

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

PJM Interconnection, L.L.C.

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Docket No. ER21-2877

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**PROTEST OF THE PUBLIC UTILITIES COMMISSION OF OHIO**

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Pursuant to 18 C.F.R. Section 385.211 of the Federal Power Act (FPA) and Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC or the Commission), the Public Utilities Commission of Ohio (PUCO) respectfully requests consideration of the following protest in response to PJM Interconnection LLC's (PJM's) compliance filing concerning certain proposed revised pre-auction deadlines, request for waiver of its auction deadlines, and motion for a shortened comment period submitted on September 10, 2021. The PUCO intervened in this docket on September 16, 2021 and is, therefore, a party to this proceeding.

**I. BACKGROUND**

Due to FERC-ordered delays in the annual PJM capacity auction schedule as the Commission was considering filings related to PJM's Minimum Offer Price Rule (MOPR), PJM did not hold a base residual auction (BRA or auction) in May of 2019 or June of 2020.<sup>1</sup> On December 19, 2019, FERC approved an "expanded" MOPR for PJM.

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<sup>1</sup> FERC Dockets EL16-49 and EL18-178; delaying capacity auction for the 2022-2023 Delivery Year, 168 FERC ¶ 61,051, July 25, 2019. The auction for 2023-2024 Delivery Year was also delayed pending the outcome of PJM's compliance filings in EL16-49, EL18-178, and ER18-1314-003 (consolidated), March 18 and June 1, 2020.

PJM responded, as required, on March 18, 2020 and June 1, 2020 by filing proposed tariff changes to implement the expanded MOPR in its capacity market. In the compliance filings, PJM proposed awaiting final Commission action before implementing the expanded MOPR and a BRA schedule for the 2022-2023 Delivery Year and the following three delivery years. On October 22, 2020, FERC issued an order on compliance allowing the restart of PJM pre-auction activities in advance of PJM's May 19, 2021 BRA for the 2022-2023 and subsequent delivery years.

PJM filed an extension in this proceeding on September 10, 2021 after FERC adopted a new methodology to determine a unit-specific offer cap. According to PJM, the market sellers must submit and PJM and the IMM must review the unit-specific offer caps in advance of the currently scheduled December 2021 BRA for the 2023-2024 Delivery Year. FERC's Order on revisions to unit-specific offer caps was issued on September 2, 2021, and, therefore, according to PJM, the current pre-auction deadlines do not leave enough time for review of the offers ahead of the currently scheduled December 2021 BRA. Additionally, PJM proposes to delay future auction dates as this one change will result in cascading changes to the subsequently scheduled auctions as follows:

#### **Updated PJM RPM Auction Schedule Through the 2026/2027 Delivery Years**

Auction	Current	Proposed
2023/24 BRA	December 1, 2021	January 25, 2022
2024/25 BRA	June 15, 2022	August 9, 2022
2025/26 BRA	January 4, 2023	February 28, 2023
2026/27 BRA	May 17, 2023	August 29, 2023

## **II. SUMMARY AND RECOMMENDATION**

The PUCO reminded FERC throughout the MOPR proceeding of the imperative for FERC acting “definitively and swiftly” in decision making, particularly where it affects the PJM auction schedules for upcoming delivery years.<sup>2</sup>

While PJM proposes what it terms as a “modest” 55-day delay in the 2023/2024 Delivery Year BRA due to FERC’s recent Order on offer caps, the effect of the delay of the December 2021 auction and the proposed delays in the additional BRAs are not modest and are in fact, harmful to the state auction process for default service. To be clear, the PUCO does not fault PJM for its proposed delay as PJM is reacting to the Orders issued by the Commission. However, both FERC and PJM should be aware of the unintended consequences of further auction delays to the PUCO’s retail auctions and auction participants.

Therefore, in order to maintain the certainty around the current PJM auction schedule and the resulting retail default service auctions, the PUCO recommends retention of the current PJM auction schedule and its required second auction in December of 2021. While there may be additional work for Capacity Market Sellers, PJM and the IMM in order to avoid the harm detailed herein to the PUCO’s retail default service auctions, PJM’s current schedule, including the December 2021 BRA, must proceed as scheduled. The PUCO recommends that FERC direct PJM to compress some of its pre-auction deadlines in order to meet current December 2021 scheduled date.

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<sup>2</sup> FERC Dockets EL16-49, EL18-178, and ER18-1314-003 (consolidated): PUCO Rehearing Application, at P. 26. January 21, 2020. Comments of the PUCO on PJM’s Compliance Filing at P. 14-15, June 1, 2020.

Rescheduling of the subsequent BRAs is not needed if the December 2021 auction remains unchanged as the PUCO recommends.

### **III. COMMENTS**

#### **A. Ohio Default Service Auctions**

As a reminder, Ohio's regulated electric distribution utilities (EDUs) rely upon a competitive bid auction process to procure generation service for non-shopping customers, similar to programs in other retail choice jurisdictions. These auctions ensure the availability of reliable electricity service at competitive prices for customers who do not avail themselves of the opportunity to shop for their own supplier. Ohio's auctions are nondiscriminatory and are not preferential to any resource type. The auctions are held *after the capacity price has been established by PJM for the relevant delivery year*, so suppliers can incorporate the costs of the capacity obligation into their bids. An independent auction administrator conducts the auctions on behalf of the distribution utility and the PUCO employs an independent consultant to ensure the outcomes are competitive and consistent with wholesale market conditions. The resulting auction prices establish the default service "price to compare" that also serves as an important competitive benchmark against which other offers available in the retail marketplace can be measured.

#### **B. Delay of Auction Implementation Schedule**

The PUCO believes it is critically important to preserve, to the extent possible, the wholesale price signals that incent market entry and exit and that provide the certainty of

future revenue streams to facilitate price discovery and supplier contracting. For the majority of the history of PJM's RPM, such wholesale price signal was planned and executed in May of each year, providing necessary certainty (three years forward) for retail suppliers in the PUCO's default service auctions. Due to the uncertainty created by FERC's previous delays of the 2019 and 2020 PJM BRAs, the PUCO has expended resources of staff and industry to revise our retail default auction schedules and products.<sup>3</sup>

Now, however, after establishing new auction dates in our four EDU territories, based on PJM's currently established multi-year auction schedule, the PUCO must revise, once again, its retail auction planned for early January of 2022 if PJM's proposal is approved. Just like PJM's BRA, there are pre-auction activities for default service auctions required prior to the date of the actual auction. As explained earlier, the PUCO's retail auctions and pre-auction activities are only held after the capacity price has been established by PJM for the relevant delivery year.

What is more, beyond the administrative burden to the PUCO and industry participants of rescheduling auction and pre-auction activities is the potential impact the delay has on supplier bids in the auctions under a delayed scenario. While the PUCO is not in the position to predict the outcome of any future auction, it must be noted that cost inputs to suppliers are likely higher now than they were a year ago or two years ago. For example, natural gas prices would have been lower at the time the auctions should have been held but for the delay. As noted by many sources, wholesale natural gas prices have

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<sup>3</sup> PUCO Case No. 16-776-EL-UNC, et.al., June 16, 2021.

significantly increased this summer to highs not experienced in the last seven years and are expected to trend even higher in the upcoming winter months.<sup>4</sup> Therefore, the staggering and laddering of the current auction products are not as effective if the PUCO must continue to limit the procurement of each auction to one 12-month product due to the uncertainty of PJM's auction schedule.

### **C. Resolution of MOPR**

As the Commission is aware, PJM's revised MOPR proposal is currently pending. The PUCO is concerned that history will repeat itself and further delay will be necessary pending resolution of that docket. In our recent joint protest of PJM's MOPR filing, the Ohio and Pennsylvania Commissions urged the rejection of PJM's proposal but once again recommended the December 2021 auction occur as scheduled:

If FERC rejects PJM's Section 205 filing, the Commission should not delay the December BRA...Therefore, allowing the December BRA to occur as scheduled would be preferable as near-term negative impacts are not expected. *PJM's capacity market has experienced enough delay already, with three years lapsing between the 2021/2022 and 2022/2023 BRAs. A delay in the December auction may impair state retail DSPs, as well as investment decisions and energy planning for many market participants.* A Section 206 proceeding can be accomplished within a timeframe that provides for a revised MOPR that may apply for the following 2024/2025 BRA, to be held in June 2022.<sup>5</sup>

The rationale to continue with the December 2021 auction is the same today as it was when Ohio and Pennsylvania's joint protest was filed one month ago and the pending

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<sup>4</sup> See, just one article of many: <https://www.cnn.com/2021/09/09/natural-gas-prices-are-rising-and-could-be-the-most-expensive-in-13-years-this-winter.html>

<sup>5</sup> FERC Docket ER21-2582, Joint Protest of the Pennsylvania and Ohio Public Utilities Commissions at P. 19 -20, August 20, 2021. Emphasis added.

MOPR should not be used yet again as the reason to delay the upcoming December 20, 2021 auction.

#### **IV. CONCLUSION**

The PUCO recommends that to maintain certainty and to preserve important wholesale price signals, retention of the current PJM auction schedule -- including the current December 2021 BRA -- should remain unchanged by compressing some of PJM's proposed pre-auction deadlines. As a result, all subsequent BRAs can proceed as scheduled. While the PUCO understands there may be more work for Capacity Market Sellers, PJM and the IMM, the PUCO will be harmed by continued uncertainty and administrative complexity due to further delays in the auction schedule whether that is for revisions because of offer caps, MOPR, or any additional changes to PJM's tariff. In deciding whether to adopt PJM's waiver request, the PUCO respectfully urges FERC to consider the downstream impact of its decisions regarding revisions to PJM's current BRA dates not just to the PUCO but to our retail default service auction managers, participants/suppliers, EDUs, ratepayers, and others.

Respectfully submitted,

**Dave Yost**  
Ohio Attorney General

**John H. Jones**  
Section Chief

*/s/ Thomas G. Lindgren*

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**On Behalf of The Public Utilities  
Commission of Ohio**



## **CERTIFICATE OF SERVICE**

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

*/s/ Thomas Lindgren*

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**Thomas Lindgren**

Assistant Attorney General

Dated at Columbus, Ohio, this September 20, 2021.

**This foregoing document was electronically filed with the Public Utilities**

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Summary: Motion Protest of the Public Utilities Commission of Ohio electronically filed by Mrs. Kimberly M. Naeder on behalf of PUCO