UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.	)	Docket Nos. EL18-178-000
	)	EL16-49-000
	)	ER18-1314-000
	)	ER18-1314-001
	)	(Consolidated)

COMMENTS OF THE OFFICE OF THE ATTORNEY GENERAL FOR THE DISTRICT OF COLUMBIA

The Office of the Attorney General for the District of Columbia ("DC OAG") hereby files these Comments in response to the Commission's June 29, 2018 Order Rejecting Proposed Tariff Revisions, Granting in Part and Denying in Part Complaint, and Instituting Proceeding Under Section 206 of the Federal Power Act ("Order").[1]

I. INTRODUCTION

The mix of resources that generate energy sold in the District of Columbia ("District"), and to the District, affects the health, welfare, environment, and economic wellbeing of its residents. From the public health impacts of air pollution to extreme weather due to global climate change, the public interest of the District is served by a

[1] The Comments are submitted pursuant to *Calpine Corp. v. PJM Interconnection, L.L.C.*, 163 FERC ¶ 61,236, at p.172 ¶ F (June 28, 2018) ["Order"] and Notice of Extension of Time, Docket Nos. EL 16-49-000, ER18-1314-000, ER-18-001, EL 18-17800 (Aug. 22, 2018) (extending the deadline for filing initial testimony, evidence, and/or argument in this proceeding to October 2, 2018 and the deadline for filing reply testimony, evidence, and/or argument in this proceeding to November 6, 2018).

purposeful shift to more renewable energy. The DC OAG has a duty to uphold the public interest of the District[2] and seeks to do so through participation in this hearing.

On June 29, 2018, the Commission issued an order finding that PJM Interconnection LLC's ("PJM") capacity market rules failed to produce just and reasonable rates, and it found undue discrimination due to price suppression from lower bids by resources receiving out-of-market support.[3] The Commission identified resources receiving payment for the sale of Renewable Energy Credits ("RECs") pursuant to state renewable portfolio standard ("RPS") programs as an example of this out-of-market support.[4] The Order also rejected both of PJM's proposed solutions: (1) a Capacity Repricing two-step auction approach; and (2) a proposed expansion of the Minimum Offer Price Rule ("MOPR").[5]

The DC OAG agrees with consumer advocates that the Commission should grant Intervenors' requests for rehearing. These Comments argue that if it does not, the Commission should ensure that any capacity market redesign appropriately accommodates the District's implementation of its clean energy programs and policies.

II. DISCUSSION

A. The District's Interests

i. The Greenhouse Gas Reduction Goals

The environmental externalities of energy generation from the combustion of fossil fuels harm the health, welfare and environment of the residents of the District. The

[2] *See* D.C. Official Code § 1–301.81(a)(1) (describing the powers and responsibility of the Attorney General for the District of Columbia).
[3] Order ¶ 150.
[4] *Id.* ¶ 151.
[5] *Id.* ¶¶ 63, 106.

District is already experiencing the effects of global climate change[6] and vulnerable populations in the District face days where the air is unsafe to breathe.[7] In consideration of the needs of its residents and in order to help address the threats from global climate change, the District has adopted two local greenhouse gas ("GHG") reduction goals. First, the District has committed to reducing carbon emissions 50 percent below 2006 levels by 2032 and 100 percent by 2050.[8] Second, the District has committed to proportionally upholding the commitment made by the United States in the Paris Agreement to reduce GHG emissions between 26 and 28 percent from 2005 levels by 2025.[9] The Clean Energy DC plan is the District's proposal to meet the 2032 GHG reduction goal while increasing renewable energy use and reducing overall energy consumption.[10] Any redesign of the PJM capacity market should not hinder the District's

[6] For example, water levels along the Potomac and Anacostia Rivers have increased 11 inches in the past 90 years due to a combination of sea level rise and subsidence. As a result, nuisance flooding in riverfront areas has already increased by more than 300% according to the National Oceanic and Atmospheric Administration. Climate Ready DC at 3, https://doee.dc.gov/sites/default/files/dc/sites/ddoe/service_content/attachments/CRDC-Report-FINAL-Web.pdf.

[7] The American Lung Association's 2018 State of the Air report gave the District a failing grade for the period from 2014-2016 because of the number of days that the air was unhealthy for vulnerable populations due to high levels of ozone. American Lung Association, State of the Air 2018, District of Columbia: District of Columbia, http://www.lung.org/our-initiatives/healthy-air/sota/city-rankings/states/district-of-columbia/district-of-columbia.html.

[8] Sustainable DC, at 7, http://www.sustainabledc.org/wp-content/uploads/2017/02/Web-Ready-File-2.6.17.pdf; Press Release: Mayor Bowser Commits to Make Washington, DC Carbon-Neutral and Climate Resilient by 2050 (Dec. 4, 2018), *available at* https://doee.dc.gov/release/mayor-bowser-commits-make-washington-dc-carbon-neutral-and-climate-resilient-2050.

[9] District of Columbia Mayor's Order 2017-142: Commitment to Adopt, Honor and Uphold the Paris Agreement (June 5, 2017).

[10] Clean Energy DC (Aug. 2018) *available at* https://www.dropbox.com/s/4s7rlpxgnd40epr/18027D_CEP_Report_p01_2018-08-16.pdf?dl=0 ["Clean Energy DC"].

implementation of its Clean Energy DC plan and the accomplishment of the District's GHG reduction goals. Moreover, any market redesign should not penalize District residents economically for taking action to address environmental harms by overcorrecting for the alleged price suppression from out-of-market support in a way that increases the cost of obtaining capacity.

ii. The District's Renewable Portfolio Standard

The District's RPS is a "key policy" to meet the 2032 GHG reduction goals and increase residents' access to clean energy and the clean energy economy.[11] The District adopted the RPS in 2005 to:

> recognize the economic, environmental, fuel diversity, and security benefits of renewable energy resources, to establish a market for electricity from these resources in the District of Columbia, and to lower the cost to consumers of electricity produced from these resources.[12]

The RPS addresses power provided locally, at retail. The RPS requires electricity suppliers to obtain Renewable Energy Credits ("RECs") that equal a specified annual percentage of the total megawatt hours ("MWh") of electricity the supplier sells at retail, or pay a specified compliance fee into a public fund.[13] The price of a REC is determined through economic negotiation between electricity supplier and the certified renewable resource generator.[14] The District's local electric distribution company may recover

---

[11] Clean Energy DC at xi; Press Release: Mayor Bowser Signs Renewable Portfolio Standard Bill into Law (July 25, 2016), *available at* https://doee.dc.gov/release/mayor-bowser-signs-renewable-portfolio-standard-bill-law.

[12] "Renewable Energy Portfolio Standard Act of 2004," D.C. ACT 15-755, Sec. 2, 52 D.C. Reg. 2285 (Mar. 11, 2005). The RPS has since been amended several times and is codified at D.C. Official Code § 34-1432.

[13] Code of D.C. Regulations ("DCMR") §§ 15-2901.1, 15-2999.

[14] Public Service Commission of the District of Columbia Report on the Renewable Energy Performance Standard for Compliance Year 2017 (May 1, 2018) at iv (describing the reported price of RECs).

"prudently incurred [RPS] compliance costs, including REC purchases and any compliance fees."[15]

The RPS rule divides renewable energy resources into two categories: Tier I and Tier II.[16] Tier I resources include solar energy, wind, biomass, methane, geothermal, ocean, and fuel cells, and Tier II resources include hydroelectric power other than pumped storage generation and waste-to-energy.[17] The District has a separate requirement for solar energy.[18] Compliance is required per calendar year, with annual reports due in April of the following year.[19] For 2018, the requirement for electricity suppliers is 15.5% from Tier I sources, 1% from Tier II sources, and not less than 1.15% from certified distributed solar energy.[20]

RECs are created and tracked through PJM-EIS's Generation Attribute Tracking System ("GATS") and are valid for a three-year period from the date of generation.[21] RECs can be obtained from certified generators in states in the PJM Interconnection region (Delaware, the District of Columbia, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and

[15] DCMR § 15-2904.3.
[16] D.C. Official Code § 34-1432.
[17] Public Service Commission of the District of Columbia Report on the Renewable Energy Performance Standard for Compliance Year 2017 (May 1, 2018) at ii.
[18] *See* DCMR § 15-2901.2.
[19] *Id.* §§ 15-2901.5, 2901.7.
[20] D.C. Official Code § 34–1432(c)(8). For 2017, total reported retail sales from 41 energy suppliers was 10.926 million MWh. Public Service Commission of the District of Columbia Report on the Renewable Energy Performance Standard for Compliance Year 2017 (May 1, 2018) at ii.
[21] DCMR §§ 15-2903.1, 2903.4.

West Virginia) and from adjacent certified states (Alabama, Arkansas, Georgia, Iowa, Mississippi, Missouri, New York, South Carolina, and Wisconsin).[22]

As of April 6, 2018, 6,264 renewable energy generators were certified for the District's RPS program representing a total capacity of 8,960 MW.[23] Certified renewable electricity generators were in all eligible states except Arkansas and Missouri, with the most capacity certified in Indiana (1,749.5 MW), Illinois (1,746.8 MW), Pennsylvania (921.6 MW) and Virginia (676.2 MW). Since these generators may also be certified in other states' RPS programs, RECs associated with electricity sales from any certified resource may not be fully available to meet the District's RPS requirement.[24]

The District's RPS, in combination with the RPS programs of neighboring states, has already succeeded in advancing the District's GHG reduction goals.[25] From 2006 to 2015, the District's total GHG emissions declined 24 percent.[26] Most of this decline can be attributed to the decreasing GHG intensity of the electric grid, with the District's RPS, in combination with the RPS programs of neighboring states, contributing in part to that decrease.[27] Given the fairly broad geographic reach of the generation eligible for District RECs, and the lack of any current or likely anticipated generation facility within the District besides solar and methane recovery,[28] the continued success of the District's RPS

[22] *Id.* §§ 15-2902.3, 2999.1.
[23] Public Service Commission of the District of Columbia Report on the Renewable Energy Performance Standard for Compliance Year 2017 (May 1, 2018) at 22, 24.
[24] *Id.* at 22.
[25] *Id.*
[26] Clean Energy DC at 24.
[27] *Id.*
[28] *See id*. at 22 (total of solar and methane recovery certified generators in the District as of April 6, 2018).

program depends appropriately on the expansion of renewable resource generation from within the PJM Interconnection region and adjacent certified states.

B. The Current Tariff is Not Unjust and Unreasonable

While DC OAG was not a party to Dockets Nos. EL16-49-000, ER18-1314-000, and ER18 1314-001, DC OAG supports the request of consumer advocates, including the Office of People's Counsel for the District of Columbia, that the Commission grant rehearing of the Order because the Commission erred in finding that PJM's tariff is unjust and unreasonable.[29]

The Order does not demonstrate that that existing tariff is "unjust, unreasonable, unduly discriminatory or preferential" and the Commission has not provided proof that the tariff is unlawful.[30] The Commission's finding does not identify the "substantial evidence" required to support findings.[31] The Order finds that "out-of-market support" including state renewable portfolio standards cause, or will cause, unreasonable price distortions and costs shifts in the wholesale capacity market.[32] However, as Commissioner Glick stated in his dissent "the Commission's role is not—and should not be—to exercise its authority over wholesale rates in a manner that aims to mitigate, frustrate, or otherwise limit the states' exercise of their exclusive authority . . . ."[33] As

---

[29] *See* Request for Rehearing or, in the Alternative, Extension of Time of the Office of the People's Counsel for the District of Columbia, Citizens Utility Board, Maryland Office of People's Counsel and Kentucky Office of the Attorney General, Office of Rate Intervention 7-13, Docket Nos. EL 16-49-000, ER18-1314-000, ER-18-001, EL 18-17800 (July 30, 2018).
[30] 16 U.S.C. § 824e (2018).
[31] 16 U.S.C. § 824e(b); *see N.J. Bd. Of Pub. Utils. v. FERC*, 744 F.3d 74, 94 (3d Cir. 2014).
[32] Order ¶¶ 150-52.
[33] *Id.* (Glick, R. dissenting at 1).

Commissioner Glick asserts, PJM currently has far more generating capacity than it needs to reliably meet electricity needs.[34]

C. Principles of any Capacity Market Redesign

In its Order, the Commission preliminarily concluded that it may be just and reasonable to redesign the capacity market with an expanded MOPR and an Fixed Resources Requirement ("FRR") Alternative.[35] While not supported by law or facts, if the Commission does approve a redesign of the capacity market and adopt any aspects of these elements, DC OAG agrees with consumer advocates from Illinois, West Virginia and other states, that any capacity market tariff reforms should at a minimum, do the following: (i) respect states' authority under the Federal Power Act ("FPA") and the limits of the Commission's jurisdiction; (ii) produce just and reasonable rates for consumers; and (iii) accommodate the pricing of environmental attributes. [36]

Under the FPA, states have exclusive authority to shape the resource mix used to generate electricity sold within their state even if it affects the mix of generation resources in the region.[37] Furthermore, the Act "places beyond FERC's power, and leaves to the states alone, the regulation of 'any other sale'—most notably, any retail sale of electricity."[38] While the Commission has exclusive jurisdiction to regulate the interstate wholesale market for electricity, that jurisdiction does not extend to "indirect or

[34] *Id.* (Glick, R. dissenting at 9).
[35] *Id.* ¶ 157.
[36] *See* Comments of Joint Consumer Advocates, Docket Nos. EL 16-49-000, ER18-1314-000, ER-18-001, EL 18-17800 at p.4-6, 9-11 (Oct. 2, 2018).
[37] Under the FPA the term "state" includes the District of Columbia. 15 U.S.C. § 717a(4).
[38] *FERC v. Elec. Power Supply Ass'n*, 136 S. Ct. 760, 766 (2016) (*quoting* 16 U.S.C. § 824(b)); *see Hughes v. Talen Energy Mktg., LLC*, 136 S. Ct. 1288, 1299 (2016).

tangential" impacts on wholesale electricity rates.[39] A capacity market redesign should not attempt to use the Commission's authority over wholesale energy markets as a tool to improperly blunt the intended outcomes of state policies regarding the mix of generators serving their consumers.

Second, any market redesign the Commission approves must produce just and reasonable rates for consumers.[40] It would be unjust and unreasonable to require payment for excessive redundant capacity by failing to account for the capacity already provided by renewable resources. Likewise, it would be unjust and unreasonable to raise capacity prices to incentivize capacity well beyond reserve rate requirements. Capacity in excess of the reserve rate requirement provides no additional resource adequacy value and so capacity prices that incentivize such additional capacity are excessive.

Lastly, any capacity market tariff should accommodate the pricing of environmental externalities. The District's RPS, and other states' RPS programs, create a sub-market that competitively prices the renewable energy attributes of energy "unbundled" from the wholesale supply of that energy.[41] RECs are thus "inventions of state property law" to account for a key attribute of energy generation: its environmental externalities.[42] A capacity market should, therefore, view REC payments as the result of "competitive market forces" and not incorrectly presume that bids from resources that

---

[39] *Elec. Power Supply Ass'n*, 136 S. Ct. at 773-74.
[40] *See Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).
[41] *Wheelabrator Lisbon, Inc. v. Conn. Dep't of Pub. Util. Control*, 531 F.3d 183, 186 (2008); 139 FERC ¶ 61, 061 (2012) ("RECs are state-created and state-issued instruments certifying that electric energy was generated pursuant to certain requirements and standards").
[42] *Allco Fin., Ltd. v. Klee*, 861 F.3d 82, 105 (2d Cir. 2016) (quoting *Wheelabrator Lisbon, Inc.*, 531 F.3d at 186).

generate RECs are somehow below competitive prices.[43] The Commission should neither penalize resources with renewable energy attributes priced through arms-length competition and sold pursuant to RPS programs, nor reward traditional generation resources such as coal-fired power plants that have harmful environmental attributes just because they have no value in RPS programs.

D. Attributes of an FRR Alternative

In addition, any PJM FRR Alternative should complement states' efforts to promote renewable energy and properly account for the capacity provided by renewable resources. Specifically, DC OAG supports the following principles enumerated in the document *Shared Principles: Resource-Specific FRR* that is endorsed by a variety of stakeholders including American Wind Energy Association, Exelon Corporation, Natural Resources Defense Council and Office of People's Counsel for the District of Columbia:

- Protect customers from paying for duplicate capacity
- Preserve states' abilities to achieve clean energy policy goals
- Require a resource specific FRR ("FRR-RS") to allow load serving entities to buy capacity from all state-incentivized resources and receive full capacity credit for doing so
- Allow for a smooth transition by giving states enough time to work through any difficult implementation issues before fully imposing the MOPR.[44]

A copy of that document is appended to these Comments for reference.

---

[43] *See* Order ¶ 158.

[44] To accommodate the time needed to address difficult implementation issues, in addition to what is described in the *Shared Principles* document, the Commission should provide, at minimum, the 9 to 12 months that the Public Service Commission of the District of Columbia argues it needs to make any required rules changes.

III. CONCLUSION

WHEREFORE, DC OAG respectfully requests that the Commission take into account these concerns.

KARL A. RACINE
Attorney General for the District of Columbia

ROBYN R. BENDER
Deputy Attorney General,
Public Advocacy Division

CATHERINE JACKSON
Section Chief, Public Integrity Section

/s/ Sarah Kogel-Smucker
Sarah Kogel-Smucker
Special Assistant Attorney General
Office of the Attorney General
441 Fourth Street, N.W., Suite 630-S
Washington, D.C. 20001
(202) 724-9727
sarah.kogel-smucker@dc.gov

Dated: October 2, 2018

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010, I hereby certify that I have this day served the foregoing document upon each person designated on the official service lists compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

Dated at Washington, DC, this 2nd day of October, 2018.

/s/ Sarah Kogel-Smucker

Sarah Kogel-Smucker
Special Assistant Attorney General
Office of the Attorney General
441 Fourth Street, N.W., Suite 630-S
Washington, D.C. 20001
(202) 724-9727
sarah.kogel-smucker@dc.gov

Appendix

SHARED PRINCIPLES FOR A RESOURCE-SPECIFIC FIXED RESOURCE REQUIREMENT

FERC's June 29, 2018 order in Docket No. EL18-178 proposes implementation of a resource-specific Fixed Resource Requirement (FRR-RS) to provide an opportunity for the PJM market to account for the capacity contributions of state-incentivized resources. The undersigned parties endorse the following principles and terms for designing the proposed FRR-RS mechanism. This proposal is not intended to address questions regarding applicability of the Minimum Offer Price Rule (MOPR), but rather to describe eligibility for and functioning of the FRR-RS.

An FRR-RS mechanism should:

- **Protect customers from paying for duplicate capacity.** Expanding PJM's MOPR likely will prevent many state-incentivized nuclear and renewable resources from clearing the PJM capacity auction. Without a workable FRR-RS that provides an alternative way to compensate these resources for their capacity, customers will be forced to buy excess capacity through the PJM capacity market to "replace" the renewable and nuclear energy supported by the states but ignored by the capacity market. A workable FRR-RS would prevent these increased costs.

- **Preserve states' abilities to achieve clean energy policy goals.** Reducing the amount of capacity sold in the PJM auction by the amount of state-incentivized clean energy covered under an FRR-RS mechanism makes it possible for states to meet and expand their energy policy targets without being financially penalized.

Specifically, FERC should:

- **Require FRR-RS to allow load serving entities to buy capacity from all state-incentivized resources and receive full capacity credit for doing so.** The FRR-RS should provide maximum flexibility for the matching of customer load and state-incentivized resources, and provide a user-friendly mechanism for states to direct their load serving entities to procure capacity from state-incentivized resources.

- **Allow for a smooth transition by giving states enough time to work through any difficult implementation issues before fully imposing the MOPR.** States must be able to understand the new rules and clarify state law as needed to take full advantage of FRR-RS optionality. Because implementing FRR-RS effectively will require new regulation and/or legislation in many states, a transition mechanism must be established that allows for these processes to be carried out without forcing customers to pay excess costs in the interim.

The elements of a workable FRR-RS set forth in the shared principles below protect the cost-effective achievement of state policy goals to the extent possible under the terms of FERC's PJM capacity market order in Docket No. EL18-178.

Shared Principles for Designing FRR-RS

Implementation Timing

Because the FRR-RS is intended to mitigate the harm that would be caused by broad application of the MOPR, FERC should develop an implementation timeline for the expanded MOPR that reflects that states may need to adjust or clarify state law to utilize the FRR-RS opportunity. This may not be possible in a few months, especially where legislative action is needed.

Eligibility for FRR-RS

At a minimum, any supply resource subject to the MOPR under its newly expanded terms, or otherwise excluded from RPM participation based on previous participation in FRR-RS, is eligible for FRR-RS.

Eligibility determinations (and determinations as to whether the MOPR covers a particular resource) must be made by PJM sufficiently far in advance of when a resource must make its decision to elect to utilize FRR-RS or offer into the auction such that the resource (and associated load) can make an informed decision with respect to that resource.

FERC must make the scope of MOPR and FRR-RS eligibility as clear as possible in its order, such that states are able to legislate with knowledge as to how state rules will be treated by FERC. For example, the PJM tariff must make clear how a state program calling for capacity or bundled procurement from a chosen resource type will be treated (i.e., it must either state that such an arrangement would be subject to MOPR and thus render the capacity eligible for FRR-RS, or else state that the resource would not be subject to MOPR).

Process for Electing FRR-RS

At the time of the FRR-RS election, the capacity resource must identify the location of the load that will be removed with the resource, with enough specificity to permit compliance with locational constraints in the auction. This election and documentation setting forth compensation must be confirmed by a load serving entity (LSE) or other relevant entity (e.g., state power authority) by 30 days prior to the Base Residual Auction (BRA).

Thus, prior to the FRR-RS election, capacity resources will assign their capacity forward outside of RPM through a state-sponsored procurement process or directly to LSEs without state facilitation. Forward capacity assignments can be for unbundled capacity alone or for bundled capacity and other attributes (e.g., RECs or ZECs).

SHARED PRINCIPLES FOR A RESOURCE-SPECIFIC FIXED RESOURCE REQUIREMENT

Timing of Election	Consistent with the existing FRR, FRR-RS election must be made no less than four months before the PJM BRA. As explained above, PJM must indicate whether a resource is subject to the MOPR and therefore eligible for FRR-RS in advance of such election.
Locational Restrictions on FRR-RS Election	PJM zonal import limits shall be respected in FRR-RS arrangements.
Amount of Commensurate Load	RPM reliability requirements (taking into account reserves) for an LSE shall be reduced on a 1-for-1 UCAP basis according to the amount of UCAP procured through FRR-RS by or on behalf of that LSE.
FRR-RS Resource Compensation	Capacity from FRR-RS resources shall be compensated as set forth in documentation confirmed by the LSE or other relevant entity, e.g., according to the terms of a bilateral contract with an LSE, or consistent with the state-sponsored procurement process. Such compensation could include cost-based pricing, competitively procured pricing, environmental attribute pricing and/or other state-established compensation mechanism, subject to EQR reporting and FERC review under Section 206.
FRR-RS Billing and Administration	At the option of the state or LSE (as indicated in the documentation submitted by the FRR-RS resource to PJM), PJM will use its existing billing and accounting mechanisms to collect costs from the load and disburse payment to FRR-RS resources consistent with the FRR-RS documentation provided to PJM.
FRR-RS Capacity Performance Requirements	Consistent with the current FRR, FRR-RS resources will be Capacity Performance Resources subject to all performance requirements, non-performance charges, and bonus payments. LSEs shall have the option to contractually assume from the resource responsibility for Capacity Performance charges and bonuses (facilitating pooling risk among smaller FRR-RS eligible resources). PJM will continue to review the performance of Capacity Performance resources, whether individual or aggregated, as it does today, including the assessment of performance and application of non-performance charges or bonus payments. A state may determine how non-performance charges and bonus payments are allocated among a portfolio of FRR-RS resources that, as a whole, functions as a Capacity Performance resource.
FRR-RS Election for a Portion of a Resource	FRR-RS election shall be allowed for a portion of a resource if (i) the resource separates its capacity for purposes of offering into RPM and (ii) no capacity electing FRR-RS treatment is contained in any segment of capacity participating in RPM. A resource electing less than 100% FRR-RS must provide its participating percentage when it makes its election. Rules and practices governing the submission of offers by joint owners of individual generating units shall remain unchanged and, therefore, an FRR-RS election by one joint owner shall not affect RPM participation by the other owner.

SHARED PRINCIPLES FOR A RESOURCE-SPECIFIC FIXED RESOURCE REQUIREMENT

FRR-RS Duration	Resources shall not be obligated to continue to elect FRR-RS for a minimum period of time. The only temporal restrictions shall be those needed to preserve reliability, such as the provision regarding notice of FRR-RS election.
FRR-RS Affiliate Transactions	A wholesale sale from an FRR-RS resource with FERC market-based rate authority to an affiliated LSE with captive customers undertaken pursuant to a state-incentivized clean energy program shall not be subject to the section 205 filing requirement under the seller's market-based rate tariff if the procurement was consistent with the rules governing the state program, in recognition of the state's jurisdiction over the compensation for environmental attributes. Any party seeking to challenge such a wholesale sale could initiate a section 206 proceeding seeking FERC review of the transaction. During such review, the party challenging the wholesale sale may demonstrate that adjustment of the rates, terms or conditions of the wholesale sale is necessary to protect retail customers from affiliate abuse. To facilitate prompt review of affiliated FRR-RS arrangements by interested parties, the documentation submitted with each FRR-RS election must indicate FRR-RS resource is selling capacity to an affiliated LSE with captive customers and must delineate the price under the contract for all capacity, energy ancillary services, and state-jurisdictional emissions benefits credits being sold, and PJM shall include such information in its postings regarding FRR-RS elections.

These principles are endorsed by the undersigned organizations:

Citizens Utility Board of Illinois
Exelon Corporation
Natural Resources Defense Council
Nuclear Energy Institute
Office of People's Counsel for the District of Columbia
Public Service Electric and Gas Company
Sierra Club
Talen Energy