

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

Governor Josh Shapiro and the Commonwealth of Pennsylvania	)	
	)	
v.	)	Docket No. EL25-46-000
	)	
PJM Interconnection, L.L.C.	)	

**COMMENTS OF  
AMERICAN MUNICIPAL POWER, INC.**

On December 30, 2024, Governor Josh Shapiro and the Commonwealth of Pennsylvania (“Pennsylvania”) filed a complaint in the above-captioned docket under section 206 of the Federal Power Act (“FPA”)<sup>1</sup> against PJM Interconnection, L.L.C. (“PJM”),<sup>2</sup> asking the Federal Energy Regulatory Commission (“Commission” or “FERC”) to: (1) find that the maximum price specified for the Variable Resource Requirement (“VRR”) curve under PJM’s Reliability Pricing Model (“RPM”) is unjust and unreasonable; and (2) establish a just and reasonable replacement maximum price until the next Quadrennial Review of the VRR curve.<sup>3</sup> American Municipal Power, Inc. (“AMP”) urges the Commission to grant the Complaint.

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<sup>1</sup> 16 U.S.C. § 824e.

<sup>2</sup> Pennsylvania, Complaint, Docket No. EL25-46-000 (December 30, 2024) (“Complaint”).

<sup>3</sup> See *id.* at 4-5. Pennsylvania argues that “the capacity price cap should be set at the greater of 1.5 times Net [Cost of New Entry (‘CONE’)] or 1.5 times the RTO Net CONE in constrained [Locational Deliverability Areas (‘LDAs’)]. If Net CONE is higher in an LDA, that LDA would use the LDA specific Net CONE, otherwise 1.5 times RTO-wide Net CONE would be the maximum price.” *Id.* at 32. Pennsylvania also asks the Commission to establish a refund effective date as of the date of the Complaint. See Complaint at 4.

## I. INTRODUCTION

Pennsylvania's Complaint joins a flurry of recent filings by PJM and other complainants proposing changes to the RPM construct in the wake of the sharp increase in clearing prices in the Base Residual Auction ("BRA") for the 2025/2026 Delivery Year (i.e., the 2025/2026 BRA).<sup>4</sup> While some of the proposed changes in these previous filings have merit and others do not, the spate of filings only emphasizes RPM's failure to meet its stated goal of "ensur[ing] the adequate availability of necessary resources that can be called upon to ensure the reliability of the grid"<sup>5</sup> at costs that are just and reasonable for consumers.

AMP shares the concerns regarding the increase in 2025/2026 BRA clearing prices, and agrees that reforms to PJM's resource adequacy construct are imperative. Continued tinkering with discrete aspects of RPM, however, is unlikely to achieve optimal or durable resource adequacy reform in PJM – a sentiment with which Pennsylvania appears to agree.<sup>6</sup> Each "one-off" change to RPM inevitably prompts one or more additional modifications, with the result that the construct never achieves needed stability.<sup>7</sup> Regardless of the outcomes of the various pending RPM-related dockets, the

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<sup>4</sup> See PJM, Revisions to Reliability Pricing Model, Docket No. ER25-682-000 (Dec. 9, 2024); PJM, Extending the Capacity Must-Offer Requirement to All Generation Capacity Resources, Docket No. ER25-785-000 (Dec. 20, 2024); Sierra Club, *et al.*, Complaint, Docket No. EL24-148-000 (Sept. 27, 2024); Joint Consumer Advocates, Complaint, Docket No. EL25-18-000 (Nov. 18, 2024).

<sup>5</sup> PJM, Manual 18 – Capacity Market (Rev. 59), at 12 (June 27, 2024).

<sup>6</sup> See Complaint at 31 ("The Commonwealth agrees that long-term stability is an important attribute of any capacity market model and strongly supports reaching a sustainable, durable capacity model as soon as possible.").

<sup>7</sup> *Cf.*, *PJM Interconnection, L.L.C.*, 182 FERC ¶ 61,073 (2023) (Christie, Comm'r, concurring at P 2) ("This proposal is only the latest example — and one of the worst in its hopeless complexity — of the endless Rube Goldberg tinkering with the minute details of the capacity market construct. Such tinkering with the rules has gone on for years and never reaches a point of stability, yet stability of market design is essential to attract the necessary capital investment in capacity resources.").

Commission should encourage PJM to focus available resources on open and inclusive discussions regarding reliability-focused initiatives that more holistically and constructively address resource adequacy concerns in PJM.

In the meantime, Pennsylvania accurately identifies fundamental problems with applying the existing maximum price under circumstances as they currently exist in PJM – problems that warrant an immediate solution.<sup>8</sup> The Complaint correctly explains that there is no practical way for a meaningful level of supply to respond to the RPM price signal because of PJM's backlogged interconnection queue and the compressed time between upcoming BRAs and the corresponding Delivery Years. As a result, the high maximum price that is intended to encourage such entry is likely instead to produce an “unjust wealth transfer,”<sup>9</sup> by imposing enormous costs on consumers without a commensurate reliability benefit.<sup>10</sup> As an interim solution until the next Quadrennial Review, Pennsylvania proposes to set the maximum price at a level lower than dictated by the current RPM rules. While the Complaint proposes establishing a maximum price of 1.5 times Net CONE and this could be a reasonable replacement rate, AMP submits that it would be more appropriate to set the maximum price at 1.0 times Net CONE until the next Quadrennial Review.

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<sup>8</sup> See Complaint at 31-32.

<sup>9</sup> *Id.* at 1.

<sup>10</sup> See *id.* at 4, 14.

## II. COMMENTS

### A. The Complaint demonstrates that application of the existing maximum price would be unjust and unreasonable under current circumstances in PJM.

As the Complaint explains, the maximum price reflected in the VRR curve is currently set at the higher of Gross CONE or 1.75 times Net CONE.<sup>11</sup> Pennsylvania's core contention is that a cap at either of these levels is unjust and unreasonable given the inability of resource developers to respond to high RPM clearing prices that are driven by unexpected load growth and prior piecemeal changes to the RPM construct.<sup>12</sup> A key principle of PJM's three-year forward auction framework is that potential new entrants will have adequate time to respond to price signals created by auction clearing prices.<sup>13</sup> Pennsylvania correctly points out that a clogged interconnection queue and the compression of time between BRAs and their corresponding Delivery Years have undermined this foundational assumption.<sup>14</sup> Pennsylvania is not alone in identifying these concerns; PJM's own experts have issued similar warnings.<sup>15</sup>

The Complaint establishes that applying the existing maximum price under the circumstances prevailing in PJM would be unjust and unreasonable. Although the

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<sup>11</sup> See *id.* at 8-10; see also, e.g., *PJM Interconnection, L.L.C.*, 182 FERC ¶ 61,073, at PP 146, 157-60 (2023). Gross CONE is the projected cost of new entry for the Reference Resource. Net CONE is equal to Gross CONE less the energy and ancillary ("EAS") revenues the Reference Resource is projected to earn in the PJM markets. See Complaint at 7.

<sup>12</sup> See generally Complaint at 1-4.

<sup>13</sup> See, e.g., *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,318, at P 92 (2007) ("We agree with PJM that holding an auction three years in advance of the delivery year provides adequate time for the development of new generation facilities, or other solutions, along with equally important incentives for bringing these solutions to market.").

<sup>14</sup> See, e.g., Complaint at 17-19.

<sup>15</sup> See *id.* at 1 n.1 (citing PJM, Revisions to Reliability Pricing Model, Docket No. ER25-682-000 (Dec. 9, 2024), Attachment C, Affidavit of Dr. Samuel A. Newell at ¶ 18, and Attachment D, Affidavit of Walter Graf and Skyler Marzewski at ¶ 41(c)).

Commission previously approved the maximum price, the Complaint demonstrates that under current circumstances the cap cannot serve its intended function of facilitating a robust response by suppliers to narrowing reserve margins, and the cap must therefore be revisited.<sup>16</sup> The goal of RPM is to align capacity pricing with system reliability requirements and to provide transparent data to all market participants sufficiently far in advance to allow action on that information. PJM has sought, and the Commission has granted, delays of RPM auctions, including to the 2026/2027 BRA, which is now slated to commence in July 2025, just eleven months before the Delivery Year. These delays have been accompanied by piecemeal changes (including PJM's pending proposals) that have ignored the critical tenet of providing timely actionable pricing information. Price signals that are not actionable equally fail capacity resource providers and consumers, and are unjust and unreasonable.<sup>17</sup>

The Complaint shows that, absent the ability to incent meaningful new entry, RPM revenues will serve primarily to provide "missing money" to Existing Capacity Resources.<sup>18</sup> Pennsylvania establishes, however, that the current maximum price "is far higher than necessary to achieve that purpose."<sup>19</sup> Further, the Complaint demonstrates

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<sup>16</sup> See, e.g., *Tesoro Alaska Petroleum Co. v. FERC*, 234 F.3d 1286, 1288 (D.C. Cir. 2000) (explaining that a "rate order must be modified where new evidence warrants the change." (internal quotes and citations omitted)).

<sup>17</sup> See, e.g., Complaint at 4 ("Allowing a capacity auction to proceed with a cap that, because of changing real world circumstances, fails to protect consumers across the PJM region from bearing astronomical costs that will not produce a commensurate benefit, gravely undermines public confidence in the essential fairness of PJM's capacity market and is unjust and unreasonable.").

<sup>18</sup> *Id.* at 19.

<sup>19</sup> *Id.*

that any supply that might be able to respond to a BRA clearing price at the current maximum price would not provide reliability benefits commensurate with the cost.<sup>20</sup>

Reviewing the rationales for the current maximum price structure, the Complaint shows that “each of the principal motivations for introducing the higher cap to be used in the next auction has vanished.”<sup>21</sup> The Commission has, for example, upheld the use of Gross CONE as a maximum price alternative to serve as a backstop in the event that Net CONE is set too low<sup>22</sup> – a situation that the Complaint argues is unlikely to occur in the next two auctions provided the Commission accepts PJM’s proposal in Docket No. ER25-682-000 to retain a combustion turbine as the Reference Resource.<sup>23</sup> The Complaint similarly explains that the rationales for adopting the 1.75 times Net CONE maximum price alternative as part of the Fifth Quadrennial Review have been eclipsed.<sup>24</sup> It is also notable that PJM justified the maximum price increase from 1.5 to 1.75 times Net CONE, in part, on the switch from a combustion turbine to a combined-cycle unit as the Reference Resource.<sup>25</sup> Given PJM’s proposal in Docket No. ER25-682-000 to retain a gas-fired combustion turbine as the Reference Resource until the next Quadrennial Review, the Complaint convincingly argues that the Commission should also revisit the increase in

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<sup>20</sup> See *id.* at 21-22.

<sup>21</sup> *Id.* at 4; see also *id.* at 8-10.

<sup>22</sup> See *PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,153, at P 330 (2020).

<sup>23</sup> Complaint at 23 (“Net CONE-based capacity prices are expected to remain elevated, or even at record highs, for the foreseeable future. This removes the feasibility of the ‘extreme scenario’ that the Commission feared occurring before the next Quadrennial Review.”).

<sup>24</sup> See *id.* at 27-29.

<sup>25</sup> See *id.* at 30 (citing PJM, Docket No. ER22-2984-000, Periodic Review of Variable Resource Requirement Curve Shape and Key Parameters, at 19 (Sept. 30, 2022)).

the cap on the auction clearing price that was premised on the Reference Resource change.<sup>26</sup>

In sum, the Complaint establishes that the current VRR curve maximum price is unjust and unreasonable given the current circumstances in PJM, particularly the inability for a meaningful level of new supply to respond to the BRA price signal.

**B. The Commission should adopt a replacement rate that sets the maximum price no higher than 1.5 times Net CONE.**

Where a complainant shows that an existing rate is unjust and unreasonable, the Commission must establish a just and reasonable replacement rate.<sup>27</sup> Here, Pennsylvania proposes that the maximum price be set at “no more than 1.5 times Net CONE.”<sup>28</sup> Specifically, the Complaint suggests that the cap “be set at the greater of 1.5 times Net CONE or 1.5 times the RTO Net CONE in constrained LDAs.”<sup>29</sup> The Complaint further observes that “[i]f Net CONE is higher in an LDA, that LDA would use the LDA specific Net CONE, otherwise 1.5 times RTO-wide Net CONE would be the maximum price.”<sup>30</sup> Pennsylvania argues that “1.5 times Net CONE is a conservative, reliability-centric price cap”<sup>31</sup> that accords with historical practice and PJM’s proposed retention of a combustion turbine as the Reference Resource.<sup>32</sup>

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<sup>26</sup> *Id.*

<sup>27</sup> 16 U.S.C. § 824e(a); *see also Advanced Energy Mgmt. Alliance v. FERC*, 860 F.3d 656, 663 (D.C. Cir. 2017).

<sup>28</sup> Complaint at 5.

<sup>29</sup> *Id.* at 32.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 29.

<sup>32</sup> *Id.* at 29-30.

While the Commission could conclude that 1.5 times Net CONE is an appropriate maximum auction clearing price for the reasons Pennsylvania cites, AMP respectfully submits that 1.0 times Net CONE would be a more appropriate cap pending the next Quadrennial Review. Net CONE represents the level of capacity revenue necessary to supply the “missing money” for the Reference Resource.<sup>33</sup> The inability of new entry to respond to BRA price signals in significant amounts in the next two BRAs means that RPM revenues will only serve the function of supplying missing money, as discussed above. As such, it would be appropriate to set the maximum price at Net CONE.

The Complaint itself suggests that Net CONE would be a more appropriate cap than 1.5 times Net CONE. Pennsylvania observes that 1.0 times Net CONE is the “theoretically exactly correct” maximum price when the BRA cannot prompt new entry.<sup>34</sup> While Pennsylvania expresses concern that reference units would not be properly compensated if an auction clearing price cap of Net CONE were underestimated, the Complaint acknowledges that such a scenario is “unlikely.”<sup>35</sup> Indeed, the Complaint specifically notes that “[e]mpirical observation indicates that PJM may have historically *overestimated* Net CONE, as capacity additions have occurred even when prices were

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<sup>33</sup> See, e.g., *PJM Interconnection, L.L.C.*, 182 FERC ¶ 61,073 at P 30 (“PJM states that . . . given that ‘the capacity market was always supposed to provide ‘the missing money’ for achieving a higher target reserve margins than the energy-only market equilibrium . . . it makes sense to estimate the missing money (i.e., Net CONE) for the technology that best meets the criteria for selecting the Reference Resource, not for one that is uneconomic and not being built throughout the PJM footprint.” (internal citations omitted)); *id.* at P 144 (“PJM asserts that the basic design premise of RPM often recognized by the Commission is that PJM energy, capacity, and ancillary service markets will provide sufficient revenue to support new entry, and Brattle’s simulations therefore converge at a market-determined Net CONE.”).

<sup>34</sup> Complaint at 29.

<sup>35</sup> *Id.*



below the Net CONE, effectively revealing a lower market derived Net CONE.”<sup>36</sup> Pennsylvania further observes that “[t]he use of a reference resource . . . that is generally more expensive to build and operate than the majority of resources currently seeking to join the PJM grid also suggests that Net CONE may be a *conservative figure* for attracting new entry in this market environment.”<sup>37</sup> Accordingly, AMP submits that the Complaint itself indicates that Net CONE would be a more appropriate price cap, and the Commission should set the maximum price at Net CONE until the next Quadrennial Review.<sup>38</sup> Under no circumstances, however, should the maximum price exceed the 1.5 times Net CONE proposed by Pennsylvania.

### III. CONCLUSION

WHEREFORE, for the foregoing reasons, American Municipal Power, Inc. respectfully requests that the Commission: (1) grant the Complaint in this proceeding; and (2) require PJM to set at 1.0 times Net CONE the BRA auction clearing maximum price contained in the VRR curves for the 2026/2027 and 2027/2028 BRAs.

Respectfully submitted,

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DATED: January 21, 2025

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<sup>36</sup> *Id.* (emphasis added, internal quotes and citations omitted).

<sup>37</sup> *Id.* at 29 n.104 (emphasis added).

<sup>38</sup> Consistent with the Complaint’s proposal, the maximum price in constrained LDAs should be set at the greater of the LDA Net CONE or the RTO Net CONE.

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 21st day of January, 2025.

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