

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

Calpine Corporation, Dynegy Inc., Eastern Generation, LLC, Homer City Generation, L.P., NRG Power Marketing LLC, GenOn Energy Management, LLC, Carroll County Energy LLC, C.P. Crane LLC, Essential Power, LLC, Essential Power OPP, LLC, Essential Power Rock Springs, LLC, Lakewood Cogeneration, L.P., GDF SUEZ Energy Marketing NA, Inc., Oregon Clean Energy, LLC and Panda Power Generation Infrastructure Fund, LLC

Docket No. EL16-49-000

v.

PJM Interconnection, L.L.C.

**MOTION TO INTERVENE AND COMMENTS OF
AMERICAN PETROLEUM INSTITUTE**

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) Rules of Practice and Procedure,¹ American Petroleum Institute (“API”) hereby moves to intervene and submit comments in support of the complaint filed in the above-referenced docket on March 21, 2016 (the “Complaint”) and urges the Commission to grant it.

I. MOTION TO INTERVENE

API is a national trade association representing over 650 member companies involved in all aspects of the oil and natural gas industry. API’s members include producers, refiners,

¹ 18 C.F.R. §§ 385.212 and 214 (2014).

suppliers, pipeline operators, and marine transporters, as well as service and supply companies that support all segments of the industry. API advances its market development priorities by working with industry, government, and customer stakeholders to promote increased demand for and continued availability of our nation's abundant natural gas resources for a cleaner and more secure energy future. Electricity generation is a significant market for clean-burning natural gas and our members are both producers and consumers of electricity. Therefore, API has an interest in ensuring wholesale electricity market rules and regulations treat natural gas generation equitably, providing a non-discriminatory level playing field for all resource types. This extends to promoting market design changes that incorporate additional components that appropriately value attributes a supply resource brings, above and beyond equally valuing every MWh of supply. API, therefore, has a direct and substantial interest in this proceeding that will not be represented by any other party and, therefore, requests that the Commission grant its Motion to Intervene.

II. COMMUNICATIONS

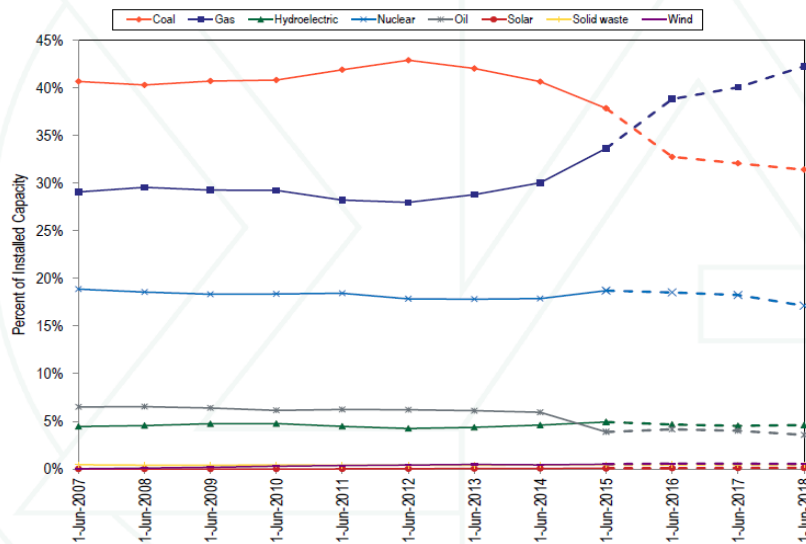
Please address all communications and correspondence regarding this matter to the following person who is authorized to receive service:

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III. COMMENTS

As the Commission is well aware, natural gas is increasingly becoming the fuel of choice throughout the country and in PJM specifically. According to its latest Short Term Energy Outlook, EIA forecasts that in 2016, 33% of our nation’s electricity generation will be fueled by natural gas, surpassing coal (at 32%) on an annualized basis for the first time ever.² In PJM, because of the market signals generated by the capacity and energy markets, natural gas fired capacity is increasing, and replacing coal as the predominant form of capacity in the PJM footprint (see figure below).³ The corresponding environmental and electricity price benefits and have been material and significant.⁴

Figure 5-1 Percentage of PJM installed capacity (By fuel source): June 1, 2007 through June 1, 2018



² See EIA Short-Term Energy Outlook, U.S. Electricity Generation by Fuel <http://www.eia.gov/forecasts/steo/report/electricity.cfm>

³ Monitoring Analytics, PJM State of the Market Report for 2015, press briefing materials, at 27. http://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2015/2015-som-pjm-press-briefing.pdf

⁴ See PJM’s emissions report: 2012-2015 CO₂, SO₂, and NO_x Emissions Rates, March 18, 2016. <http://www.pjm.com/~media/documents/reports/20160318-2015-emissions-report.ashx> And, Monitoring Analytics, PJM State of the Market Report 2015, Section 3 Energy Market, at 127. http://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2015/2015-som-pjm-volume2-sec3.pdf

With the decisions made last week by the Public Utilities Commission of Ohio (“PUCO”) that approved out of market revenue streams for 6,000 MW of generation owned by two companies in Ohio that will not be available to other existing units or to new units that seek to come on-line, FERC should be concerned that competitive wholesale markets cannot reasonably be expected to function properly due to so many megawatts indifferent to the market’s actual clearing prices.⁵

PJM tools to address the harmful effects of out of market subsidization are rather limited. PJM’s existing Minimum Offer Price Rule (“MOPR”), which sets bidding requirements for new capacity, applies only to new (or uprated) natural gas combustion turbines and combined cycles, and integrated gasification combined cycle generating plants. This limitation is not only discriminatory against natural gas, but also leaves the market exposed to harm from other forms of generation as well as damage caused by existing resources. The subsidy creates an incentive for subsidized generation to submit offers at below costs into the capacity market, which is equally as much of a price distortion as below-cost bidding by new entrants. These subsidized units must still offer their capacity in a competitive manner that reflects their true costs.

Clearly more is needed to protect the market. The market harm from a subsidized new natural gas plant, which the current MOPR seeks to guard against, is indistinguishable from the market harm that could be caused by potentially uncompetitive offers induced by subsidies for existing units (e.g. out-of-market payments that were approved for the American Electric Power

⁵ In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Opinion and Order, Case No. 14-1297-EL-SSO (Mar. 31, 2016); *In the Matter of the Application Seeking Approval of Ohio Power Company’s Proposal to Enter into an Affiliate Power Purchase Agreement in the Power Purchase Agreement Rider*, Opinion and Order, Case Nos. 14-1693-EL-RDR, 14-1694-EL-AAM (Mar. 31, 2016).

(“AEP”) and FirstEnergy (“FE”) units). Price suppression in any form is damaging to the market and PJM needs effective tools to stop it. API supports the assertion of the complainants that PJM’s current market rules do not adequately protect the market from the corrosive effects of below-cost bidding due to out-of-market subsidies for existing generation facilities. Markets simply cannot function rationally if one set of competitors has the ability to offer at below-cost due to a revenue stream outside the FERC-regulated markets that is not available to all market participants.

Although API is not wed to any one particular solution to remedy the failures of the current tariff, the relief suggested by the complainants is just and reasonable and worthy of Commission approval. Expanding the MOPR to capture the PPA units for purposes of the upcoming Reliability Pricing Model (“RPM”) auctions must be a priority for the Commission. In the long term, if better solutions can be developed to address the problems associated with the subsidization of existing generation facilities, then the Commission should consider those options at that time. However, in the short term protecting the integrity of the May 2016 Base Residual Auction must be the priority.

It is worth noting that PJM asked the PUCO to place bidding requirements on the AEP and FE units that are similar to those requested by the complainants. Indeed, PJM urged the PUCO “to make clear that a reasonable offer behavior for FE would be to offer the units covered by the Rider into the PJM markets at a level no lower than their “actual costs” as that term is understood by PJM and applied consistent with its Tariff and Manuals without consideration of

the offsetting revenues provided by Ohio retail customers under the Stipulation.”⁶ The PUCO did not follow PJM’s suggestion, but offered that such a requirement could be placed on all units in PJM.⁷

IV. CONCLUSION

For the reasons discussed herein, API requests that the Commission grant this motion to intervene and consider the foregoing comments.

Respectfully submitted,

/s/ Marty Durbin

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April 11, 2016

⁶ *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Brief for Amicus Curiae PJM Interconnection, L.L.C. at 5, Case No. 14-1297-EL-SSO (Feb. 16, 2016), available at: <http://www.pjm.com/~media/documents/reports/20160216-brief-amicus-curiae-of-pjm-ohio-edison-et-al-w0081267-2x8df47.ashx>

⁷ *In the Matter of the Application Seeking Approval of Ohio Power Company’s Proposal to Enter into an Affiliate Power Purchase Agreement in the Power Purchase Agreement Rider*, Opinion and Order at 89, Case Nos. 14-1693-EL-RDR and Case No. 14-1694-EL-AAM (Mar. 31, 2016), available at: <http://dis.puc.state.oh.us/TiffToPdf/A1001001A16C31B40932C01840.pdf>

CERTIFICATE OF SERVICE

I hereby certify that, on this the 11th day of April, 2016, I have served the foregoing Motion to Intervene and Comments of American Petroleum Institute upon each person designated on the official service list in this proceeding.

/s/ Marty Durbin
Marty Durbin