

Old Dominion Electric Cooperative (“ODEC”) appreciates the opportunity to participate in this timely discussion, on behalf of its member distribution cooperatives as well as in ODEC’s capacity as a member of the National Rural Electric Cooperative Association (“NRECA”). During the technical conference, Mr. Cocco will elaborate on the points below and respond to certain questions posed in the Commission’s Supplemental Notice of Technical Conference issued in this proceeding on April 13, 2017. This statement is intended to provide background on ODEC and NRECA’s interests on the issues posed by the roles of wholesale markets and state policies, as well as proposed principles and a recommendation for initial next steps.

I. DESCRIPTION OF ODEC AND NRECA

A. ODEC

ODEC is a not-for-profit power supply electric cooperative, organized and operating under the laws of Virginia and subject to FERC jurisdiction. ODEC is a generation-owning utility which supplies capacity and energy to its eleven electric distribution cooperative members, all of which are located within the PJM Interconnection, L.L.C. (“PJM”) control area. ODEC is a network transmission customer of PJM, as well as a PJM Transmission Owner. As a load-serving entity (“LSE”) in the PJM region, ODEC has a critical interest in the Commission’s efforts to ensure wholesale electric markets which provide reliable, safe energy to consumers at rates that are just, reasonable and not unduly discriminatory or preferential.

B. NRECA

America’s Electric Cooperatives bring power to 75 percent of the nation’s landscape and 12 percent of the nation’s electric customers, while accounting for approximately 11 percent of all electric energy sold in the United States. NRECA’s member cooperatives include 65 generation and transmission (“G&T”) cooperatives and 840 distribution

cooperatives. The G&Ts are owned by the distribution cooperatives they serve. NRECA members generate approximately 50 percent of the electric energy they sell and purchase the remaining 50 percent from non-NRECA members. Both distribution and G&T cooperatives share an obligation to serve their members by providing safe, reliable, and affordable electric service. NRECA's members participate in all of the organized wholesale electricity markets as well as single Balancing Authority Areas (BAAs) throughout the country.

II. PRINCIPLES FOR WHOLESALE MARKETS AND STATE POLICIES IN EASTERN RTOs and ISOs

As recognized in the Notice of Technical Conference, wholesale markets have evolved over time to address a myriad of issues and must continue to do so in order to accommodate state policies. ODEC encourages the Commission to take this proactive, planned and negotiated approach to these issues as opposed to resolving them through litigation or some form of re-regulation by states. However, ODEC also cautions against the Commission acting too quickly or too forcibly on these issues. As past experience dictates, there can be unintended adverse consequences for customers in reaction to state policies that impact wholesale markets. ODEC believes the Commission should adopt the following principles to be observed as the Commission acts in response to and in coordination with state policies:

- A. Maintain a focus on reliable service at just and reasonable rates for end-use customers.** The Commission's focus should remain on the efficacy of wholesale markets at serving customers at just and reasonable rates. While this will necessarily involve ensuring sufficient incentives – through price signals – for needed investment, ensuring that generators recover their “missing money” must not become the goal, particularly as the primary reasons for generator under recovery are market driven as opposed to market design driven.
- B. Ensure that LSEs' long-term investments in generation are honored and encouraged.** The capacity construct in PJM has intentionally evolved from a market

of last resort to a mandatory source of capacity procurement.¹ The Commission should take renewed caution and commitment to honoring the long-term resource investments by LSEs (“Self-Supply”) like ODEC and other NRECA members, as a priority with precedence over forced reliance on the centralized capacity constructs. Significantly, the Commission must ensure against load paying twice for capacity, once through the investment in resources and then a second time when those resources do not clear in the RPM auctions.

C. Avoid the volatility of repeated, reactionary revisions to market designs. The Commission should assist market participants by providing certainty in market design. The cycle of action by the states or other factors, followed by reaction by market participants and/or RTOs through market design changes, has left market participants “punch drunk.” We appreciate the Commission’s efforts to balance the need for stability in market design while also ensuring that rules change as necessary to accommodate market changes and policy developments.

D. Adopt wholesale market policies which encourage resource diversity and accommodate legitimate state policy objectives.

E. Allow regional flexibility.

The experience with RPM in PJM provides an example of the need to adopt principles. RPM was initially approved as a residual mechanism to achieve resource adequacy at a reasonable cost. Over time, there have been repeated and significant design changes which have made it far more complex and uncertain for LSEs to use their own resources in order to meet their capacity obligation. One particular example of the unintended consequences of reaction to state policies is the Minimum Offer Price Rule (“MOPR”) – PJM’s RPM mechanism to address buyer-side market power. Initially, new capacity resources which resulted from state procurement were exempt from the MOPR and self-supplied resources by LSEs were guaranteed to clear the MOPR, although they were not able to artificially depress clearing prices.² In reaction to

¹ See *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331 at P 71 (2006) (in approving PJM’s Reliability Pricing Model (“RPM”), the Commission defined and approved it as a residual market where “. . . after LSE’s have had the opportunity to procure capacity on their own, it is reasonable for PJM to procure capacity in an open auction at a time when further delay in procurement could jeopardize reliability. This, however should be a last resort.”)

² The prior MOPR clearing exemption for self-supply resources meant that when a sell offer from a self-supply resource triggered the MOPR, an offer floor and replacement clearing price would be established but the self-supply was nevertheless assured of clearing. See *Motion to Intervene, Protest, and Request*

initiatives by Maryland and New Jersey, the Commission approved rule changes to eliminate the guaranteed clearing for self-supply as well as the state exemption.³ In doing so, the Commission acknowledged that “the purpose and function of the MOPR is not to unreasonably impede the efforts of resources choosing to procure or build capacity under long-standing business models.”⁴ In reaction to concerns expressed by LSEs that the MOPR revisions threatened their long-standing business models, PJM reiterated that “efforts in this area must be sensitive to the possibility of unintended consequences, and must ensure that legitimate new entry is not deterred.”⁵ In an effort to correct these unintended adverse consequences on load while still protecting against the possibility of artificial price suppression, PJM submitted a negotiated resolution which created the MOPR Competitive Entry and Self-Supply Exemptions.⁶ As opposed to modifications to the MOPR in reaction to state policies, the Commission should look to the individual RTOs to develop specific, non-MOPR market design revisions that will protect the integrity of the market without causing adverse consequences on consumers.

III. ADDITIONAL CONSIDERATIONS

Much of the discussion for market design is around “economics.” State action and investments by LSEs which might seem uneconomic in the short-term can nevertheless be economic in the long-term. For example, LSEs like ODEC invest in resources with a long-term view. Having made those investments, it is critical to LSEs that their self-supply clear the market, even if as a price taker, because they are recovering sunk cost. They might also, for

for Rejection or, in the Alternative, Further Procedures of the National Rural Electric Cooperative Association, filed March 4, 2011, in Docket Nos. EL11-20-000, *et al.*, at 13-14.

³ *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,022 (2011); *order on reh’g*, 137 FERC ¶ 61,145 (2011), *order on reh’g*, 138 FERC ¶ 61,194 (2012).

⁴ *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,145 (2011) at P 208.

⁵ *Comments of PJM Interconnection, L.L.C. on Technical Conference*, filed in Docket Nos. ER11-2875, *et al.* on August 29, 2011, at page 5.

⁶ *PJM Interconnection, L.L.C.*, 143 FERC ¶ 61,090 (2013); *order on reh’g*, 153 FERC ¶ 61,066 (2015); *appeal pending*.

some period of time, have an excess of capacity as their load grows into their resource investment. This “lumpiness” is not a sign of uneconomic entry, it is part of a long-standing business model that should be encouraged.⁷

ODEC also encourages the Commission to look to the work of RTOs and their stakeholders, in the first instance. Consistent with regional flexibility, each RTO/ISO develops responses to state policies and those efforts should be encouraged. An example of PJM’s efforts is provided in the statement of Andrew Ott, PJM’s President and CEO, submitted in this proceeding on April 21, 2017.

ODEC looks forward to addressing these issues during the technical conference on May 1-2, 2017, as well as in post-conference comments.

Respectfully submitted,

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⁷ See *Motion to Intervene, Protest and Request for Rejection or, in the Alternative, Further Procedures of the National Rural Electric Cooperative Association*, filed in Docket Nos. EL11-20, *et al.* on March 4, 2011, and includes an Affidavit of Dr. Laurence Kirsch and Dr. Matthew Morey which addresses these issues.