February 29, 2012

Chairman Jon Wellinghoff  
Commissioner Philip D. Moeller  
Commissioner John R. Norris  
Commissioner Cheryl A. LaFleur

Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

RE: FERC Docket No. ER11-4628-000

Dear Chairman and Commissioners:

On October 12, 2011, the Public Utilities Commission of Ohio (PUCO) submitted comments in the above-captioned docket to recognize and support the development of price responsive demand (“PRD”) in PJM Interconnection L.L.C’s (“PJM’s”) tariff. On December 14, 2011, the Federal Energy Regulatory Commission (Commission) issued a decision suspending PJM’s filing until May 15, 2012. FERC Staff held a Technical Conference regarding the proposed tariff on February 14, 2012 and established a comment period for Post-Technical Conference Comments, due February 29, 2012. Consistent with its October 12, 2011 comments in this matter, the PUCO appreciates the opportunity to express its continued support for PRD and urges FERC to adopt PJM’s proposed tariff with the recommendations contained in the PUCO’s comments.

The Staff Technical Conference addressed the expected penetration of LMP-based dynamic retail rates. Since our initial comments were filed, the PUCO has initiated a proceeding on dynamic retail pricing.[[1]](#footnote-1) In its proceeding, the PUCO “is seeking comments on whether electric distribution utilities (EDUs) and/or competitive retail electric service (CRES) providers should offer pricing options for all consumers with advanced or interval meters that reflect the time-varying prices in wholesale electricity markets and additional dynamic pricing options such as pre-paid, indexed, and other vari­able rates.”[[2]](#footnote-2) The PUCO is also investigating how information regarding such options might best be made available to consumers.[[3]](#footnote-3) The PUCO’s entry initiating the proceeding indicated, “By encouraging the development of time-differentiated and dynamic pricing options, the Commission is seeking to provide consumers with additional tools to manage their electricity bills, improve utility asset utilization, and enhance the reliability and resilience of the power system.” Currently, Ohio utilities have hundreds of thousands of advanced and interval meters in service. Appropriate FERC recognition of PRD is a condition precedent to Ohio consumers with dynamic pricing being able to take full advantage of such investments by not having to pay for capacity for demand that would not be present at higher peak prices. The Ohio Commission has approved a residential dynamic retail pricing pilot program.[[4]](#footnote-4) If FERC were to not approve PJM’s PRD tariff with the modifications proposed in the PUCO’s initial comments, this would represent a barrier to the expansion of dynamic retail pricing.

The PUCO further maintains that it is vital that FERC recognize that PRD happens on the load side of the balance between demand and supply and treat it accordingly. The PUCO’s initial comments in this proceeding were unequivocal that, “PRD is load which, based on a dynamic retail price, will respond to changes in wholesale market prices. Unlike a demand response resource, it does not ask for payment from the RTO or require the RTO to calculate a baseline. As smart grid and PRD are implemented, electricity markets will increasingly resemble competitive markets in other sectors of the economy where consumers naturally and seamlessly respond to changing prices.”[[5]](#footnote-5) Although PJM’s proposal includes a PRD credit, its only purpose is to clearly identify the economic impact of PRD for Load Serving Entities (LSEs) and consumers. As PJM’s written answers indicate, “Since PRD reduces peak load, it also effectively reduces the capacity obligation of the LSE that is responsible for the load at issue. The simplest way to effectuate this would be to subtract the Nominal PRD Value of all committed PRD for the LSE from the LSE’s expected peak load when determining the LSE’s capacity obligation.”[[6]](#footnote-6) PJM further illustrates that the PRD credit is the mathematical equivalent of deducting PRD from the LSE’s capacity obligation.[[7]](#footnote-7)

The PUCO observes that PRD is not the same as a supply-side demand resource. It is not discriminatory to provide the PRD credit to the LSE that has implemented dynamic retail pricing and not to a Curtailment Service Provider (CSP). A CSP does not have a capacity obligation. While in many instances no CSP may be involved in managing consumer responses to dynamic retail pricing, where CSPs are involved it will be as a service provider to the LSE or directly to a retail consumer. Therefore, the PUCO maintains that FERC should not adopt rules that limit innovation by effectively preempting CSP to consumer or CSP to LSE contractual relationships or state commission supervision of CSP services provided through regulated distribution utilities.

In addition, the PUCO maintains that attempting to impose the supply-side resource model on PRD will undermine the ability of the vast majority of consumers to participate in the market. As its initial comments illustrate, the proposed capability testing standard, which was borrowed from the resource model, unless modified by the Commission, would impose unnecessary, unreasonable, and discriminatory interruptions of service on residential and small consumers. It would not be appropriate, for example, to require actual retail prices to increase to $1,000 per MWh for one hour per year when wholesale prices are much lower, just to demonstrate that consumers will respond. Yet this or an equivalent service interruption could be required under a testing procedure that treats PRD as if it were a supply-side resource. Moreover, as the PUCO’s previous comments indicate, FERC should avoid discriminating against PRD compared to non-price responsive demand and direct PJM to develop alternative procedures to test the capability of back-up supervisory controls.

In sum, consistent with the PUCO’s initial comments, recognition of PRD is essential to the development of efficient markets. The PUCO encourages the Commission to approve implementation of the PRD tariff in accordance with the modifications proposed in our earlier comments and this letter. The Ohio Commission thanks FERC for the opportunity to reiterate its support for PRD.

Respectfully submitted,

*/s/ Thomas W. McNamee*

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**On behalf of**

**The Public Utilities Commission of Ohio**

# PROOF OF SERVICE

I hereby certify that the foregoing have been served in accordance with 18 C.F.R. Sec. 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**

Dated at Columbus, Ohio this February 29, 2012.

1. *In the Matter of the Commission's Review of Time-Differentiated and Dynamic Pricing Options for Retail Electric Services*, Case No. 12-150-EL-COI (Entry) (January 11, 2012). [↑](#footnote-ref-1)
2. *Id.* at 1. [↑](#footnote-ref-2)
3. *In the Matter of the Commission's Review of Time-Differentiated and Dynamic Pricing Options for Retail Electric Services,* Case No. 12-150-EL-COI (Entry) (January 11, 2012). [↑](#footnote-ref-3)
4. *In the Matter of the Application of Columbus Southern Power Company to Establish a New Experimental Real-Time Pricing Schedule for Residential Customers Participating in the gridSMART Program*, Case No. 11-1355-EL-ATA (Finding and Order) (June 29, 2011). [↑](#footnote-ref-4)
5. Comments submitted on behalf of the Public Utilities Commission of Ohio at 6, Docket No. ER11-4628-000 (October 12, 2011). [↑](#footnote-ref-5)
6. PJM Interconnection, Correspondence to FERC (February 10, 2012). [↑](#footnote-ref-6)
7. *Id.* [↑](#footnote-ref-7)