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December 8, 2023

Via Electronic Delivery

Mark Takahashi, Chair
Manu Asthana, President and Chief Executive Officer
PJM Board of Managers

PJM Interconnection, LLC.
2750 Monroe Boulevard
Audubon, PA 19403

Re: 2022 RTEP Window 3 Procurement

Dear Sirs:

The Maryland Office of People's Counsel ("MD OPC") respectfully asks the PJM Board of Managers to defer its vote scheduled for Monday, December 11, 2023, on the 2022 RTEP Window 3 Procurement ("W3") projects that PJM staff presented at the Transmission Expansion Advisory Committee's ("TEAC") "second read" meeting held on December 5, 2023. Given the scale of the W3 projects, the vote should not be rushed. Instead, the PJM Board should define a process that allows reasonable time and processes for review by consumers and stakeholders. Below we set forth suggestions for a meaningful and substantive public consultation before finalizing its decisions.

The scale, scope, and cost of the W3 projects are unprecedented—orders of magnitude larger and in greater complexity compared to all recent PJM managed and directed transmission planning and procurements. PJM's recommendations for W3 will result in an approximate \$5 billion of capital expenditures for new transmission projects across multiple states that will result in very large increases in annual revenue requirements paid for by electric consumers. The current failure to unpack the relative contribution of each of the "drivers" of the need for the W3 projects makes it impossible for the public to understand how cost causation principles apply to the projects. This

failure further puts in question whether use of PJM’s “standard” transmission cost allocation formula will be just and reasonable under the Federal Power Act.

The PJM process for W3 has been deficient in a critical dimension—consultation and engagement with the many affected public stakeholders—notwithstanding the extensive effort conducted by PJM to date. Stakeholders have had just over a month, at best, to review—in any substantive manner—\$5 billion worth of projects:

- On October 31, 2023 at TEAC meeting, PJM staff announced to the public for the first time the W3 award group of selected developers, the selected W3 projects (at a very generalized level with some of the supporting technical rationales), and the anticipated cumulative cost.
- On November 17, 2023 (Friday before the Thanksgiving Day week), PJM provided by posting to its web-site extensive documentation for public review for the first time supporting its analysis and recommendations.¹
- PJM then scheduled for public review multiple and extensive filings by multiple transmission owners (“TOs”) during the same “consultation” session for the conduct of the second read of the W3 procurement to occur during the TEAC meeting scheduled for December 5, 2023.
- During the December 5th TEAC meeting, PJM staff “processed” a very crowded agenda, with the W3 recommendations and explanation squeezed into a narrow period by the PJM holiday party and presentations by multiple TOs with respect to their supplemental transmission projects.²

¹ PJM Staff, “Constructability & Financial Analysis Report, 2022 RTEP Window 3”, November ## 2023 (122 pages); and “Reliability Analysis Report [“RAR”], 2022 RTEP Window 3, November 17, 2023 (164 pages), disclosing the supporting analysis to the W3 projects procurement for the first time to the broader public.

² Consultation and engagement by the public and representatives of the public, such as MD OPC, of the W3 procurement has been effectively consigned to a period of **18 days** (including weekends) measured from the posting by PJM of the two lengthy reports, referred to earlier, culminating in an over-crowded agenda during a single TEAC meeting on December 5th for any discussion. PJM reportedly will not disclose the cost allocation of the W3 projects until sometime later in December, following the scheduled PJM Board meeting to review PJM’s W3 recommendations. This does not allow substantive engagement with or input from the public or understanding and ability to provide input from the public on the impact to ratepayers of these changes. Strict adherence to PJM’s standardized rules for processing W3, given its unprecedented nature, is not appropriate.

During the Dec. 5th meeting, PJM staff committed to working further with stakeholders to answer questions and receive feedback regarding the W3 projects, but without defining a process for engagement with those questions and feedback before the Board's scheduled date for decision at its pending meeting on December 11, 2023.³

As noted above, the W3 procurement is unique, proportionally huge (in cost and scope of transmission facility expansion) and, accordingly, truly unprecedented. A broader, substantive engagement with the public allowing for greater public review, which has not occurred, should be adopted by PJM. Adherence by PJM to PJM's "standard" approach to public facing engagement and consultation is a major deficiency in the specific context of this unprecedented W3 procurement.

MD OPC is mindful that (i) PJM has been engaged in the conduct of W3 internally and with developers responding to the W3 procurement for most of 2023, (ii) the W3 recommended projects, the supporting analysis to determine the projects, and their procurement process are highly complex and have absorbed great amounts of staff and consultant time; (iii) PJM's decisions to enable necessary grid expansion to meet system reliability needs are matters of great public importance; and (iv) the consultation procedure PJM followed nominally conforms to PJM's procedural rules.

During the TEAC process followed to date for W3, MD OPC has submitted sets of written questions to PJM regarding the procurement and has previously expressed to PJM staff in writing the objections described herein and now incorporated into this direct communication with the PJM Board. The PJM staff has done a tremendous job over the last month to assist consumers and stakeholders in an effort to go through the enormous amount of information and questions under such unrealistic time constraints.

Nevertheless, the major driver for the W3 procurement is an unprecedented "spot" load growth in a tightly focused geographic area equal to or greater than the size of the peak load in some of PJM's existing locational deliverability areas. Moreover, the major beneficiaries of the W3 projects (presumably, the retail electric distribution companies directly interconnecting with the data centers) will see increased sales to support the additional costs associated with expanded service for the data centers, while some substantial portion of the costs will be visited on all other end-use electric customers in the PJM footprint who will pay, but not be similarly benefitted. Spillovers in cost and benefit are inherent in grid operation over the long term and can and have been accommodated by PJM, albeit sometimes "roughly" and not without controversy, through its existing processes; the stark and distinguishing difference here is the dramatically unprecedented nature of the imbalance.

³ Those answers and feedback cannot be meaningful in light of the Dec. 11 date currently anticipated for PJM Board decision.

Critical inputs to PJM staff's decision-making and recommendations for the W3 projects have not been adequately and fully explained during the public consultation process. For example, PJM has stated that the W3 solutions package addresses not only the grid reliability issues caused by the initial data center load growth forecasts but also issues arising from the retirement of the Brandon Shores power plant and possibly other as yet undesignated resource deactivations, existing lower voltage stability and other reliability issues, and the "robustness" additive to the "base solution" to respond to other issues, presumably including but not limited to ranges of additional load growth and changes in resource dispatch patterns.

But PJM has not documented the quantitative contribution of the various asserted "drivers" to the grid reliability violations addressed by W3 or arising from other grid developments. Nor has PJM documented the sequencing of other "in process" grid solutions and how their costs are allocated to explain and document the cost causation and consequent reasonableness of the cost allocation for the W3 projects. This exercise should be and is part of basic cost allocation procedures used across all utility operations entailing "joint benefits." These cost allocation issues are of particular importance for the W3 projects, given their huge scale and the previously described very large imbalance between where the triggering load growth is estimated to occur and the consumer base over which the costs of these projects will be recovered under PJM's standard practices.

Additional transparency and evaluation is required and could be accomplished through an expanded PJM public consultation process. OPC recommends a process that permits stakeholders time to evaluate PJM's underlying analysis, methods, and data. The process could play out over an additional 6 month or longer period where stakeholders can access data and provide input through additional work groups on these topics.

Specifically, stakeholders need additional time to review the following topics:

- power flow modeling inputs, assumptions, methodology, and outputs, and system topology, including CEII, related to identification and magnitude of needs as well as scenario analyses used to vet solutions;
- the scenarios, models (outside of the power flow, if applicable), and data used to develop the DFAX and load based allocators, including all inputs, assumptions, methodology, and results;
- the sequencing of the RTEP and Brandon Shore retirement proposals and the impacts on solutions and cost allocation; and
- the data, information, and modeling assumptions related to the load forecasts, including the issue identification information provided by

Electric Distribution Companies and how PJM verified load forecasts.

Over the period of review, PJM should provide specific opportunities for stakeholders to provide input. The suggested time to accomplish this review and analysis is abbreviated when compared with other regulatory review processes applicable to electric utility operation for investments of much smaller scale. The nature and pacing of this recommended expanded public consultation and review are mandated by the unprecedented dimensions of W3. It aligns with pending policy proposals for design and cost oversight of transmission projects by an independent transmission monitor proposed in other forums.⁴ Here, it is merited for adoption by PJM in this particular case given the uniquely unprecedented scale, scope, and cost of the W3 procurement.

In closing, we reiterate our strong objection to PJM’s public consultation procedures for procuring the W3 projects. PJM’s rushed public process—coming at the very end of PJM’s internal process—fails to allow for meaningful review of hundreds of pages of technical analysis. That analysis itself requires technical, expert consultant assistance for customer representatives like OPC to review. Customer representatives must have recourse to the modeling and data processing deployed by PJM to assess the design, selection, and cost allocation determinations associated with W3. Customers deserve more than the very nominal public facing procedures for the W3 set of projects costing \$5 billion in cumulative estimated capital expenditures and hundreds of miles of proposed transmission facilities extending over several states.

Sincerely yours,



David S. Lapp
People’s Counsel

⁴ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Advanced Notice of Proposed Rulemaking, 176 FERC ¶ 61,024 (2021) at P 163 (discussing the need for an ITM to evaluate transmission projects). While not addressed specifically in FERC’s subsequent Notice of Proposed Rulemaking, numerous commenters including state regulators, industry and other affected sectors continued to endorse the adoption of an ITM generally. See, e.g., Joint Comments of the Industrial Customer Organizations, FERC Docket No. RM21-17 (Sep. 19, 2022), p. 19; Reply Comments of the ITM Coalition, FERC Docket No. RM21-17 (Sep. 19, 2022) (at p. 5 citing to the comments of “approximately 45 parties” filed with FERC urging adoption of the ITM concept, including NARUC and others).