

Critical Issue Fast Path – Phase 2 Consumer Advocate Feedback

May 30, 2023

Five Main Areas of Concern

Conceptual matters that are top of mind for the advocates

- Market Seller Offer Cap – Market Power must be kept in check
 - Performance!
 - Scheduling of auctions and price signals
 - Having the key information to make informed decisions prior to voting on future frameworks
- *confidence in the markets moving forward**

FERC MSOC Order – Is focused on Market Power

Market Power concerns must be addressed:

- Per FERC’s March 18, 2021 Order, “[T]he default offer cap should be set at a level that permits the Market Monitor and PJM to review offers that may constitute an attempt to exercise market power and mitigate offers where appropriate.”*
- Per FERC’s September 2, 2021 Order, FERC’s seller-side market power determination questions whether offers might present market power concerns and provide the ability to mitigate those concerns. The Commission found that Unit-Specific ACR proposal addresses the matter.

Question from the advocates: As stakeholders look at solutions, what proposals ensure that market power concerns are appropriately addressed and can be reviewed?

What proposals ensure that the marginal offer is reviewed?

*Indep. Mkt. Monitor for PJM v. PJM Interconnection, LLC, FERC Docket No. EL19-47 (March 18, 2021) at paragraph 67.

Timeline of PJM MSOC Determinations

- March 18, 2021 FERC grants complaints from the IMM and Joint Consumer Advocates finding certain aspects of the default calculation of Market Seller Offer Cap unjust and unreasonable.
- September 2, 2021 FERC Issues an order to establish the current construct.
 - BRAs run under the current MSOC construct: **DY 2023/2024 (BRA June 2022) & DY 2024/2025 (BRA Dec 2022)**. “The corrected MSOC rules were applied in the 2023/2024 BRA and were essential to the competitive results of the 2023/2024 BRA.”* (10/28/2022 IMM Analysis of 2023/2024 RPM BRA)
 - **Note: Winter Storm Elliott happened in the delivery year prior to the MSOC changes. The first day of DY 2023/2024 is June 1st, 2023.**
- PJM stakeholders vote down proposals to change the market seller offer cap September 21, 2022:
 - PJM package Sector Weighted vote (SWV) = 2.99 and LS Power proposal SWV = 2.828
 - From the advocate perspective the proposals did not address Market Power concerns
 - The PJM proposal suggested an end-around of the IMM’s review. (Change PJM determination from a simple accept or reject to allow for approval of alternative values based on review and discussions with market sellers.)
- PJM has offered the same proposal for the CIFP.
 - How can consumers/stakeholders evaluate the results (and competitiveness) of BRAs under the MSOC? **(e.g. changes are proposed so quickly we must rely on PJM and IMM.)**

Participant Risk was Considered by FERC in the MSOC and Capacity Performance Proceedings

- FERC determined that Market Power concerns were the core concern – Consumers agree.
- Risk appropriately should be borne by participants, not consumers:

“No party has demonstrated that this determination is no longer just and reasonable under the Unit-Specific ACR Proposal. It is not appropriate for a cost-based offer to allow sellers to price every reasonable adverse outcome, because, as the Market Monitor states, such an approach would unreasonably shift all risk from the investors to consumers, effectively holding sellers harmless at the expense of ratepayers.”*

**Independent Market Monitor for PJM v. PJM Interconnection, LLC, Order Establishing Just and Reasonable Rates, FERC Docket EL19-47-000, September 2, 2021 Paragraph 72.*

PJM Perspective – 1/10/2022 RASTF



PJM Perspectives

We broadly **agree with the concerns and perspectives provided by stakeholders on MSOC**, and that targeted reform to the current calculation and process is important to address as soon as practicable

- Current work plan reflects a completion date for targeted MSOC reforms by end of Q1 2022 for this group to hit the scheduled March check-in and implementation for the 2025/2026 BRA
- We'll need to work through what set of targeted reforms are appropriate and feasible given the limited time period to implement for earlier auctions

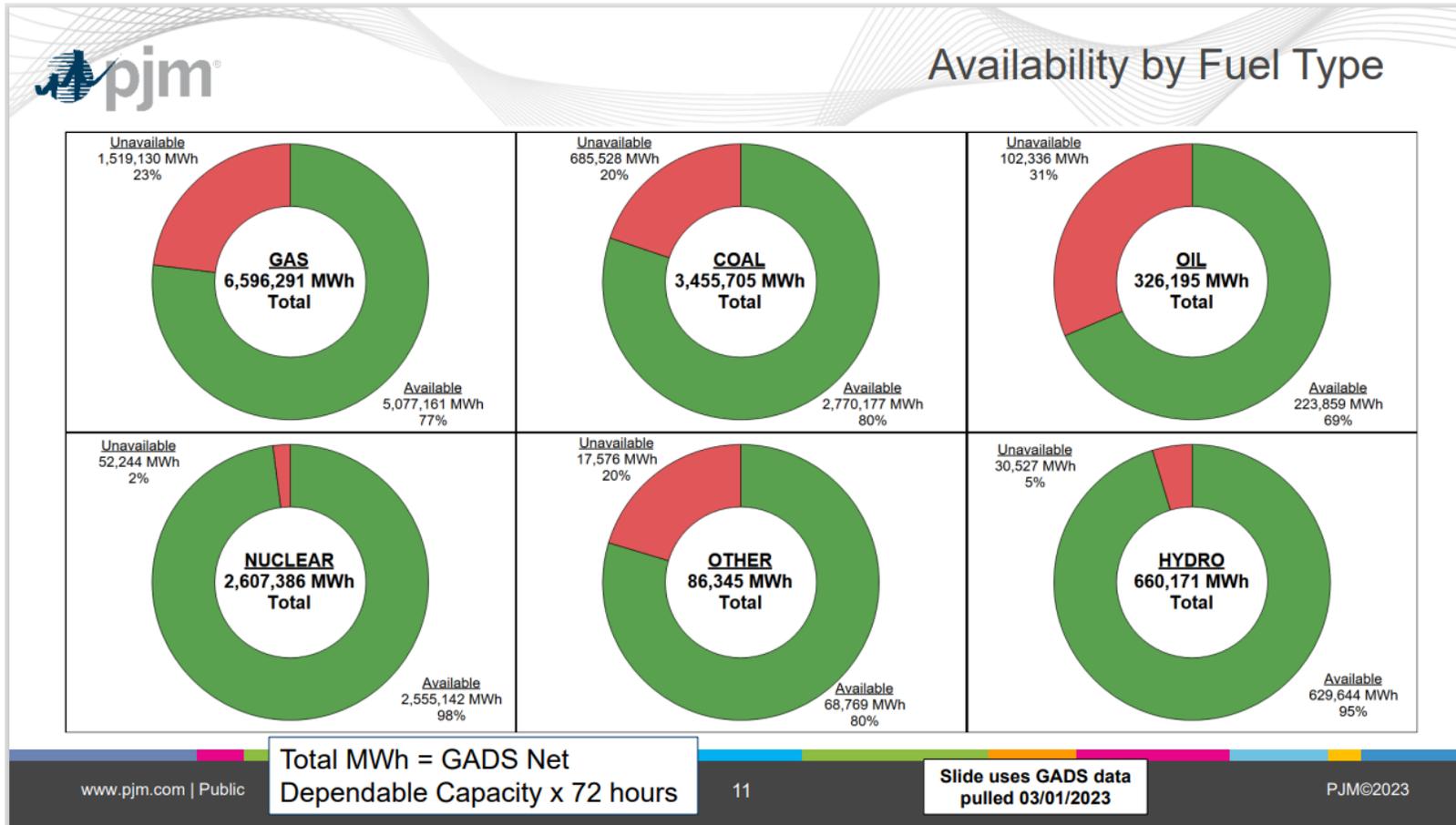
The Key MSOC Points for Consumers

*These issues have not changed since 2021/2022 discussions!

- Market Power must be appropriately and adequately reviewed and addressed by PJM and the IMM.
- Consumer advocates have the least information on many of these matters. Capacity bidding offers is certainly one of those areas.
- Advocates are trying to understand the extent of concerns, however, we have very limited information to do so.
- Are uncompetitive auction conditions (b/c of market power issues) essential for participants under the current construct? If so, we need a new construct.

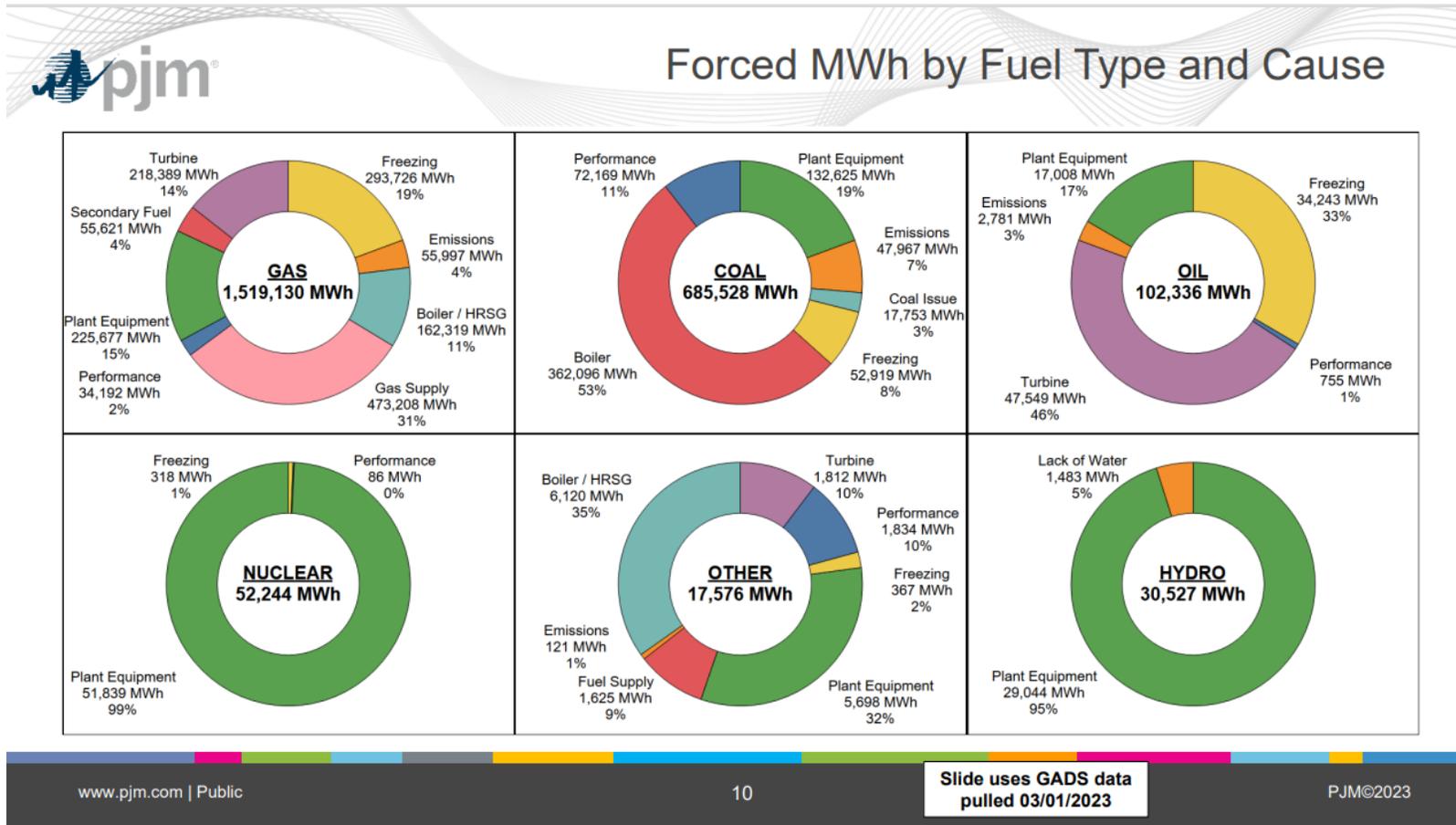
Performance Concerns

WSE Performance Metrics – what should consumers expect?



*PJM Operating Committee, Winter Storm Elliott Continued Outage analysis, March 9, 2023, slide 11

WSE Performance Metrics – Good Enough?



*PJM Operating Committee, Winter Storm Elliott Continued Outage analysis, March 9, 2023, slide 10

Near-term Performance Concerns

- For the 2023/2024 and the 2024/2025 Delivery Years Stakeholders recently approved submitting to FERC a proposal to reduce penalties for capacity resources that fail to perform tenfold and hoping that does not erode resource performance (further).
 - Two years of stakeholder discussions and FERC proceedings undone in 15 days!
- Consumers have paid billions of dollars for resources to be available at all costs under the Capacity Performance construct. Now, for the next two delivery years, consumers will pay the same amount of money and receive 1/10 of the assurance of performance. **How is that equitable? Will reduced penalties *discourage* ongoing (costly) performance initiatives?**
- PJM recently raised a concern that the reduction in penalties proposed by the most recent stakeholder proposal could reduce reliability.
- **A goal of the PJM Capacity market is to encourage uneconomic, inefficient or poor performing resources to retire. Correct? What is poor performing? What is inefficient, what is uneconomic?**
- When someone tells you who/what they are Believe them!
 - Stakeholders propose to transform the PJM focus from Reliability at least cost to prioritization for preservation of the existing resource mix even if it fails to perform. (This is hardly a surprise since the vast majority of PJM stakeholder voting members are a PJM market participant!)
 - The urgent, speed-of-light – 15-day - effort to modify penalties provides a data point regarding confidence of many resources to perform in the PJM construct.
 - The PJM market construct was built on the notion that suppliers, not consumers, are in the best position to assess and price the performance risk. Shifting more risk to customers should mean less money for resources or perhaps a time for a new construct!

Scheduling of PJM RPM Auctions and Price Signals

Scheduling of PJM Capacity Auctions Moving Forward

There is a strong likelihood that we will have five or more auctions in a two-year period (May 2025-May 2027). In my opinion, that might be optimistic! (See MSOC concerns above.)

 Potential Schedules based on outcome of FERC filing

BRA every ~6 months, keep all 3rd IAs, cancel 1st and 2nd IAs based on prior filing rules

FERC filing by 10/1/23	Current BRA Schedule	Potential BRA Schedule (clean FERC order on 12/1/23)	IAs Cancelled	Potential BRA Schedule (Final FERC approval on 3/1/24)	IAs Cancelled
2025/26	Jun 2023	Jun 2024	1st and 2nd	Oct 2024	1st and 2nd
2026/27	Nov 2023	Dec 2024	1st and 2nd	May 2025	1st and 2nd
2027/28	May 2024	Jun 2025	1st	Dec 2025	1st and 2nd
2028/29	May 2025	Dec 2025	1st	Jun 2026	1st
2029/30	May 2026	May 2026*		Dec 2026	1st
2030/31	May 2027			May 2027*	

* Back on normal 3 year forward BRA with associated IAs schedule

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*PJM Members Committee, Special Session, April 4, 2023, Potential revised RPM auction schedule presentation.

A Few Concerns about Scheduling

- Three-year forward Base Residual Auctions were a core focus of PJM and resource participants...until 2023.
 - See PJM's MSOC filings in 2021 where PJM emphasized the importance of a 3-year forward market design even if it meant going forward with the FERC determined unjust and unreasonable MSOC construct a little while longer – costing consumers billions!)
 - **What is the right timing for auctions to encourage the appropriate price signals?**
- Current situation: **How does five BRAs in a two-year span help the resource transition and innovation?**
- **Are the resources looked to for “the transition” in the room and do they have a voice in the discussions?** Does the stakeholder make-up of existing resources create a barrier to creating the best approach? (I think the current make-up does create a barrier unless we create a very simple, transparent, market approach.)

Customers Need Transparency to Make Informed Decisions

Consumers Lack Key Information to Make Decisions

- Having key information to formulate positions is an issue – particularly, as it relates to WS Elliott information. (If PJM provides a full Winter Storm Elliott report in mid-July that will help. Overall, changes are happening so fast that it is almost a certainty mistakes will happen or items will be missed.)
 - The lack of transparency with the current situation is a barrier. Information regarding the resources that failed to perform should be provided in great detail. Consumers should have the ability to evaluate the reasons for failures. (e.g. were the reasons economic? Strategic? Systemic?)
 - Advocates have the least information with which to participate in the development of capacity frameworks moving forward. The advocates are typically unlikely to support positions based on partial or speculative information. (It helps when the IMM and PJM are on the same page.)
- *Consumer focused voices in this equation are a minority. Thus, consumers have the least information and virtually no ability to correct market inequities once they are established.

PJM Capacity Construct

Currently, the PJM Market is competitive and has a healthy reserve margin!



Executive Summary

The 2024/2025 Reliability Pricing Model (RPM) Base Residual Auction (BRA) cleared 140,415.8 MW of unforced capacity in the RTO from non-energy efficiency annual, summer-period, and winter-period resources representing a 21.7% reserve margin. Energy Efficiency (EE) resources are excluded from this calculation because their impact is reflected in a lower load forecast and therefore not used to meet the Reliability Requirement. The reserve margin for the entire RTO, which includes Fixed Resource Requirement (FRR) is 20.4% or 5.7 percentage points higher than the target reserve margin of 14.7%. These results are similar to the 2023/2024 BRA.

Supply offered into the RPM capacity market, excluding EE Resources, declined 2,197.7 MW from 151,143.4 MW in the 2023/2024 BRA to 148,945.7 MW in the 2024/2025 BRA. This is the third BRA in a row where the total Capacity offered from non-EE resources has declined. Further, the number of constrained LDAs increased from 3 constrained LDAs in the 2023/2024 BRA to 5 constrained LDAs in the 2024/2025 BRA. This reflects tighter supply and demand conditions in those locations. The total amount of capacity, excluding EE Resources, in RPM that cleared increased 542.2 MW from 139,873.6 MW in the 2023/2024 BRA to 140,415.8 MW in the 2024/2025 BRA.

Conclusion

- Consumer Advocate Offices support markets, however:
 - Thus, market Power must be appropriately addressed
 - Thus, a Strong Independent Market Monitor is essential
- Simplicity is the key and transparency is a must for confidence/lower prices.
- Risk should be on the participants not on captive customers.
- Where is the level of confidence... that the PJM capacity market is competitive and provides reliable power at least cost (while respecting state regulatory decisions.)
- What is the right balance between encouraging innovation/new resources and preserving the current resources?
- We need complete information from Winter Storm Elliott to make informed decisions. We are statutorily bound to protect the consumer but still lack basic information.
- Load needs a stronger opportunity to make a difference when resources fail. Remember, DR performed in the face of WS Elliott.
- Five requests for the matrix:
 - A residential DR program that allows another layer of response/communication to emergency situations.
 - Residential customers should receive some of the penalty money. We paid for resources that failed to perform and yet customers endured higher energy costs.
 - Capacity resources should receive more bonus money than non-capacity resources.
 - Greater and greater excuses for lack of performance should mean more and more transparency about the reasons and the resources.
 - We need time to explore other constructs (e.g. moving away from a single clearing price)

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