



STATE OF NEW JERSEY
Board of Public Utilities
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IN THE MATTER OF THE BOARD'S INVESTIGATION)
OF CAPACITY PROCUREMENT AND TRANSMISSION) ORDER
PLANNING) SETTING ADDITIONAL
HEARING)
DOCKET NO. EO11050309

BY President Lee A. Solomon:

By Order dated May 27, 2011, ("May Order") the New Jersey Board of Public Utilities ("Board") initiated a proceeding to investigate the reliability of the State's electric supply and designated me as presiding officer authorized to rule on all motions that arise during the pendency of this proceeding as well as to establish and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. Among the issues to be investigated, the Board listed the following: (1) whether there is a need to pursue additional generating capacity beyond the approximate 2,000 MW already contracted for under the Board's recently concluded Long-Term Capacity Agreement Pilot Program ("LCAPP") proceeding¹; (2) the identification of impediments to the development of new generation capacity in New Jersey; and (3) issues concerning the PJM Interconnection, L.L.C.'s ("PJM") transmission planning process.

On June 17, 2011, I conducted a legislative-type hearing ("June Hearing") to solicit comments from interested stakeholders regarding: (i) current impediments to the development of an efficient transmission interconnection process; (ii) the record of generation capacity development since the 2007 implementation of the Reliability Pricing Model ("RPM"); (iii) the identification of current barriers to new entry; and (iv) the role of market power in maintaining these barriers. A number of parties submitted written comments at and subsequent to the June Hearing.

The schedule for the instant proceeding, detailed in the Board's May Order, stated that Board Staff would issue its recommendation on September 9, 2011. However, the testimony presented at the June Hearing raises several additional issues that warrant further investigation.

¹ I/M/O The Long-Term Capacity Agreement Pilot Program, BPU Docket No. EO11010026.

These matters must be fully explored and understood prior to Board Staff issuing any recommendation. Therefore, I **FIND** that a second legislative hearing should be convened to further explore the issues set forth below before Board Staff issues its recommendations. This second hearing will be convened on October 14, 2011, at which time the Board will take testimony on the following issues:

- 1) Testimony presented at the June Hearing points at the existence of barriers to new entry resulting from PJM's interconnection rules and practices. What actions can PJM take that will alleviate bottlenecks in the current transmission interconnection process? What can the Board do to facilitate such PJM actions? Are incumbent generators submitting projects for the purpose of taking up positions in the PJM interconnection queue to the detriment of new entrants?
- 2) Is it inappropriate to have PJM transmission-owning entities ("TOs") perform interconnection studies given that some of the TOs are part of holding companies that own generation through other affiliates or subsidiaries that participate in the PJM markets? Are such TOs causing intentional delays in the interconnection process to benefit incumbent generation affiliates?
- 3) Should responsibility for the performance of engineering interconnection studies and the identification of necessary transmission upgrades and attendant costs be transferred from the TOs to PJM, or to a third party entity (e.g., an independent engineering consultant)? What would be the most expeditious means for achieving such a transfer of responsibility to PJM or other independent entity? Should an interconnection applicant be given the choice to use a third party consultant to carry the interconnection studies as an alternative to the current process?
- 4) Are there any inconsistencies between the transmission assumptions made in the PJM Regional Transmission Expansion Planning ("RTEP") process and the transmission assumptions made in calculating the Capacity Emergency Transfer Limits ("CETL") for the Locational Deliverability Areas ("LDAs") modeled in RPM (e.g., double-circuit tower line criteria violations)? If so, describe them, indicate whether they can be resolved and what the effects of their incorporation into RPM would be.
- 5) Since implementation of the RPM in 2007, why has the market responded with disproportionately greater amounts of new generation capacity built outside of LDAs with higher capacity prices such as those that comprise New Jersey? If higher Base Residual Auction ("BRA") clearing prices serve as the incentive for new generation capacity, why have we witnessed relatively minimal new generation in New Jersey; conversely, what factors are leading generators to build new generation capacity in lower-priced regions of PJM rather than in the constrained LDAs where their expected revenue stream is higher over time? What accounts for the high percentage of total new capacity resources coming from withdrawn or cancelled retirements in New Jersey relative to the experience in other LDAs under RPM to date? (See Comments of PJM Interconnection, L.L.C., Docket No. EO 11050309, June 17, 2011, Tables 1 – 2).

- 6) Is the RPM construct capable of signaling the need for specific types of generation capacity, in particular mid-merit and baseload capacity? Are other capacity markets outside of PJM able to provide appropriate incentives to develop mid-merit and base-load generation? If so, what aspects of those capacity markets are transferable to PJM? Is it possible to develop non-peaking capacity projects without resorting to long-term contracts outside of the RPM construct? If not, what should be the duration of those contracts? Could a long-term fixed price signal in RPM either through a reformed New Entry Price Adjustment (“NEPA”) mechanism or through a voluntary auction for long-term capacity procurement result in more mid-merit base load generation being built in constrained LDAs such as those comprising New Jersey?
- 7) Does structural market power play a role in obstructing the development of new capacity in the constrained LDAs that serve New Jersey electric consumers? What are the precise means by which incumbent generators with structural market power obstruct or could potentially obstruct the development of new capacity projects in these markets?
- 8) What actions can the Board take to dilute existing structural market power and thwart any abuse of incumbents who exercise it to impede capacity development? Are there other impediments to new capacity development over which the Board has jurisdiction or can bring to the attention of FERC for its resolution?
- 9) How is the persistence of the economic recession affecting PJM load forecasts and reliability requirements for the LDAs serving New Jersey electric consumers? Have the forecasted reliability requirements for the 2012 and subsequent year’s BRAs been reduced? If so, what is the forecasted impact on overall resource adequacy for New Jersey?
- 10) If present Board efforts fail to result in modification of the FERC’s April 12, 2011 revised PJM Minimum Offer Price Rule (“MOPR”), should the State of New Jersey pursue the Fixed Resource Requirement (“FRR”) alternative as a means of developing adequate new generation capacity resources? What changes to current PJM rules on FRR, if any, are needed to facilitate New Jersey pursuing this option? Would existing and new generation entities be amenable to executing long-term contracts to supply capacity to a State-sponsored FRR service area?

As presiding officer on this matter I **HEREBY DIRECT** Staff to notify all affected and/or interested parties by posting notice of this proceeding on the Board’s website. I **FURTHER DIRECT** the Electric Distribution Companies (“EDCs”) to post this Order on each of their respective website homepages within two (2) business days of the date of this Order and to electronically supply each of their respective Basic Generation Service suppliers with a copy of this Order within two (2) business days of the date of this Order.

In addition to or in lieu of verbal comments, written comments can also be sent to the attention of the Office of the Secretary, New Jersey Board of Public Utilities, 44 South Clinton Avenue, Trenton, NJ, 08625, postmarked no later than **October 31, 2011**, (please include the phrase "Capacity Procurement Proceeding" in the subject line). Electronic comments can also be filed with the Board at board.secretary@bpu.state.nj.us.

DATED:

BY:

A handwritten signature in black ink, appearing to read "Lee A. Solomon", written over a horizontal line.

LEE A. SOLOMON
PRESIDENT