

Prepared Testimony of

Stephen M. DeFrank

Chairman, Pennsylvania Public Utility Commission

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Pennsylvania Senate Environmental Resources & Energy
Committee, the Pennsylvania Senate Consumer Protection
and Professional Licensure Committee, the Ohio Senate
Energy & Public Utilities Committee, and Members of the
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Pennsylvania Public Utility Commission

400 North Street

Harrisburg, Pennsylvania 17120

Telephone (717) 787-4301

<http://www.puc.pa.gov>

Introduction

Good morning, Chairman Yaw, Chairwoman Comitta, Chairman Stefano, Chairwoman Boscola, Chairman Reineke, Chairman Stein, members of the Pennsylvania Senate Environmental Resources & Energy Committee, the Pennsylvania Senate Consumer Protection and Professional Licensure Committee, the Ohio Senate Energy and Public Utilities Committee, and members of the Ohio House of Representatives. I am Stephen M. DeFrank, Chairman of the Pennsylvania Public Utility Commission (PUC or Commission). I am pleased to be here today and offer my remarks regarding the Commission's communications and wholesale electricity market advocacy at PJM Interconnection LLC (PJM) and at the Federal Energy Regulatory Commission (FERC).

Organization of PJM States, Inc.

The Commission maintains an active voice of advocacy at PJM and FERC. One of the most important mediums utilized by the Commission to establish this voice is the Organization of PJM States, Inc. (OPSI). Established in 2005, OPSI is an inter-governmental organization comprised of utility regulators from each of the 14 jurisdictions in which PJM operates. The OPSI organization fosters coordination among these 14 regulatory entities to advance data sharing, analysis formulation, and policy considerations on all manner of matters concerning PJM and associated FERC oversight. Of important note, the actions and coordination of OPSI members in no way infringe on the rights and opportunities for each of the member regulatory agencies to advocate individually on issues they deem important.

Pennsylvania, like Ohio, actively participates in weekly meetings held by OPSI, wherein Commissioners and their staff regularly discuss and explicate issues at PJM and FERC. I sit on OPSI's Board of Directors as Pennsylvania's representative.

OPSI's various policy deliberations often result in the organization publicly voicing its positions or concerns. Such correspondence is voted on by each OPSI member and any opposition or abstention votes by members are explicitly detailed within the applicable correspondence. The ways and means by which OPSI advocates can be generally encompassed within the following actions.

- Directing the OPSI Chairman to officially contact PJM executives.
- Issuing letters to the PJM Board of Managers.
- Making filings at FERC.
- Making filings in Federal District Courts.
- Publicly releasing resolutions.
- Voicing positions within PJM's stakeholder processes.

Recent examples of such advocacy correspondence include the following. I note

that OPSI's website includes all official actions of OPSI.¹

- September 25, 2023, Comments to FERC supporting a protest filed by the Maryland Public Service Commission (Maryland PSC). Here, OPSI joined to support a complaint by the Maryland PSC questioning PJM's procedures for determining transmission upgrades in response to a unit retirement in the state of Maryland. Pennsylvania voted to abstain from support of this pleading.
- August 30, 2023, Letter to PJM's Board of Managers espousing positions on PJM's proposed capacity reforms. Positions included support for a more granular capacity design and more stringent unit testing while opposing a categorical exemption of must-offer requirements for intermittent and storage resources. Pennsylvania supported this letter.
- August 18, 2023, Letter to the PJM's Board of Managers requesting a board-to-board meeting to discuss PJM's review of the Independent Market Monitoring Units existing contract with PJM. Pennsylvania supported this letter.

National Association of Regulatory Utility Commissioners & Mid-Atlantic Conference of Regulatory Utility Commissioners

The PUC also maintains an active role in the National Association of Regulatory Utility Commissioners (NARUC) and the Mid-Atlantic Conference of Regulatory Utility Commissioners (MACRUC). NARUC is an organization which advocates for the interest of utility regulatory agencies nationwide. MACRUC advocates for a regional subset of utility regulators.² NARUC and MACRUC often advocate through its executives, for instance testifying at Congress, or through resolutions.

It is also noteworthy to highlight the recently created FERC and NARUC Joint Federal-State Task Force on Electric Transmission (Transmission Task Force). The Transmission Task Force includes ten state commissioners from throughout the country along with the board of FERC Commissioners.³ It holds meetings routinely, often aligned with the schedule of NARUC meetings, to discuss numerous issues related to transmission planning and policies. I am pleased to report that Vice Chair Kimberly Barrow of Pennsylvania's Commission was recently nominated to the Transmission Task Force, keeping Pennsylvania's voice strong in the conversations regarding transmission policies at FERC.

¹ <https://opsi.us/resolutions-and-filings/>

² MACRUC includes Delaware, Washington D.C., Kentucky, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, U.S. Virgin Islands, Virginia, and West Virginia.

³ <https://www.ferc.gov/TFSOET>

Direct Commission Interaction with PJM

While advocacy through OPSI, NARUC, and MACRUC is of high importance, the Commission also maintains an equally active presence and relationship directly with PJM. Such interactions entail numerous educational endeavors along with “as-needed” meetings to discuss important policies at the forefront of PJM’s markets. As an example, PUC Staff hold monthly videoconferences with PJM to educate our staff and provide us with an opportunity to question technical experts on a variety of topics including but not limited to market accreditation, demand response, Winter Storm Elliott – lessons learned, and other issues, many of which relate to grid reliability and costs. We also encourage personnel from the Pennsylvania Department of Environmental Protection Energy Programs Office to participate in educational meetings with PJM.

Further, the PUC monitors and participates in a number of PJM’s committees and task forces. The PJM governance structure includes numerous standing committees and subject-matter specific task forces designed to advise its Board of Managers. The Commission recently devoted significant staff time and resources to following PJM’s Critical Issue Fast Path (CIFP) Task Force, dedicated to seeing through the reformation of PJM’s capacity market. You may recall the Commission providing verbal comments at the August 23, 2023, CIFP meeting, as I know both Senator Yaw and Representative Stein offered comments as well.

Commission Advocacy at FERC and Federal Courts

The PUC also directly advocates at FERC on a myriad of interests related to PJM tariffs, policies, and procedures. FERC is PJM’s regulator, and any revisions or updates to PJM’s operations typically require filings or approvals at FERC. To a lesser extent, the Commission may also appear and offer pleadings in PJM related proceedings in the Federal Courts. The Commission retains a subset of staff within our Law Bureau and our Bureau of Technical Utility Services that assist in drafting these substantive pleadings. There is no shortage of activity at FERC and Federal Courts these days, with almost every operational area of PJM being the subject of a proposed revision or lawsuit. Here are some examples of recent filings made by the PUC. I note that all Federal filings made by the Commission are available on our website.⁴

- September 22, 2023 – FERC Docket No. ER22-962-005 - Protest and Comments in response to PJM’s Order 2222 Compliance Filing. The Commission sought clarity to ensure distributed energy resources were

⁴ <https://www.puc.pa.gov/filing-resources/federal-filings/>

not receiving duplicative sources of revenues. Further, we sought clarity to ensure state jurisdiction over disputes was not improperly assigned to FERC.

- August 16, 2022 – FERC Docket No. RM21-17-000 - Comments to Notice of Proposed Rulemaking (NOPR) proposing reforms to electric regional transmission planning and cost allocation requirements. The Commission, amongst other things, used these comments to communicate its long-held stance that transmission benefits must be verifiable and quantifiable to justify an allocation of costs to ratepayers.
- October 12, 2021 – FERC Docket No RM21-17-000 Comments to NOPR proposing reforms to electric regional transmission planning. Here again, the Commission emphasized its position regarding “beneficiary pays” transmission cost allocation. Further, the PUC commented that additional financial risks associated with public policy driven generation planning should be borne by the sponsoring states and the generators which benefit.
- October 3, 2023 – FERC Docket EL23-105 – The Commission intervened in the interest of monitoring the docket. The proceeding involves assertions by the Ohio Consumers’ Counsel that PJM’s Tariff and Operating Agreement are unjust, unreasonable, and unduly discriminatory because they do not protect Ohio consumers from excessive transmission rates. Supplemental transmission projects below 100 kV do not necessarily need PUC approval for siting. Consequently, Pennsylvania shares Ohio’s concern about lack of oversight over smaller transmission projects that may fall below 100 kV, but which nonetheless have an impact upon grid reliability and rates.

Key Current Issues

I would also like to use this testimony as an opportunity to highlight some key current issues involving PJM.

Critical Issue Fast Path – Resource Adequacy & Capacity Reform

I appreciate the comments made by Senator Yaw and Representative Stein on August 23, 2023, at PJM’s Critical Issue Fast Path – Resource Adequacy proceeding. I concur with the comments supporting a diverse resource mix (including nuclear, wind, solar, and thermal), ensuring that resources are there to serve load during all hours, and that any transition away from thermal resources will not harm reliability in our states.

After the PJM Board decided its positions on issues addressed in the Critical Issue Fast Path, PJM made two capacity reform filings on Friday, October 13, 2023. The Commission intervened in these proceedings and is contemplating filing comments. A summary of PJM's proposals is below.

- Proposed Enhancements to PJM's Market Rules – Market Seller Offer Cap, Performance Payment Eligibility, and Forward Energy and Ancillary Service Revenues – FERC Docket No. ER24-98 - This filing is purported to enhance capacity performance and revise the Market Seller Offer Cap.
- Capacity Market Reforms to Accommodate the Energy Transition While Maintaining Resource Adequacy – FERC Docket No. ER24-99 - PJM filed this document addressing: risk modeling, accreditation and stop loss. PJM proposes: 1) enhanced resource adequacy risk modeling; 2) marginal accreditation; 3) notice of intent to offer for planned resources; 4) winter deliverability changes for solar; 5) increased testing requirements; 5) stop loss reduction; 6) fixed resource requirement option transition and changes to deficiency and insufficiency changes.

Coal Retirements

The Commission continues to monitor the impacts of thermal resource retirements, including coal. For instance, the recent retirement of Homer City Generating Station, a coal-fired unit, removed 2,000 MW of capacity from the grid. As well, the planned retirement of Keystone Generating Station and Conemaugh Generating Station, with 3,400 MW of capacity, represents another significant loss of dispatchable resources. Further, the 1,300 MW Brandon Shores Generation Station (Brandon Shores), located in Maryland, is slated to retire in the near future. The Commission is committed to advocating for market responses to these retirements that ensure continued reliability at the least cost to customers. Admittedly, the PJM RTO is facing significant headwinds with these retirements. However, offering appropriate signals and incentives for transmission and generation investment can help the wholesale electricity marketplace to navigate through the challenges that may arise from retirements like these.

In the same vein, the Commission recognizes that PJM recently directed PECO Energy Company (PECO) to construct facilities which would address probable reliability violations stemming from the retirement of Brandon Shores. These projects made in response to this retirement would be constructed in southeastern Pennsylvania and would involve upgrades to the Peach Bottom Atomic Power Station. These construction projects may entail PECO expanding rights-of-way traversing through York County, Pennsylvania and may be met with landowner resistance.

The PUC has yet to see a siting application filed by PECO regarding these prospective projects. Nonetheless, if and when a siting application is filed, the Commission will address it based on the merits of its necessity and public benefits derived for the Commonwealth.

On the generation side, PJM is working to process its interconnection queue. PJM expects to clear interconnection studies for 62 Gigawatts of resources by the end of 2024, another 100 Gigawatts by 2025, and a further 100 Gigawatts by 2026.⁵ Still, once those resources clear the queue, they must actually be built. Although over 40,000 MWs of generation have a final interconnection agreement and could connect, only about 2,200 MWs actually came online in 2023, as of July.⁶ Resolving these barriers to construction is another hurdle to be overcome to maintain reliability. Fortunately, PJM's installed reserve margin is a healthy 20.4% as of the 2024/2025 capacity auction,⁷ and NERC assesses that PJM is not at elevated risk of loss of load based on its current long term reliability assessment, unlike other areas of the country.⁸

Winter Storm Elliott, Winter Storm Uri, and Winter Weather Impacts

As detailed in the Commission's most recent Electric Power Outlook Report,⁹ Pennsylvania and PJM, were impacted by Winter Storm Elliott over the holiday weekend of December 23, 2022, through December 25, 2022.¹⁰ PJM noted that the large drop in temperatures within a very short time-period tested the reliability of much of the Eastern Interconnection. Temperature drops and powerful winds caused widespread generator failures and froze up natural gas supplies while driving up electricity demand, leading to power outages for some of PJM's neighboring utilities.

While PJM and its members were able to maintain the reliability of the system, serve customers, and even support neighboring systems during some periods, PJM operators had to implement multiple emergency procedures and a public appeal to reduce energy use to maintain reliability in its footprint. The PUC communicated with the Pennsylvania Emergency Management Agency (PEMA) and the Department of Environmental Protection Energy Programs Office (DEP EPO) throughout the event, pursuant to the responsibilities of the PUC, PEMA, and DEP EPO under the Commonwealth Emergency Operations Plan. During the course of the event, the PUC recognized some opportunities for improved communications and information sharing with PJM and has already engaged PJM in developing and enacting those improvements.

⁵ <https://insidelines.pjm.com/transition-to-new-interconnection-process-begins-july-10/>

⁶ Id.

⁷ <https://pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2024-2025/2024-2025-base-residual-auction-report.ashx>

⁸ https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_2022.pdf

⁹ The most recent Power Outlook Report may be found here: <https://www.puc.pa.gov/media/2527/electric-power-outlook-for-pennsylvania-2022-2027-8-29-2023-final-draft-with-covers.pdf>.

¹⁰ The information in this section is based on PJM's Winter Storm Elliott Event Analysis and Recommendation Report, which is available here: <https://www.pjm.com/-/media/library/reports-noticees/special-reports/2023/20230717-winter-storm-elliott-event-analysis-and-recommendation-report.ashx>.

On July 17, 2023, PJM released its *Winter Storm Elliott Event Analysis and Recommendation Report* (Elliott Report), which provided significant details on the impacts of Winter Storm Elliott on the PJM region and its members. The Elliott Report made clear that aside from nuclear resources, all generator types were significantly affected by the winter storm.¹¹ This is one reason the Commission expressed support during the CIFP process for PJM's reliability risk changes now before FERC, which appropriately accredit resources by the capacity value they provide to the system in risky hours.

Also of note, on February 16, 2023, FERC approved new extreme cold-weather reliability standards stemming from a series of recommendations FERC and the North American Electric Reliability Corporation (NERC) proposed in the wake of the February 2021 Winter Storm Uri event. The reliability standards contain new and revised requirements to advance reliability of the grid during extreme cold weather temperatures. They include implementation of generator freeze protection measures, enhanced cold weather preparedness plans, identification of freeze sensitive equipment in generators, corrective actions for when equipment freeze issues occur, annual training for generator maintenance and operations personnel, and procedures to improve the coordination of load reduction measures during a grid emergency.¹² The Commission will monitor the FERC cold-weather reliability standards carefully and will continue tracking these issues through our membership in OPSI.

Conclusion

While there is no shortage of important issues related to interstate energy policy and PJM, I submit that two main issues and positions are a key to the Commission's interests within PJM at present: resource adequacy and cost allocation. The Commission supports policies that foster a diverse set of generation resources, adequately incentivize needed transmission, and allocates costs in a fashion where the beneficiary pays.

The various but distinct means of advocacy detailed above, particularly between OPSI and individual states, can be challenging for outsiders to understand and interpret. One could say it is akin to the advocacy interest of a trade group and that of an individual member of that trade group, where circumstances can arise when interests do not align. The Commission maintains a firm resolve to always prioritize the individual interest of the Commonwealth of Pennsylvania over any potential conflicting interest advocated by OPSI.

The Commission is committed to ensuring safe and reliable electric service for Pennsylvania households and businesses. This is a key responsibility of the PUC, as our state's regulator for utility rates and quality of service. To successfully implement

¹¹ Elliott Report at 55.

¹² A summary of the order is available here: <https://www.ferc.gov/news-events/news/ferc-approves-extreme-coldweather-reliability-standards-directs-improvements>

these responsibilities, the Commission will strive to enhance its coordination and collaboration with all the interests affected by PJM's wholesale energy policies. The Commission will continue working with the legislature and other stakeholders across the Commonwealth, and the PJM footprint, to ensure that Pennsylvania's interests are safeguarded. We stand ready to serve as a resource for any further legislative discussions about these important topics.