



STATE OF NEW JERSEY
Board of Public Utilities
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ENERGY

IN THE MATTER OF FEDERAL ENERGY ITEMS FOR)	ORDER OF APPROVAL
2012 - INTERVENTION AND COMMENTS IN PJM)	
INTERCONNECTION, L.L.C. - INTERCONNECTION)	
QUEUE REFORM, FERC DOCKET NO. ER12-1177)	DOCKET NO. ER12010002

BY THE BOARD:

The New Jersey Board of Public Utilities ("Board" or "NJBPU") **HEREBY RATIFIES** the Motion of Intervention and Comments ("Motion") filed with the Federal Energy Regulatory Commission ("FERC" or "Commission") on or about March 21, 2012 pursuant to a FERC imposed deadline.

On February 29, 2012, PJM Interconnection L.L.C. ("PJM") filed modifications to its Open Access Transmission Tariff ("PJM Tariff" or "Tariff") intended to implement interconnection queue process reforms with FERC pursuant to Section 205 of the Federal Power Act. PJM's proposed reforms are intended to streamline the process by which generation entities interconnect to the regional power grid. While the Board applauds the reforms proposed by PJM, far greater changes are necessary to ensure generation resources are developed in a timely and cost efficient manner. The Board stated that:

- 1. FERC should not approve the reestablishment of a six-month queue until PJM better explains how this reform will not unnecessarily increase the time to conduct interconnection studies.**

PJM's current three-month queue cycles resulted from reforms approved by the Commission in 2008 ("2008 Reforms").¹ The shortened queue was intended to: (i) help avoid the "last-minute rush" to add interconnection requests to a queue just prior to the closing date; and (ii) more evenly distribute the work load along the year. The 2008 Reforms increased the period to produce a feasibility study from 60 to 90 days, but reduced the overall feasibility study time period by two months.

¹ PJM Interconnection, L.L.C., Letter Order Accepting Revised Tariff Sheets Changing Frequency of System Impact Studies and Interconnection Feasibility Studies, Docket No. ER08-280-000 (January 25, 2008).

PJM's current proposal is based upon its desire to avoid timing overlaps for interconnection studies that increase the likelihood of the same generation project being subject to multiple rounds of re-studies. PJM claims that before interconnection customers in one three-month queue have decided whether to proceed or withdraw from the queue, the feasibility studies for the subsequent three-month queue have commenced. PJM claims this issue results in process inefficiencies. However, this proposal may result in the reappearance of issues previously resolved by the 2008 Reforms. PJM has yet to address this concern, and therefore the reform should be stayed pending further investigation.

PJM proposes to conclude the feasibility studies within approximately 120 days following the end of a queue cycle. It is unclear whether this represents a permanent increase in the overall feasibility study time period or if PJM only intends to retain this reform while it transitions to a new queue process. The Board strongly objects to any permanent increase to the overall feasibility study time period. PJM argues the overall study process will become timelier due in large part to the anticipated reduction in restudies, but offers no further explanation for this considerable increase in the study time. This failure creates an open question as to the need and desirability of the proposal.

The Board urges FERC to require PJM to better explain how re-establishing the six-month cycle will not result in the re-appearance of old problems or unnecessarily increase the time to conduct interconnection studies before approving PJM's request.

2. While the sliding queue may help reduce the Project drop-out rate, the Board believes that PJM should continue discussing the “break-away concept” among other solutions that facilitate viable, ready to build projects interconnecting to the transmission system.

The Board supports reforms to the interconnection process that facilitate the efficient entry of new generation resources.

Currently, reductions to the electrical output of a project with an interconnection request before PJM that are below certain benchmark levels do not impact its queue position. Any reductions beyond these thresholds require the project to withdraw and reenter the queue. PJM proposes to: (i) establish new reduction thresholds that may trigger a material modification analysis by PJM in lieu of bright line thresholds; and (ii) allow the interconnection customer project to slide to the beginning of the next queue instead of requiring a project to withdraw and submit a new interconnection request when the reduction thresholds are met. (“Sliding Queue”)

The Sliding Queue may reduce the project drop-out rate due to inaccurate estimations of upgrade costs associated with the electrical output of interconnection requests, and therefore, the Board supports this reform. However, this proposal does not directly address one of the major barriers to new entry, the existence of speculative projects saturate the interconnection queue and prevent more viable projects from moving forward.

Barriers to new entry are particularly acute in New Jersey where energy and capacity prices are high due to transmission constraints. In these areas, many projects submit interconnection applications to secure a queue position, but over 87% of the projects currently in the queue will never actually be built. Despite this high attrition rate, PJM continues to assume all projects in the queue will be built, thus increasing the estimated cost of interconnection and unnecessarily delaying the process.

On September 14, 2012, the Board submitted a letter to PJM supporting further consideration of the so called “break-away” proposal. This proposal allows committed, commercially viable projects to advance in the queue subject to additional financial responsibility for transmission upgrades, if other projects in the queue break-away from the process within a defined time period. The Board has been led to believe PJM will no longer consider the break-away concept due to the stakeholder opposition. The Board believes discussions regarding the break-away solution should continue.

Addressing barriers to new entry should be a priority for FERC and PJM. Stakeholder concerns can be addressed by tailored business regulations, strict conditions on breaking away, penalties for gaming behavior, and adequate timeframes for projects to break away. Therefore, the Commission should ensure that PJM continues discussing the break-away concept among other solutions that facilitate viable, ready to build projects interconnecting to the transmission system.

3. While the Board supports the concept of an “alternate queue” for projects smaller than 20MW, FERC should not entrust incumbent transmission owners with determining the engineering impacts and upgrade costs attendant to proposed interconnections projects.

The Board supports PJM’s “alternate queue” proposal. PJM’s proposed alternative queue, however, fails to address a major flaw in the interconnection process: the evaluation of transmission interconnection costs is conducted by incumbent transmission owners under PJM’s direction. Entrusting these entities with this responsibility raises a possible conflict of interest issue when transmission owners are affiliated with generation interests or are statutorily permitted to invest in renewable energy generation, such as here in New Jersey.

While the Board does not currently claim any entity is actually engaged in self-dealing or other inappropriate behavior, the appearance of a possible conflict of interest is more than sufficient to justify reforms. Having a system that affords “bad actors” an opportunity for manipulation or abuse in these situations, even if never exercised, undermines the credibility of the PJM interconnection studies, and public confidence in the process as a whole.

Any question of a proposed cost increase resulting from allowing third-parties to conduct interconnection studies is insufficient to table this critical issue. The Commission should request PJM continue discussing the merits of allowing the use of third party consultants in the interconnection process. Allowing the outsourcing of interconnection studies would not only resolve the conflict of interest issue in the PJM interconnection process, but also make it easier for PJM to identify errors that may either unnecessarily add costs to some interconnection projects or skip costs of necessary reinforcements leading to system reliability risks.

Secondly, the evaluation process proposed by PJM provides too much flexibility as to the timing and the studies that must be conducted by the transmission owners. The proposal not only worsens the potential for abuse in situations where there is a conflict of interest, it may also interfere with projects connecting to the distribution system within the state’s jurisdiction.

There is a need for further coordination between state and PJM interconnection processes, when projects physically interconnect to the distribution system, but sign a wholesale

agreement with PJM. Accordingly, FERC should take steps to ensure PJM includes in the “alternate queue” Tariff language a provision addressing the need to take into account the state interconnection rules when physical interconnection occurs at the distribution system level.

4. PJM’s proposal regarding Capacity Injection Rights is a significant amendment to the PJM Tariff and should not be accepted.

The Board supports requiring interconnection customers to provide timely notice and election of the intention to use capacity interconnection rights (“CIRs”). Notification of the intent to use CIRs should be provided on or before the date of executing a feasibility study agreement, not at the date of executing the system impact study agreement, as currently proposed.

PJM is proposing clarifying language that keeps the CIRs effective for one year after deactivation, even after being transferred by the original CIRs holder to a second CIRs holder. Under this proposal, should the interconnection request of the second holder be terminated or withdrawn, the CIRs could again be transferred Enhancing PJM’s RTEP Protocol to a third interconnection customer within the one-year timeframe.

PJM clarifies if the interconnection customer intends to use the CIRs at a different interconnection point than the original CIRs holder it may lose all or portions of these rights as determined by any necessary PJM studies. While PJM’s proposal is a step in the right direction, the Board is troubled that the nature of these studies is unclear from the PJM filing. These studies should adequately reflect the physical interconnection capacity transferable from the original interconnection point to the new location where the interconnection customer intends to use the CIRs. The NJBPU believes this “clarification” is actually a significant amendment to the PJM Tariff and should not be accepted.

CIRs generally limit the principle of open access by keeping the interconnection capability of a retired power plant on hold for a period of time, despite the capability not actually being used. Therefore, CIRs artificially inflate the interconnection costs of other commercial viable projects in the queue. Any limitation to the principle of open access should be justified and narrowly tailored to serve the public interest. CIR’s should not be allowed to exist for an unreasonable amount of time beyond the deactivation date of the original unit. CIRs holders unwilling to redevelop a deactivated generation site should be required to surrender these interconnection rights to an entity that will develop new generation capacity. PJM, however, has yet to recommend this much needed tariff modification, allowing the ownership of CIRs to serve as a barrier to entry rather than a mechanism that would facilitate new generation development.

5. It is appropriate to decrease the duration of interconnection customers’ “suspension rights” from three years to one year.

The Board supports PJM’s proposal to reduce the duration of the suspension rights of interconnection customers under construction service agreements from three years to one year, provided PJM determines the suspension would not result in a material adverse impact on the cost or timing of any subsequent queued projects. However, the criteria for determining what amounts to a materially adverse impact should be transparent and detailed in the Tariff or in the PJM manuals to avoid claims of discriminatory treatment by interconnection customers.

6. The proposed modified deposits for projects between 2 MWs and 20MWs should take into account both the size of the project and the time at which it enters the queue.

Unless PJM can demonstrate that the complexity and the cost of interconnection studies is not affected by size of interconnection projects, imposing a flat deposit rate will be discriminatory to smaller interconnection projects. Instead, the NJBPU calls for a sliding deposit structure which takes into account project size.

THEREFORE, after consideration of all pertinent materials submitted in this matter, and review by Board Staff, the Board HEREBY RATIFIES the Motion filed before FERC on or about March 21, 2012, pursuant to a Commission approved deadline.

DATED: 4/11/12

BOARD OF PUBLIC UTILITIES
BY:

Robert M. Hanna
ROBERT M. HANNA
PRESIDENT

Joseph L. Fiordaliso
JOSEPH L. FIORDALISO
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JEANNE M. FOX
COMMISSIONER

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MARY-ANNA HOLDEN
COMMISSIONER

ATTEST:

Kristi Izzo
KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities

Kristi Izzo

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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PJM Interconnection L.L.C.) Docket No. ER12-1177
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**NOTICE OF INTERVENTION AND COMMENTS OF THE
NEW JERSEY BOARD OF PUBLIC UTILITIES**

Pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), the New Jersey Board of Public Utilities (“NJBPU”) hereby moves to intervene and submits comments in I/M/O PJM Interconnection L.L.C., under FERC Docket No. ER12-1177. In support hereof, NJBPU states the following:

1. NJBPU is the administrative agency charged under New Jersey Law with the general supervision, regulation, jurisdiction, and control over all public utilities in New Jersey, including electric utilities and their rates and service. N.J.S.A. 48:2-13; N.J.S.A. 48:2-21

2. NJBPU is a “state commission” pursuant to Rule 214(a)(2) of the Commission’s regulations. Accordingly, NJBPU is entitled to be a party in this proceeding upon filing a notice of intervention within the timeframe established by the Commission.
- 3 This Notice of Intervention is being forwarded for filing within the timeframe established by Rule 210(b).
4. All communications with respect to this matter should be addressed as follows:

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COMMENTS

On February 29, 2012, PJM Interconnection L.L.C. (“PJM”) filed modifications to its Open Access Transmission Tariff (“PJM Tariff” or “Tariff”) intended to implement interconnection queue process reforms with the Federal Energy Regulatory Commission (“FERC” or “Commission”) pursuant to Section 205 of the Federal Power Act. The New Jersey Board of Public Utilities (“NJBPU”) hereby respectfully submits the following comments.

The NJBPU appreciates the efforts of PJM and its stakeholders to provide solutions to identified problems in the interconnection queue. In general, the NJBPU believes that this filing represents recognition of and an effort to address certain elements of the queue problems, and supports these steps, but nevertheless is concerned that more important issues related to the interconnection process are not addressed by PJM's filing. To that end, the NJBPU provides the following comments

Six-month queue cycles

The NJBPU generally supports any reform aimed at increasing efficiency and reducing delays in the interconnection process. The PJM Tariff currently provides for three-month queue cycles. These three-month queue cycles were the result of reforms to the interconnection process filed by PJM and approved by the Commission in 2008. In that matter, PJM sought to shorten the queue cycles from six to three months in order to:

- (i) help avoid the "last-minute rush" to add interconnection requests to a queue just prior to the closing date; and (ii) more evenly distribute the work load along the year. The 2008 reforms increased the period to produce a feasibility study from 60 to 90 days, but reduced the overall feasibility study time period by two months.²

PJM is now proposing to change the queue cycle back from a three-month cycle to a six month cycle, based upon its desire to avoid timing overlaps for interconnection

¹ PJM Interconnection, L.L.C., Letter Order Accepting Revised Tariff Sheets Changing Frequency of System Impact Studies and Interconnection Feasibility Studies, Docket No. ER08-280-000 (January 25, 2008).

² With a six month queue and a 60-day study period, the Tariff provided for a total of eight months to produce a feasibility study; while with a three month queue and a 90-day study period, the Tariff currently provides for a total of six months to produce a feasibility study result.

studies that may result in multiple rounds of re-studies. Specifically, PJM claims that before interconnection customers in one queue have to decided on whether to proceed to the system impact study phase or to withdraw from the queue, the feasibility studies for the subsequent queue cluster have already commenced under the three month cycle system. PJM claims this provides inefficiencies in the process.

The NJBPU is concerned that the specific problems that led to reforming the queue cycle in 2008 may reappear as a result of this proposal. In particular, PJM has not explained how the issue that drove the move to a three-month queue—the last-minute rush to submit interconnection requests—will be addressed if the six months queue cycle is reestablished. Furthermore, PJM is proposing to conclude the feasibility studies within approximately 120 days following the closing of the queue cycle. It is unclear if this will be done only during a transition period, or if this represents a permanent increase in the overall feasibility study time period. While the NJBPU understands the need for a transition period, it strongly objects to any permanent increase to the overall feasibility study time period. PJM argues that the overall study process will become timelier due in large part to the anticipated reduction in the need for restudies, but offers no further explanation as to the need for this considerable increase in the study time. This failure creates an open question on the part of the NJBPU as to the need and desirability of the change.

The NJBPU urges the Commission to require PJM to better explain how the re-establishment of the six-month cycle will not result in the re-appearance of old problems or unnecessarily increase the time for PJM to conduct interconnection studies before the Commission approves the Tariff changes requested by PJM.

Sliding queues linked to modifications in the size of interconnection requests

The NJBPU supports reforms to the interconnection process that facilitate the efficient entry of new generation resources. The PJM Tariff currently allows certain reductions to the electrical output of an interconnection request without the interconnection customer's project losing its queue position.³ Any reductions above these established thresholds require the project to withdraw and reenter the queue. PJM is proposing to: (i) establish new reduction thresholds⁴ that may trigger a material modification analysis by PJM in lieu of bright line thresholds; and (ii) allow the interconnection customer project to slide to the beginning of the next queue instead of requiring a project to withdraw and submit a new interconnection request when the reduction thresholds are met.

The NJBPU believes that the sliding queue reform may help to reduce the project drop-out rate due to inaccurate estimations of upgrade costs associated with the electrical output of interconnection requests. For that reason, the NJBPU does not oppose this reform. The sliding queue reform, however, does not directly address one of the major barriers to new entry, the existence of speculative projects that saturate the

³ Interconnection customers can make electrical output reductions: (i) by up to 60% prior to the return of the system impact study; and (ii) by the greater of 50 MW or 20% of the capability studied in the system impact study prior to signing the interconnection service agreement.

⁴ Interconnection customers could make electrical output reductions: (i) prior to feasibility study by up to 60%; (ii) after commencement of the Feasibility Study but prior to the execution of the system impact study agreement up to 15%, or if there is no material modification, up to 60%; and after executing the system impact study agreement but prior to executing an interconnection service agreement; by up to the greater of 10 MW or 5%, or if there is no material change, up to the greater of 50 MW or 20% of the capability studied.

interconnection queue and prevent projects willing and able to start construction and commercialization from interconnecting.

Such barriers to new entry are particularly acute in attracting investment to areas such as New Jersey where energy and capacity prices are high due to transmission constraints. In these areas, many projects submit interconnection applications to secure a queue position, but most are never actually built. Indeed, the rate of project drop-outs after entering into a feasibility study agreement is acknowledged by PJM to be approximately 87%.⁵ No entity claims that this inefficient drop-out rate is due to inaccurate estimates of interconnection outputs. Yet despite this high attrition rate, PJM continues to assume that all the projects in the queue will be built. This practice artificially increases the cost of interconnection for viable projects and unnecessarily delays the interconnection process.

The NJBPU conducted an investigation on capacity procurement and transmission planning issues affecting New Jersey, and held two hearings in 2011.⁶ Testimony presented by Hess Corporation (“Hess”) in this proceeding explained its experience with two interconnection projects in the PS North region; one in the Port Ready Refinery and the other in the Newark Energy Center. Hess claims it withdrew the Port Ready Refinery Project because the cost of interconnection rendered the project uneconomic. With regard to the Newark Energy Center Project, Hess testified that:

For example, there may be 5 projects in the queue class before the Hess project, none of which are guaranteed to be built. These projects use 99.5% of a line’s rated capacity.

⁵ PJM filing at page 6.

⁶ I/M/O Investigation of Capacity Procurement and Transmission Planning. BPU docket EO11050309. See: <http://www.nj.gov/bpu/about/divisions/energy/capacity.html>

The Hess project, in the next queue, has only a .6% impact on the line. But it is the Hess project that must pay for the ENTIRE upgrade, since it is the project that, if you will, “tilted” the line’s capacity beyond 100%. Upgrades, of course, can be lumpy, and costly. What this has meant for the Hess project is that we have been tagged with hundreds of millions of dollars in upgrade costs in systems as far away as Baltimore and central Pennsylvania.

[Statement of Mr. John Schultz, Vice-President of Energy Operations on behalf of Hess Corporation, at pages 2-3. L/M/O Investigation of Capacity Procurement and Transmission Planning, BPU Docket EO11050309, October 14, 2012].

Notwithstanding the high capacity and energy prices reflecting the need for new resources in PS North⁷, there is a disincentive for the siting and construction of new generation facilities in New Jersey. At least one possible generation provider, Hess, appears to find costs of interconnection so exorbitant and unpredictable that its projects are rendered uneconomic as a result of the PJM interconnection process.

On September 14, 2012, the NJBPU submitted a letter to PJM (“NJBPU Letter”) supporting further consideration of the so called “break-away” proposal. This proposal would allow committed, commercially viable projects to advance in the interconnection queue subject to additional financial responsibility for transmission upgrades if other projects in the queue break-away within a defined time period. PJM stakeholders have discussed the break-away concept among other possible solutions. While PJM indicates that it will file a package of reforms to the PJM interconnection process later this year, the NJBPU has been led to believe that PJM will not consider the break-away concept due to the opposition of some task force stakeholders. The NJBPU believes that

⁷ PSEG Energy Resources & Trade, LLC, 111 FERC ¶61,121 (2005) FERC approved a RMR contract for the Hudson Unit 1.

discussions about the break-away solution should continue, and that concerns raised by stakeholders can be addressed with tailored business regulations establishing stricter conditions for breaking away, penalties for gaming behavior, and adequate time frames for projects to break away, such that all viable interconnection projects willing to start construction and realize commercial operation can do so.

The NJBPU asserts that addressing barriers to new entry should be a priority for PJM and the Commission. The NJBPU, therefore, urges the Commission to take steps to ensure that PJM continues discussing the break-away concept as well as other solutions that facilitate viable, ready to build projects to interconnect to the FERC jurisdictional transmission system.

Alternate queue for 20 MW projects or smaller

The NJBPU supports the concept of an “alternate queue” for projects 20MW or below with a streamlined study process. The NJBPU does, however, have concerns over some aspects of the evaluation process proposed by PJM.

First, the evaluation process proposed by PJM is still to be conducted by incumbent transmission owners under PJM’s direction. The NJBPU believes that entrusting incumbent transmission owners to determine the engineering impacts and upgrade costs attendant to proposed interconnections projects, within or outside the “alternate queue” raises the specter of a conflict of interest issue when those transmission owners are affiliated with generation interests or when, like in New Jersey, these transmission owners are statutorily allowed to invest themselves in renewable energy generation.⁸

See N.J.S.A. 48:3-98.1

The NJBPU does not currently claim that any entity is actually engaging in self-dealing or other inappropriate behavior; instead, the NJBPU notes that the appearance of a possible conflict of interest should be more than sufficient to justify reforms. Having a system that allows “bad actors” an opportunity for manipulation or abuse in these situations, even if never exercised, can undermine the credibility of PJM interconnection studies, as well as public confidence in the process as a whole. Indeed, the Solar Energy Industry Association has recently filed a rulemaking proposal⁹ asking that solar projects not eligible for fast track interconnection be allowed to hire third party consultants to conduct interconnection studies, citing the concern of the appearance of a possible conflict of interest.

The Board raised this conflict of interest issue in the NJBPU Letter and asked PJM to consider the possibility of allowing PJM’s interconnection customers to use third party consultants as allowed in NYISO. It is the Board’s understanding that PJM has decided to stop discussion of third party review. The main reason appears to be the cost and administrative burden that a third party consultant would impose on PJM. The NJBPU believes that this reason is insufficient to stop discussion of solutions to an issue as important as an actual or apparent conflict of interest inherent in the PJM interconnection process.

The NJBPU urges the Commission to request that PJM continue discussions of the merits of allowing the use of third party consultants in the interconnection process in general. Allowing the outsourcing of interconnection studies would not only resolve the conflict of interest issues in the PJM interconnection process, but also make it easier for

⁹ See FERC docket RM12-10.

PJM to identify errors that may either unnecessarily add costs to some interconnection projects or skip costs of necessary reinforcements leading to system reliability risks.

A second concern is that the evaluation process proposed by PJM provides too much flexibility as to the timing and the studies that must be conducted by the transmission owners. This not only worsens the potential for abuse in situations where there is a conflict of interest, but it may also interfere with state interconnection rules applying to the physical interconnection of these projects to the distribution system. For example, the NJBPU has a specific set of rules for interconnection of renewable energy generation to the New Jersey distribution system.¹⁰ The NJBPU has received complaints, mostly from solar developers, about the lack of compliance by the electric utilities with the time lines for interconnection studies set in New Jersey's interconnection rules due to delays with studies concerning the PJM queue process. The NJBPU believes that there is a need for further coordination between state and PJM interconnection processes when the PJM interconnection process applies to projects physically interconnecting to a distribution system of "dual use" pursuant to FERC Order 2003 but signing a wholesale agreement with PJM to sell their energy into the PJM markets.

Accordingly, the NJBPU urges the Commission to take steps to ensure that PJM includes in the "alternate queue" Tariff language a provision that addresses the need to take into account the state interconnection rules when physical interconnection occurs at dual use distribution systems.

¹⁰ See N.J.A.C. 14:8-5.1

Clarified timeframe for the use of capacity interconnection rights

The NJBPU supports requiring interconnection customers to provide timely notice and election of the intention to use capacity interconnection rights (“CIRs”). The NJBPU believes that this notification should be provided before or on the date of executing a feasibility study agreement, not at the date of executing the system impact study agreement, as currently proposed. An election made at the time of the feasibility study would facilitate far greater avoidance of re-studies and provide other projects in the queue with a more accurate estimation of upgrade costs based on the capacity actually available in the system.

In general, the NJBPU supports limiting the use of CIRs to the points in the transmission system where the retired generation unit (original CIRs holder) was interconnected. The Board believes that PJM is proposing a change in the right direction when clarifying that if the interconnection customer intends to use the CIRs in a different interconnection point than the original CIRs holder, it may lose all or portions of the CIRs as determined by any necessary PJM studies. Unfortunately, the nature of these studies is not clear in the PJM filing. The NJBPU is hopeful that those studies will adequately reflect the physical interconnection capacity transferable from the original interconnection point to the new location where the interconnection customer intends to use the CIRs.

In general, the NJBPU believes that CIRs limit the principle of open access because they allow keeping the interconnection capability of a retired power plant on hold for a period of time, although that capability is not actually being used. The CIRs, therefore, artificially inflate the interconnection costs of other projects in the queue that

are ready to start construction and commercialization of their projects. The NJBPU maintains that any limitation to the principle of open access should be justified and narrowly tailored to serve the public interest. Even accepting for argument's sake that CIRs are property rights representing the investment made by a generation owner with respect to upgrades necessary to interconnect a generation unit, once that generation unit retires, the main purpose of the original investment has been satisfied. These "property rights" should not be allowed to continue for an unreasonable amount of time beyond the deactivation date of the original unit.

PJM is proposing to keep the CIRs effective for one year after deactivation, even if after being transferred by the original CIRs holder, the interconnection request of the second holder is terminated or withdrawn, thereby allowing the second CIRs holder to re-transfer the CIRs to a third interconnection customer within the one-year timeframe. The NJBPU believes that this "clarification" is actually a significant amendment to the PJM Tariff and should not be accepted.

The NJBPU urges the Commission to balance the principle of open access against the alleged property rights that CIRs represent beyond the deactivation day of the original generation unit. Specifically, the NJBPU calls upon the Commission to re-consider the duration of the CIRs after the deactivation date of the original unit.

Reduced suspension rights

The NJBPU supports PJM's proposal to reduce the duration of the suspension rights of interconnection customers under construction service agreements from three years to one if PJM determines that the suspension would result in a material adverse impact on the cost or timing of any subsequent queued projects. The NJBPU believes,

however, that the criteria for PJM's determination of those material adverse impacts should be transparent and detailed in the Tariff or in the PJM manuals to avoid claims of discriminatory treatment by interconnection customers.

Modified deposits for projects that are larger than 2 MWs and up to 20MWs

The NBPUs believes that the new deposit structure proposed by PJM for projects between 2MW and 20 MW should take into account the size of the project and not only the time at which the project enters the queue. Unless PJM can demonstrate that the complexity and cost of studies is not affected by the project size, imposing a flat deposit rate will be discriminatory to smaller interconnection projects. Instead, the NBPUs calls for a sliding deposit structure which takes into account project size.

CONCLUSIONS

WHEREFORE, the NBPUs respectfully requests that the Commission:

Direct PJM to explain how the re-establishment of the six-month queue will not result in the re-appearance of prior problems or unnecessarily increase the timeframe for PJM to conduct interconnection studies;

2. request that PJM continue discussing the break-away concept as well as other solutions that facilitate viable, ready to build projects to interconnect to the FERC jurisdictional transmission system;
3. request that PJM: (i) take steps necessary to allow interconnection customers to use third party consultants in the alternate queue; (ii) continue discussing the merits of allowing the use of third party consultants in the interconnection process; and (iii) include in the alternate queue tariff language a provision addressing the need to take

into account the state interconnection rules when physical interconnection occurs at dual use distribution systems;

4. balance the principle of open access against the alleged property rights that CIRs represent beyond the deactivation day of the original generation unit by reconsidering the duration of CIRs beyond the deactivation date of the original unit and require PJM interconnection customers to notify their intention to use CIRs before or on the date of executing the feasibility study agreement;
5. direct PJM to establish detailed criteria for the material adverse impact assessments concerning suspension rights in the Tariff or in the PJM manuals; and
6. direct PJM to file a revised deposit proposal for projects between 2MW and 20 MW that takes into account the size of the interconnection project and not only the time it enters the queue.

Respectfully submitted,

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the New Jersey Board of Public
Utilities

By: _____ /s/
Brian O. Lipman
Deputy Attorney General
State of New Jersey
Office of the Attorney General

Dated: March 21, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have on this 21st day of March 2012, caused the foregoing document to be served upon each party designated on the official service list compiled by the Secretary in this proceeding by email.

Respectfully submitted,

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the New Jersey Board of Public
Utilities

By: _____ /s/

Brian O. Lipman
Deputy Attorney General
State of New Jersey
Office of the Attorney General

Dated: March 21, 2012