UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Meeting the Challenge of Resource Adequacy in Regional Transmission Organization and Independent System Operator Regions	Docket No. AD25-7-000

POST-TECHNICAL CONFERENCE COMMENTS OF THE TRANSMISSION ACCESS POLICY STUDY GROUP

The Transmission Access Policy Study Group ("TAPS") appreciates the opportunity to comment on the Commissioner-led technical conference held on June 4 and 5, 2025, to discuss critically important resource adequacy issues in Regional Transmission Organization/Independent System Operator (collectively, "RTO") regions.[1] The technical conference explored the resource adequacy challenges facing RTO regions across the country, intensified by trends of retiring baseload generation and the addition of difficult-to-forecast data center and other large loads. It highlighted the diverse factors contributing to these challenges (including, among other things, supply chain issues, import tariffs, permitting and siting, and interconnection queue delays), as well as the potential for resource adequacy reforms to significantly increase costs on already burdened consumers and businesses. The technical conference did not reveal a "magic bullet" to solve existing resource adequacy problems, let alone one that would be effective in all RTO regions.

TAPS urges the Commission, when considering resource adequacy reforms (including those proposed by individual RTOs), to do so consistent with the

[1] Notice Requesting Post-Conference Comments (June 5, 2025), eLibrary No. 20250605-3043.

Commission's overarching obligation to protect consumers against excessive and unnecessary costs. Specifically, the Commission should follow the following principles:

- *Do not assume that ever higher prices will solve our resource adequacy challenges.* Panelists at the technical conference identified numerous causes contributing to the delay in interconnecting much-needed new generation, many of which are independent from resource adequacy constructs and capacity markets. These delays are *not* an indication that current prices are inadequate to incent needed new generation.

- *Carefully consider the costs imposed by resource adequacy construct reforms.* Higher price signals that fail to address underlying supply challenges impose real, significant costs to consumers that cannot be effectively mitigated by Load-Serving Entity ("LSE") hedging and are contrary to the Commission's mandate to protect consumers against excessive rates.

- *Be skeptical of one-size-fits-all solutions.* While resource adequacy challenges are widespread, the specifics of these challenges, existing state regulatory regimes, and RTO structures vary across the country.

I. INTEREST OF TAPS

TAPS is an association of transmission-dependent utilities ("TDUs") in thirty-five states promoting open and non-discriminatory transmission access.[2] Representing LSEs entirely or predominantly dependent on transmission facilities owned and controlled by others, TAPS has supported the Commission's initiatives to form truly independent RTOs to foster efficient investment in transmission and generation and to provide non-discriminatory transmission access. And as municipal, cooperative, and investor-owned LSEs, TAPS members are responsible for providing reliable and affordable service to the consumers and businesses that rely on them and their members. This responsibility includes maintaining resource adequacy at a reasonable cost to consumers. TAPS members own or have long-term bilateral contracts for a full range of resources,

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[2] *See* TAPS, *About Us*, https://www.tapsgroup.org/about-us/ (last visited June 25, 2025). Jane Cirrincione, Northern California Power Agency, is the TAPS Chair; Kevin Gaden, Illinois Municipal Electric Agency, is the Vice Chair. Tom Heller is TAPS's Executive Director.

including coal, nuclear, gas, hydro, wind, and solar, reflecting commitments made over decades in accordance with local and state laws and policies.

TAPS members in RTOs are directly affected by how organized capacity markets accommodate the obligation-to-serve business model that TAPS members share, and they have a strong interest in ensuring that LSEs are able to economically meet their resource adequacy needs through resource ownership and access to competitive bilateral and organized markets (e.g., to allow for sales of temporarily excess capacity or purchases in the event of a temporary capacity deficiency). TAPS members in RTOs without capacity markets have similarly strong interests in the ability to ensure resource adequacy at reasonable costs.

Communications regarding these proceedings should be directed to:[3]

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II. COMMENTS

TAPS recognizes the pressing need to address resource adequacy challenges facing RTO regions and the importance of facilitating speedier development of new generation. At the same time, the Commission must continue to prioritize affordability in

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[3] TAPS requests that the Commission waive Rule 203(b)(3) of its Rules of Practice and Procedure, 18 C.F.R. § 385.203(b)(3), to allow each of the individuals listed below to be placed on the official FERC service list in order to avoid delays in receipt of notices and responses to pleadings.

considering any resource adequacy reforms. Protecting consumers from excessive and unreasonable rates is the core of the Commission's statutory mandate under the Federal Power Act.[4] Indeed, the Commission's 2025 refresh of its website centers the issue of affordability by leading with the heading "Working for Reliable & Affordable Power for All," and providing information on residential cost of electricity for each state.[5]

In evaluating resource adequacy reforms, the potential for higher price signals to encourage new generation must be considered alongside—and balanced against—the real burdens that higher prices impose on individuals and businesses. And in doing so, the Commission should not assume that higher prices will necessarily lead to increased generation, given the numerous complex forces at work. As discussed at the technical conference, many obstacles independent from capacity markets or RTO resource adequacy constructs prevent new generation from being built quickly: e.g., interconnection queues,[6] supply chain issues,[7] permitting and siting

[4] *See, e.g.*, *Pa. Water & Power Co. v. FPC*, 343 U.S. 414, 418 (1952) ("A major purpose of the whole [Federal Power] Act is to protect power consumers against excessive prices."); *Xcel Energy Servs. Inc. v. FERC*, 815 F.3d 947, 952–53 (2016) ("It is long-established that the 'primary aim [of the Federal Power Act] is the protection of consumers from excessive rates and charges.'" (citing *Mun. Light Bds. of Reading & Wakefield v. FPC*, 450 F.2d 1341, 1348 (D.C. Cir. 1971))); *Pub. Sys. v. FERC*, 606 F.2d 973, 979 n.27 (D.C. Cir. 1979) ("[T]he Federal Power Act aim[s] to protect consumers from exorbitant prices and unfair business practices.").

[5] *Federal Energy Regulatory Commission*, https://ferc.gov/ (last visited June 25, 2025).

[6] *See e.g.*, Pre-Conference Comments of Brian O. Lipman, President, Consumer Advocates of PJM States at 6 (May 28, 2025), eLibrary No. 20250528-4001 ("Lipman Comments") ("The impact of the interconnection queue backlog on the capacity market . . . cannot be overstated. . . . [R]esources in PJM cannot realistically respond to the price signal due to a perfect storm of an interconnection queue backlog and auction delays."); Pre-Technical Conference Statement of Steven Lieberman on Behalf of American Municipal Power, Inc. at 13 (May 16, 2025), eLibrary No. 20250516-5206 ("Lieberman Comments") (highlighting "[Midcontinent Independent System Operator, Inc.'s (MISO's)] significant interconnection queue backlog" as "a formidable barrier to entry").

[7] *See, e.g.*, Comments of Todd Ramey on Behalf of Midcontinent ISO Inc. at 12 (May 28, 2025), eLibrary No. 20250528-4032 ("Ramey Comments") ("More than half of all delays are attributable to transmission owner supply chain issues and regulatory processes."); Written Statement of Pallas LeeVanSchaick, Ph.D., NYISO Market Monitoring Unit & ISO-NE External Market Monitor at 4 (May 28, 2025), eLibrary No. 20250528-4020 ("Efficient capacity market design cannot fix siting and permitting barriers . . . .").

delays,[8] and federal policy changes.[9] These obstacles have contributed to massive amounts of generation additions pending in interconnection queues and otherwise delayed throughout the country.[10] But such delays do not mean that current prices and resource adequacy constructs create inadequate incentives for new generation, or that further price increases and rule changes are needed. Higher prices will not speed up interconnection queue processes or eliminate the other uncertainties and supply-side issues discussed at the technical conference.[11] Rather, higher prices will punish consumers, while providing a windfall to existing generators, without any commensurate benefit.

Affordability also must be a priority when considering resource adequacy reforms because the Commission should not assume that LSE hedging can adequately mitigate against risks of extreme prices. TAPS members generally attempt to meet their resource adequacy requirements by owning, or entering into long-term contracts for, generation—

[8] Ramey Comments at 26 (explaining that "permitting and [s]iting delay projects from being built once they exit the generator interconnection process").

[9] *See, e.g.*, FERC, *Meeting the Challenge of Resource Adequacy in RTOs/ISOs | Day 2 of 2 Technical Conference*, at 3:20:42 (YouTube, June 5, 2025), https://www.ferc.gov/news-events/events/day-2-commissioner-led-technical-conference-regarding-challenge-resource (Commissioner Katie Dykes, during Panel 7, discussing the impact of executive orders, tariffs, and uncertainty around tax credits on resource development).

[10] For instance, "the amount of generation resources [in MISO] that has completed the interconnection queue process, executed interconnection agreements, but nonetheless have not yet reached commercial operation, exceeds 50 GW." *Midcontinent Indep. Sys. Operator, Inc.*, 191 FERC ¶ 61,131, P 2 (2025) (Rosner, Comm'r, concurring). In PJM Interconnection, L.L.C. ("PJM"), as recently as last year "[o]nly 10 percent of developers report[ed] that any of their projects [would] come online within 12 months of receiving an interconnection service agreement, and most report[ed] their projects [would] require at least 24 months from the time they receive such an agreement to reach commercial operation." Abraham Silverman, Dr. Zachary A. Wendling, Kavyaa Rizal & Devan Samant, *Outlook for Pending Generation in the PJM Interconnection Queue* at 7-8, Columbia Center on Global Energy Policy (May 8, 2024), https://www.energypolicy.columbia.edu/wp-content/uploads/2024/05/PJM-Interconnection-CGEP_Report_042924-2.pdf.

[11] *See, e.g.*, Lipman Comments at 6 ("The impact of the interconnection queue backlog on the capacity market . . . cannot be overstated. . . . [R]esources in PJM cannot realistically respond to the price signal due to a perfect storm of an interconnection queue backlog and auction delays.").

i.e., physical hedges. While many TAPS members are altering their power supply planning and resource strategies in an effort to address today's resource adequacy challenges, their ability to do so is hampered by the limited supply of new capacity. The long-planned retirements of existing resources, combined with the massive, difficult-to-forecast influx of data center and other large loads,[12] will tighten supply of capacity, whether in the organized capacity markets or bilaterally. In this situation, prices for both existing capacity *and* financial hedges will be elevated. As explained by PJM's Independent Market Monitor ("IMM"):[13]

> [I]f it is widely understood that capacity market prices will increase, any hedging positions will reflect those prices rather than providing nonmarket low prices. *Hedging does not create a way to avoid market prices*.

LSEs cannot hedge their way around the risk of extreme prices until significant new generation becomes available.

The Commission should also keep in mind that the exposure of LSEs to high capacity prices has been significantly increased by recent changes in reserve margins, capacity market constructs, and accreditation methodologies. Adjustments to reserve margins and capacity market constructs may well be warranted, and it is appropriate to accredit resources based on their contributions to resource adequacy. However, as a result of these changes, LSEs that thought they adequately planned to meet their resource

[12] *See, e.g.*, Prefiled Statement of Adam Keech on Behalf of PJM Interconnection, L.L.C. at 7 (May 20, 2025), eLibrary No. 20250520-5178 ("The predominant new driver of changing assumptions in load forecasts are large loads like data centers, which dwarf the impact of other outliers on the accuracy of load forecasting. . . . Data centers are still relatively new, and there's uncertainty on how big their demand might be, and there's added uncertainty as to where they might ultimately be developed.").

[13] Pre Technical Conference Comments of the Independent Market Monitor for PJM at 10 (May 20, 2025), eLibrary No. 20250520-5027 ("PJM IMM Comments") (emphasis added).

adequacy requirements through owned generation and long-term contracts have found themselves unexpectedly short.

For example, recent changes to resource adequacy constructs and accreditation methodologies in RTOs have increased costs and de-valued existing assets that LSEs had counted on to satisfy their resource adequacy obligations.[14] Under MISO's recently instituted sloped demand curve, the Planning Reserve Margin ("PRM") can change year-to-year. This planning year the Planning Reserve Margin ended up being higher than expected, resulting in some TAPS members finding themselves unexpectedly short, and thereby exposed to the high market clearing prices.[15] And at $666.50/MW-day for the 2025 Summer Season,[16] being short even a limited number of megawatts can have serious consequences for the LSE and consumers. More generally, the unpredictability of these types of changes makes it impossible for LSEs to fully know, and thus plan sufficiently in advance for, their resource adequacy requirements, particularly given the

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[14] *See, e.g.*, Opening Statement of Laura Beauchamp on Behalf of the Entergy Operating Companies at 5 (May 28, 2025), eLibrary No. 20250528-4003 ("[D]ue to the mechanics of the accreditation framework [in MISO], a couple of our dispatchable generators improved their performance during the 2024/2025 PRA cycle; yet, they received markedly lower accredited MW determinations for the upcoming 2025/2026 PRA cycle."). *See also* Independent Market Monitor for PJM, *Analysis of the 2025/2026 RPM Base Residual Auction Part A,* Monitoring Analytics (Sep. 20, 2024), https://www.monitoringanalytics.com/reports/Reports/2024/IMM_Analysis_of_the_20252026_RPM_Base_Residual_Auction_Part_A_20240920.pdf. As explained in the report, PJM's 2024/2025 base residual auction was the first conducted under new Effective Load Carrying Capability ("ELCC") rules that capped "the ELCC accreditation values for thermal resources" at summer, rather than winter, ratings. *Id.* at 6. PJM's IMM estimates that "the ELCC resource performance adjusted accreditation of each of these resources would have been 8.8 percent higher and the resultant pool wide accredited [unforced capacity (UCAP)] factor (AUCAP) would have increased from 79.69 percent to 82.53 percent if the higher winter ratings had been used." *Id.* at 10.

[15] *See Planning Resource Auction Results for Planning Year 2025-26* at 2*,* MISO (May 29 2025), https://cdn.misoenergy.org/2025%20PRA%20Results%20Posting%2020250529_Corrections694160.pdf (explaining that the auction cleared above the PRM target).

[16] *MISO's Planning Resource Auction Indicates Sufficient Resources*, MISO (Apr. 28, 2025), https://www.misoenergy.org/meet-miso/media-center/2025---news-releases/misos-planning-resource-auction-indicates-sufficient-resources/.

long lead times involved in supplementing resources to respond to those changes.[17] LSEs thus face cost risk not only of being under-hedged, but also of being over-hedged, with those costs ultimately borne by consumers.

When considering resource adequacy reforms, the Commission must grapple with both the significant challenges facing the regions and its mandate to protect consumers against excessive and gratuitous costs. Proposals that are "all pain and no gain"—i.e., that increase prices, but are unlikely to improve resource adequacy—are not just and reasonable.[18] To strike the appropriate balance, TAPS recommends the following principles to guide the Commission in considering future resource adequacy reforms:

- **Do not assume that higher prices will address near-term supply-side needs.** Ever-rising prices will not eliminate or address the many factors exogenous to resource adequacy constructs that delay the development of new generation. The Commission should carefully examine the causes of supply-side issues to determine whether a proposal actually addresses these root causes or merely punishes consumers.
- **Focus on the costs imposed.** In evaluating the justness and reasonableness of any potential reforms, the Commission should consider the new costs incurred by market participants from substantially altered resource adequacy constructs. As part of this consideration, the Commission should account for the time it takes to interconnect and construct new generation and otherwise to adapt to the new regimen.

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[17] *See, e.g.*, Lieberman Comments at 11 ("Rule churn and the resulting price volatility is seen as a failure by market participants, including suppliers and load. . . . [R]ecent rule churn is undercutting the ability of market participants to make appropriate investment decisions in the MISO footprint."); Statement of Jennifer Easler, Attorney, Iowa Office of Consumer Advocate – Division of Iowa Department of Justice at 14 (May 28, 2025), eLibrary No. 20250528-4008 ("Uncertain and the potentially volatile capacity accreditation makes long-term resource planning more complicated and costly . . . ."); PJM IMM Comments at 11 ("The level of uncertainty created by PJM's ELCC design combined with the extreme performance assessment interval [] penalties . . . weakens the incentives to invest in PJM generation.").

[18] *Citadel FNGE Ltd. v. FERC*, 77 F.4th 842, 855 (D.C. Cir. 2023) (upholding FERC's rejection of a proposed penalty that "was inflating prices *while failing to provide a commensurate benefit by stimulating demand and supply responses*," because the Commission correctly "concluded that increased prices on one side of the balance without any value on the other side of the scale—*all pain and no gain*—were unjust and unreasonable" (emphasis added)).

- **One-size-fits-all approaches are unlikely to be effective.** RTOs are not starting from a blank slate. Rather, they have developed over time to reflect the specific circumstances and needs of their respective regions. Given the vastly different geographic locations, scope, configurations, market and resource adequacy structures, state regulatory regimes, and the like among the various RTOs, TAPS is skeptical of across-the-board reforms of RTO resource adequacy constructs and urges the Commission against a one-size-fits-all approach as it considers resource adequacy reforms, including those proposed by individual RTOs.

CONCLUSION

TAPS appreciates the Commission's focus on the important issue of resource adequacy, and the Commission should consider TAPS's comments as it considers resource adequacy reforms, including those proposed by individual RTOs.

Respectfully submitted,

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