipeline has the ability to take a panoply of actions to maintain the system pressures and, to date, all pipelines successfully operate their systems to meet the needs of shippers. Pipelines are simply not centrally dispatched and operated like the RTO. Pipeline shippers schedule gas on a point to point basis and nominate gas either to those points or to others on a secondary basis. There are multiple buyers and sellers and gas follows the contract path, not the path of least resistance. Any shift to a centralized dispatch/modeling approach to interstate pipelines would result in significant disruption of the expectations of shippers/gas buyers and sellers and the pipeline. Simply put – PJM seeks to upend the stable, well-functioning interstate natural gas markets so that it may exert additional influence over it, solely to obtain additional information that it seeks. Clearly such a change is unwarranted.

IV. Mandating that Pipelines Offer Services Tailored to Generators Must be Rejected

As indicated above, the interstate natural gas pipeline systems operate efficiently. It is a system where shippers commit to and pay for capacity necessary to serve their needs. While

¹² PJM Comments at 61.

LDCs are often shippers, there are a wide variety of other shippers on a pipeline – they can be seen on each pipeline’s index of shippers. LDCs, marketers, commercial and industrial customers, producers, generators, and others transport gas on interstate natural gas pipelines. Shippers that hold find transportation capacity often maximize the value of the capacity by releasing it to replacement shippers who can use the capacity. Releases can be on a temporary or permanent basis. A replacement shipper may use secondary points. If a shipper desires capacity and, after making a request for capacity from the pipeline there is not sufficient capacity to serve the customer, the pipeline may expand to serve that customer – the pipeline is in the business of selling its service and increasing its throughput. However, the shipper must be prepared to pay for the service. If a generator seeks firm transportation service with primary receipt and delivery points, it must be prepared to pay for it.

Short of contracting for future primary transportation capacity, a natural gas-fired generator has multiple other opportunities to procure a firm supply of natural gas. It can: (1) obtain capacity via release; (2) purchase a “delivered” product; or (3) purchase interruptible service.

PJM seems to believe that generators are unwilling to pay the demand charge, and procure pipeline transportation capacity in spite of the performance requirements in the PJM Capacity Performance program (“CP”) which penalizes generators for their failure to perform. PJM blames interstate pipeline tariffs for the failure. However, pipelines are in the business of selling capacity and will tailor services to generators or anyone else if an entity pays for it. ANR Pipeline has had a generator tariff on file for more than a decade. Merely being in the tariff does not mean that anyone will take the service and pay for it. The fact that generators may not have access to firm fuel supply after the implementation of CP goes to the issue of whether generators are receiving adequate compensation to assure fuel supply or not being

penalized enough when they fail to procure it. The stakeholder process is precisely the place where discussion on this should occur, and there is a proven process in place should PJM ultimately need to have FERC direction.

In addition, PJM cannot simply seek special treatment for generators through Commission-imposed pipeline tariffs that would erode the right of current shippers on the system to schedule, nominate, deliver, release and acquire interstate transportation capacity. In the same vein, generators should not receive favored treatment from pipelines merely because they are generators.

Finally, it is important to note that pipeline tariffs are subject to Commission jurisdiction. If a pipeline files to implement tariff changes, interested entities may submit comments or protests. Entities, including RTOs, may participate in the Commission's fulsome pipeline review process of the rates, terms and conditions of service. In short, PJM's proposal that the Commission dictate at this time special treatment through tariffs or otherwise is unjustified.

V. Conclusion

RESA members rely on a resilient and reliable bulk electric system in order to offer innovative services to its customers. RESA believes that the PJM system is resilient. RESA believes that the PJM stakeholder process is the proper forum in which to make changes to PJM's tariff or processes if any changes are necessary. The PJM stakeholder process has been very effective in addressing issues that arise and when it is not the Commission has played an effective backstop role to make sure that PJM maintains efficient markets and a reliable system.

In addition, PJM should not burden the natural gas markets, rules and regulations with matters that are within PJM's purview. The natural gas transportation market functions well and has for decades. Shippers, like RESA members, utilize transportation capacity and do not

want to see their services eroded. To the extent that PJM determines that there can be PJM tariff improvements to address the payment for pipeline capacity, the stakeholder process is where those issues should be brought. PJM is always free to participate in pipeline proceedings should PJM feel that a tariff change proposed by a pipeline is unjust and reasonable.

WHEREFORE, RESA respectfully requests that its Reply Comments be considered by the Commission in this proceeding.

Respectfully submitted,

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