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93-7000-EL-FAI

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

PUCO

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PJM Industrial Customer Coalition .

v.

PJM Interconnection, L.L.C.

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Docket No. EL08-12-000

**MOTION
TO EXTEND TARIFF PROVISIONS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.212 (2007), the Public Utilities Commission of Ohio (PUCO) hereby requests that the Commission extend certain provisions of PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff (OATT) described below, currently set to expire, until such time as the Commission rules on the merits of the complaint filed in this proceeding.

The PJM OATT contains demand-side response provisions which provide for locational marginal pricing (LMP) payments to economic load response participants. These provisions contain sunset clauses which will cause the LMP payments to cease after December 31, 2007. These provisions, which the Commission has found as recently as last year to "provide significant benefits to the PJM market,"¹ provide economic

¹ *PJM Interconnection, L.L.C.*, 114 FERC ¶ 61,201 (2006).

demand responders the opportunity to receive compensation for the benefits they bring to PJM by providing load curtailment.

On November 20, 2007, the PJM Industrial Customer Coalition (PJMICC) filed a complaint against PJM, arguing that the December 31, 2007, sunset component is unjust and unreasonable. PJMICC further requested that the Commission extend the current credit mechanism until PJM confirms the implementation and market-readiness of an alternative proposal.

The PUCO agrees with PJMICC that the tariff provisions that are set to expire should continue, in some form and at some level, to ensure at least minimal levels of demand elasticity in the market. The provisions can serve as a check on the exercise of market power. The provisions help to dampen price volatility. The provisions help to create benefits that could accrue to all customers in the form of reduced clearing prices.

In light of the fact that the provisions at issue have been in effect since 2000/2001, continuation of those provisions will cause no injury. On the contrary, as more fully explained in PJMICC's complaint, the market could be harmed if appropriate demand-side response compensation is not available. PJM, in its answer to PJMICC's complaint, does not oppose maintaining the present incentive payment pending settlement discussions or final resolution of a long-term solution.² To that end, the PUCO would welcome the initiation of a mediation process.

²

See PJM Answer at 3.

The PUCO's mediation request is an appropriate mechanism for arriving at a meaningful solution for a situation that involves both state and federal jurisdictional matters. For example, recovery of wholesale generation pricing that is passed directly through to retail customers via retail rates is the sole jurisdiction of the states. Only limited transactions that involve the sale for resale of energy could be construed as truly a federal jurisdictional matter. In the case where a retail customer's local supplier compensates that retail customer for load reductions under a state-approved curtailable tariff, this example of demand response remains under the purview of the states. These state approved curtailable tariffs have been in effect long before organized wholesale markets existed and are still in existence today. These state tariffs, many of which include significant discounts, were designed as load modifiers for reliability of the local distribution system. Therefore, the Ohio Commission believes that these types of legacy demand response mechanisms must remain under state jurisdiction.

However the Commission decides to proceed – by settlement process or by formal hearing, the PUCO believes that the PJM credit mechanism should continue until final FERC resolution of the issue. The PUCO believes that until costs exceed benefits in the PJM markets, current incentives are properly placed to help markets develop.

Respectfully submitted,

/s/ Thomas W. McNamee

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**Attorney for the
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PROOF OF SERVICE

I hereby certify that the foregoing have been served in accordance with 18 C.F.R.
§ 385.2010 upon each person designated on the official service list compiled by the
Secretary in this proceeding.

/s/ Thomas W. McNamee

Thomas W. McNamee
Assistant Attorney General

Dated at Columbus, Ohio this December 21, 2007.