

**State of New Jersey**  
**Board of Public Utilities**  
**Investigation of Resource Adequacy Alternatives**  
**Docket No. EO20030203**  
**Reply Comments of the Electric Power Supply Association**

Dear President Fiordaliso and Commissioners:

The Electric Power Supply Association (“EPSA”) appreciates the opportunity to provide reply comments in this proceeding. As initial comments from EPSA and numerous other parties make clear, the Fixed Resource Requirement (“FRR”) is a costly and logistically fraught path that may inhibit, rather than facilitate, the achievement of New Jersey’s emissions reduction goals and resource adequacy needs. EPSA believes there is a path forward that would enable New Jersey to achieve its emissions reduction goals without abandoning the benefits of competitive markets. EPSA and its members are committed to working with the Board, the legislature, and the Administration in developing solutions to meet the state’s objectives. As potential alternatives were discussed at length in our initial comments, EPSA will use this opportunity to highlight some of the issues around the FRR, as outlined in the comments of other interested parties, all of whom opposed FERC’s Minimum Offer Price Rule (“MOPR”) Order.

First and foremost, while the costs of FRR will invariably be disputed by parties on either side of the issue, there are structural deficiencies associated with FRR that are not subject to debate. As demonstrated extensively in the record, one of the primary structural deficiencies of an FRR is the concentration of market power and the corresponding challenge of creating adequate tools to mitigate market power.<sup>1</sup> FRR will almost certainly decrease the size of the relevant market, and a smaller market means less competition. For example, generation resources located in PJM are required to offer their capacity into the PJM Reliability Pricing Model (“RPM”). If a state created an FRR, for both in-state and certainly for out-of-state generators, presumably it would be the choice of the generator—not the state—whether to offer into an FRR procurement. Thus, even assuming import capability into an FRR zone, supply limitations may still exist.

Band-aids or alternative mechanisms may exist for a state to limit the exercise of market power, which may or may not be effective, but to the extent supply is limited, for the reason noted above or otherwise, suppliers in the FRR zone would have an incentive to increase prices. Whether these prices end up precisely at the capacity market price cap (as suggested by PJM’s Independent Market Monitor) is unknown, however, there is a good chance the price will increase. As we noted in our initial comments, while the regulatory structures are different, Dominion Energy’s 2020 Integrated Resource Plan (“IRP”) shows consumer electric bills increasing by over \$45 per month by 2035 to meet the state’s clean energy goals. For New Jersey to develop, implement, and oversee tools to *effectively* limit the exercise of market power under an FRR regime would likely be a heavy lift. Rather than reinvent existing tools, New Jersey should look to the tools already in place in the PJM market to mitigate market power.

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<sup>1</sup> While several commenters point to market power as a significant concern of FRR, we point in particular to the comments of the New Jersey Division of Rate Counsel at pp. 15-18, the New Jersey Large Energy Users Coalition at pp. 10-15, and the Institute for Policy Integrity at pp. 12-13.

While EPSA pointed out many of the issues around FRR in its initial comments, the excerpts from the record below indicate similar concerns are shared across a wide range of stakeholders. EPSA does not necessarily agree with all the positions of the commenters flagged below but find their concerns generally in alignment with EPSA and useful for the Board’s decision-making process. For example, the comments from offshore wind developer Atlantic Shores Offshore Wind (“ASOW”) help to crystalize how the FRR would likely impede the achievement of New Jersey’s environmental goals, saying:

Leaving the PJM capacity market to create FRRs could hinder attainment of New Jersey’s clean energy goals...To meet [PJM reliability] requirements in the short term, given the limited amount of renewable energy projects currently located in or near New Jersey, it is highly likely that the state would need to contract with a substantial amount of capacity from fossil fuel-based resources to obtain PJM approval of any FRR service areas – at least until sufficient renewable resources in the right locations come on-line. Meanwhile, converting New Jersey into FRR service areas would reduce its access to renewable energy resources across the wider PJM region, making it more difficult to transition to 100 percent clean energy.<sup>2</sup>

Vitol echoed similar concerns and further explained how the FRR could hinder the operation of New Jersey’s Renewable Portfolio Standard (“RPS”) programs. As Vitol explains:

The RPS program, as drafted, contemplates links with the broader PJM energy markets for meeting its goals. For instance, the program allows for compliance requirements to be met by certain resources within the PJM footprint but outside of New Jersey. These out-of-state resources compete in an open market to earn commercial contracts with participants who have an RPS compliance obligation in New Jersey, leading to efficient utilization of resources without the overbuilding of expensive resources within New Jersey or forcing the development of land-intensive resources in New Jersey where land resources are limited. An IRP-type replacement program would require significant intervention that likely will not be able to replicate the efficiencies that exist today to allow eligible resources in the broader PJM market to apply competitive pressure to help New Jersey, and its ratepayers, to meet RPS goals in a least-cost manner.<sup>3</sup>

The joint comments of SEIA, AWEA, AEE and MAREC make clear that in shrinking the boundaries within which the state can procure carbon-free capacity to meet its policy goals, New Jersey may expose itself to a lack of available resources, when compared with procuring over a broader area.<sup>4</sup> These groups also point out the issues that may arise should states pursue individual FRR plans. As the joint comments outline, should New Jersey and other states elect to pursue an FRR plan, the remaining PJM capacity market and other states could end up preserving higher-emitting resources, working against the intent of these FRR efforts and increasing emissions that eventually arrive in the state given its geographic location.<sup>5</sup>

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<sup>2</sup> Comments of Atlantic Shores Offshore Wind at pp. 7-8.

<sup>3</sup> Comments of Vitol, Inc. at p. 5.

<sup>4</sup> Joint comments of SEIA, AWEA, AEE and MAREC at p. 5.

<sup>5</sup> *Id.*

Finally—and perhaps most importantly—Enel makes the critical point that electing the FRR would not only decrease New Jersey’s ability to meet its clean energy goals, but also “chill clean energy development throughout the entire PJM region.”<sup>6</sup> Enel further worries about the FRR’s effect on clean energy development:

Given the uncertainties around what an FRR structure in New Jersey would look like, how long it would last, how resistant it would be to legal challenges, and the impacts it would have on the broader PJM market, pursuing [FRR] would create significant risks for clean energy developers. Their Investment Committees will choose to look elsewhere if they are unable to reliably forecast how their resources will monetize their capacity value in a market.<sup>7</sup>

While additional concerns with FRR were well articulated by EPSA and others, it is clear from the excerpts highlighted above that FRR poses myriad issues and may create more problems than it solves, if implemented.<sup>8</sup> In addition, FRR would further entrench and enrich PSEG and Exelon at the expense of the state’s ratepayers and possibly the achievement of the state’s goals. Both in New Jersey and around the country, PSEG and Exelon have repeatedly sought to shape energy policy in a way that creates market power for their assets and allows them to create arbitrage opportunities for their plants on the backs of consumers and to the detriment of competing resources and retail competition. Pursuing FRR would vest additional power in these companies, dry up competitive opportunities in the state and further the creeping return to monopolistic practices that PSEG and Exelon now seem to favor.

Instead, as demonstrated by EPSA and many others in initial comments, there are alternatives. A number of commenters suggested the Board encourage PJM to pursue regional changes to the market to achieve emissions reduction goals.<sup>9</sup> EPSA suggested a variant of ISO New England’s Competitive Auctions with Sponsored Policy Resources (“CASPR”) could be a framework worthy of discussion in PJM, particularly with respect to accommodating New Jersey’s offshore wind goals via a market-based construct. Many others, including EPSA, pointed to regional carbon pricing as a potential solution to achieving New Jersey’s emissions reduction goals. Just last week, the Federal Energy Regulatory Commission announced a technical conference to discuss regional carbon pricing in wholesale electricity markets as a mechanism to achieve state emissions reduction goals. The conference is scheduled for September 30, 2020.<sup>10</sup> We urge the Board to carefully evaluate all the options in the record.

As EPSA and others pointed out in our initial comments, competitive electricity markets have achieved record low prices, spurred innovation, and accelerated emissions reductions, all while allowing consumers to avoid the risks associated with generation supply investments.

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<sup>6</sup> Comments of Enel at p. 3.

<sup>7</sup> *Id.*

<sup>8</sup> EPSA also agrees with the initial and reply comments of the PJM Power Providers Group (“P3”), as well as the Prepared Comments of Paul M. Sotkiewicz, PhD (the expert affidavit accompanying P3 reply comments).

<sup>9</sup> Comments of Environmental Defense Fund at pp. 4-5; Joint comments of SEIA, AWEA, AEE and MAREC at p. 4.

<sup>10</sup> FERC, *Carbon Pricing in Organized Wholesale Electricity Markets*, Docket No. AD20-14-000 (June 17, 2020), available at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15560766> .

Pursuing an FRR would create new reliability challenges, reduce competition, and inhibit, not advance, the achievement of New Jersey's goals, all while putting the risk of poor investments on the backs of New Jersey consumers. As such, we again strongly urge the Board to *not* pursue an FRR for New Jersey. EPSA and its members appreciate the opportunity to comment on this matter and look forward to working with the state to find a way to responsibly meet its goals while preserving the measurable benefits that competition has provided to the state.

Respectfully submitted,

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