December 21, 2018

The Honorable Neil Chatterjee, Chairman
The Honorable Cheryl LaFleur, Commissioner
The Honorable Kevin McIntyre, Commissioner
The Honorable Richard Glick, Commissioner
The Honorable Bernard McNamee, Commissioner

U.S. Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

By e-mail and e-filing

Re: Calpine Corporation, et al. v. PJM Interconnection, L.L.C., Docket No. EL16-49-000; PJM Interconnection, L.L.C., Docket No. ER18-1314-000, et al.; PJM Interconnection, L.L.C., Docket No. EL18-178-000 (consolidated)

Dear Chairman Chatterjee and Commissioners LaFleur, Glick, McIntyre, and McNamee,

On December 6, a group of merchant owners and developers of generation wrote the Federal Energy Regulatory Commission ("Commission") asking the Commission to disregard its recognition in the June 29, 2018 order that state policy goals ought to be accommodated.[1] Aside from its procedural flaws[2], the letter avoids one fundamental truth about markets: they exist to meet consumers' needs. Markets do not exist to guarantee a return on merchant investments, and certainly do not exist to protect merchant plant investors from market risks.

The undersigned entities comprise a broad and diverse group of publicly and cooperatively owned electric utility, industrial customer, and environmental organizations. We support competitive wholesale electricity markets, and we also recognize that this is a time of significant change and re-examination of the role of these markets in a transforming power system. We disagree with the claims made in the December 6 letter and offer a vision of competitive wholesale power markets that would continue to attract investment and benefit customers.

The undersigned entities have different positions on certain state policies. However, we agree that states and locally governed utilities have the authority to make resource choices, and that it is not the role of the Regional Transmission Organization (RTO) to shield market participants from the effect of those policies. The authors of the December 6 letter, on the other hand, request the Commission to mandate "markets" that instead produce prices that pretend certain resources do not exist and require consumers to buy capacity from certain merchant power plants even though that capacity may not be needed given the level of state and local resource procurement. Such efforts to shield suppliers from the effect of state policies only results in additional costs to customers that are not just or reasonable.

The Commission's series of orders accepting and modifying PJM's Reliability Pricing Model (RPM) did not create a federal "regulatory compact" that new generators would be able to recover their costs through PJM's markets regardless of intervening events. Instead, the Commission's policy of relying on wholesale

[1] 163 FERC ¶ 61,236

[2] The letter is effectively an untimely rehearing request made in disregard of Rule 713 (18 CFR 385.713) requirements.

market competition placed investment risk on investors and not on consumers. Resource procurement through self-supply or pursuant to public policy goals is one of many risks that investors absorb in markets.

Wholesale market rules should respect state and locally governed utility policies and resource choices without making customers pay twice for the same service. While it is clearly the Commission's responsibility to determine that the rate for wholesale power sales is just and reasonable, the Commission and the courts have long held that a market-based rate where supply and demand meet can be just and reasonable if market power is absent or mitigated. No buyer-side market power has been demonstrated by any of the parties in this investigation. "Accommodating" state and local utility policies by forcing customers to face the risk of paying once for the capacity obtained pursuant to state and local policies and again for resources allowed to clear in wholesale markets does not result in just and reasonable rates. It will deter states and utilities from joining or remaining in FERC-jurisdictional electricity markets, and therefore harms competition.

For true market competition to occur, wholesale customers and suppliers should be able to come together and transact as they choose through bilateral contracts. It is not the RTO/ISO's job to second-guess the resource and contracting decisions of load-serving entities and eligible wholesale electric customers to buy or self-supply the types of resources and services they select, and for their chosen length of time. Nor should the RTO/ISOs continue to shift the rules in a manner that serves only to increase revenues for one set of sellers. Long-term bilateral contracts can be beneficial for both wholesale customers and energy suppliers and should be fully accommodated inside and outside regions with RTO-operated markets. Bilateral contracts are a key part of competitive wholesale electricity markets, as they are in every other competitive sector of the economy. For these reasons the Commission recommended that the RPM rules incorporate a workable mechanism "to accommodate resources that receive out-of-market support, and mitigate or avoid the potential for double payment and over procurement." Any reform of RPM adopted in this proceeding should provide customers and load-serving entities with a means of choosing the resources they desire, or that they are required by states to procure as a means to pursue policy goals.

The Commission has an opportunity to establish rules that allow for true wholesale markets where the market operators can focus on their core mission of reliable and efficient grid and market operation, states can address environmental and other public policy objectives, and investors face the risks inherent in competitive markets and are incented to invest in the types of resources desired by customers, while addressing the need for resource adequacy.

Respectfully submitted,

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