

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

<b>PJM Interconnection, L.L.C.</b>	)	<b>Docket Nos. EL18-178-000</b>
	)	
<b>PJM Interconnection, L.L.C.</b>	)	<b>ER18-1314-000</b>
	)	<b>ER18-1314-001</b>
	)	
<b>Calpine Corporation, et al.,</b>	)	<b>EL16-49-000</b>
	)	
<b>Complainants,</b>	)	<b>(Consolidated)</b>
	)	
<b>v.</b>	)	
	)	
<b>PJM Interconnection, L.L.C.,</b>	)	
	)	
<b>Respondent.</b>	)	

**JOINT BRIEF OF CONSUMER ADVOCATES, NGOs, AND INDUSTRY  
STAKEHOLDERS**

Pursuant to ordering paragraph (F) of the June 29, 2018 Order Rejecting Proposed Tariff Revisions, Granting In Part and Denying In Part Complaint, and Instituting Proceeding Under Section 206 of the Federal Power Act (“Order”) and the August 22, 2018 Notice of Extension of Time issued by the Federal Energy Regulatory Commission (“Commission”), a broad coalition of consumer advocates, environmental organizations, generation companies and representatives, and load-serving entities (“Joint Stakeholders”) jointly submit the following comments addressing proposed changes to the Open Access Transmission Tariff (“Tariff”) of PJM Interconnection, L.L.C. (“PJM”).

The Joint Stakeholders represent broadly divergent interests: we are consumer advocates, organizations committed to environmental sustainability and clean generation, power producers,

and load-serving entities. We frequently disagree on many issues before this Commission, and some of us even disagree on certain aspects of this proceeding, such as the circumstances that should trigger a minimum offer price rule (“MOPR”). But as to the Commission’s proposal regarding a resource-specific Fixed Resource Requirement Alternative (“FRR-RS”), the Joint Stakeholders strongly agree that the Commission’s decision should reflect certain basic principles: the Commission should protect customers from paying for duplicate capacity, and should preserve states’ ability to achieve clean energy policy goals without forcing states to withdraw altogether from the PJM market.<sup>1</sup> To this end, the Commission should adopt an FRR-RS mechanism that will allow entities serving load (“LSEs”)<sup>2</sup> to satisfy their capacity obligations outside of the PJM capacity market by procuring capacity from state-supported resources, including through bilateral capacity contracts or state-directed capacity procurements. The Commission should also allow for a smooth implementation of the FRR-RS by giving states sufficient time to work through any difficult implementation issues.

Many of the Joint Stakeholders are also submitting their own briefs and/or testimony describing their specific proposals in greater detail. However, we are unified in our support of a workable FRR-RS and so join together in this filing to identify the guiding principles that should inform the Commission’s decision regarding the FRR-RS.<sup>3</sup> We believe that these principles

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<sup>1</sup> Some of the Joint Stakeholders have sought rehearing of the Commission’s findings in the Order that that the existing PJM tariff provisions are unjust and unreasonable. The agreement reflected in these comments as to the appropriate structure for the FRR-RS should not be constructed as waiving, or in any way undermining, the positions taken in those requests for rehearing. For purposes of these comments, the Joint Stakeholders are taking the Order as it now stands and proposing a path forward with respect to the FRR-RS as contemplated in that Order.

<sup>2</sup> Depending on how a state has structured its retail electric market, an LSE could be a traditional utility or a retail electric supplier and Joint Stakeholders use that term generically herein.

<sup>3</sup> In a proceeding under Section 206 of the Federal Power Act, such as this one, the Commission is responsible for determining the just and reasonable rate to replace the rate it found in the Order to be unjust and unreasonable. 16 U.S.C. § 824e. Thus, PJM’s own proposal is not entitled to

should guide the Commission’s formulation of an FRR-RS mechanism regardless of how the Commission resolves other matters in this proceeding, such as the scope and application of the MOPR.

### COMMENTS

The Commission’s Order appropriately recognizes the importance of a capacity market design that, consistent with the spirit of cooperative federalism, permits states to support resources of special public policy interest. States, after all, retain the final word on whether their utilities will rely on the PJM capacity market to ensure resource adequacy, or instead will withdraw from that market.<sup>4</sup> In order for the PJM market to continue to work for states and their customers, the Commission must ensure that market rules account for the presence of state-supported resources, by recognizing the capacity that these resources will in fact provide to the system. Capacity market rules should not obligate customers “to pay for capacity both through state programs providing out-of-market support and through the capacity market.”<sup>5</sup> Nor should the Commission place states in a position where, in order to participate in the PJM capacity market, they are forced to forfeit their right under the Federal Power Act to pursue valid policy goals such as clean energy policies. The Commission correctly does “not take [either] concern ... lightly.”<sup>6</sup>

To that end, the Commission proposed “a resource-specific FRR Alternative option” that would “allow, on a resource-specific basis, resources receiving out-of-market support to choose to be removed from the PJM capacity market, along with a commensurate amount of load, for

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any preference. Given the breadth of interests represented by the Joint Stakeholders, we respectfully suggest that the proposal herein warrants careful consideration by the Commission.

<sup>4</sup> Order at P 163.

<sup>5</sup> Order at P 159.

<sup>6</sup> Order at P 159.

some period of time.”<sup>7</sup> The Joint Stakeholders support this proposal, provided that the FRR-RS is workable. The FRR-RS must be sufficiently flexible to allow states to pursue their valid policy goals and also must allow for a smooth transition by giving states time to resolve any implementation issues.

Below, we identify certain high-level principles that the Commission should follow in designing the FRR-RS mechanism—principles that the Commission itself already has embraced in its Order. Then, we describe in greater detail proposed elements of the FRR-RS that will achieve those guiding principles.

**I. Guiding Principles Should Include Protecting Customers From Paying for Duplicative Capacity, and Respecting States’ Ability to Achieve Clean Energy Goals.**

The FRR-RS should be guided by two overarching concerns, each of which is acknowledged by the Commission in its Order.

First, the Commission should avoid market rules that foreseeably and unnecessarily over-procure capacity, and thus impose unnecessary costs on customers. Expanding PJM’s MOPR will prevent a range of resources receiving state support from clearing the PJM auction. Yet much of this capacity will still remain on-line and will contribute to resource adequacy. Without a workable FRR-RS that credits the load supporting these resources with the capacity provided to the system, customers will be forced to buy excess capacity through the capacity market from non-state supported resources to “replace” the state-supported resources ignored by that market. A well-designed FRR-RS mechanism should avoid imposing these increased and unnecessary costs on customers.

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<sup>7</sup> Order at P 160.

Second, in order for the PJM market to be sustainable in the long term, the Commission must preserve the ability of states to have their LSEs participate in the PJM capacity market, while at the same time achieving their clean energy policy goals. States retain the ultimate authority to withdraw their LSEs from PJM, and a market design that requires customers to pay twice for clean capacity resources will not provide customers with the efficiency or value that motivated the formation of the markets in the first place. That is particularly so as states increase their clean energy commitments.

Accordingly, the FRR-RS must allow an LSE to procure capacity for a portion of its load through the capacity market, while procuring capacity for the remainder of its load from resources of particular public policy interest to the state. Without a workable FRR-RS mechanism, a state that wishes to support clean energy, but is content to rely on the capacity market to select resources for the portion of its load not subject to a clean energy mandate, would be forced into a dilemma: either it would need to procure its entire load outside the capacity market by directing its LSEs to adopt an FRR plan under current PJM rules—thereby losing the benefits of the market altogether—or it would need to procure its entire load within the capacity market, thereby either subjecting its citizens to the procurement of unnecessary capacity, or forfeiting its ability to promote clean energy. The Commission is correct to reject such an all-or-nothing approach in favor of a more nuanced solution that facilitates *both* continued participation in the capacity market *and* continued state control over resource procurement—with the benefit of additional transparency concerning the costs of each. This approach will allow states to realize their own energy policy goals, while at the same time ensuring the integrity of the PJM capacity market for the resources that are not procured through a state mechanism.

To the extent that some PJM stakeholders seek to discourage or deter states from pursuing clean energy policy goals, that should not be the basis for Commission action. The Commission should not use access to its markets as a point of leverage to force states to forfeit the authority over generation facilities that Congress expressly granted to them.<sup>8</sup> Instead, the Commission should regulate cooperatively with the states through the adoption of a workable FRR-RS. The Commission has long embraced a policy of respecting the traditional role of states over resource procurement and planning,<sup>9</sup> and it should continue to do so through the FRR-RS.

## **II. A Workable FRR-RS Should Include Particular Elements That Will Provide States With Ample Flexibility to Pursue Their Policy Goals.**

In order for the FRR-RS to achieve the Commission's goals, it must be workable for states. If the FRR-RS is too cumbersome, or too restrictive, then it will not accomplish the goals outlined above.<sup>10</sup> Accordingly, the Commission should design the FRR-RS that will ensure that states are able to pursue their energy policy goals while remaining part of PJM. To this end, the Commission should adopt an FRR-RS mechanism that will allow LSEs to buy capacity outside of the PJM capacity market from state-supported resources that would otherwise be subject to the MOPR, and receive full capacity credit for doing so. The FRR-RS should accommodate a wide array of mechanisms through which LSEs might buy such capacity, including through bilateral contracts as well as through a state-directed procurement of capacity or capacity bundled with environmental attributes. The FRR-RS also should provide maximum flexibility for the

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<sup>8</sup> 16 U.S.C. § 824(b).

<sup>9</sup> *E.g.*, *Southern Cal. Edison Co.*, 70 FERC ¶ 61,215, 61,676 (1995); Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities, Order No. 888 (1996), at 21626 n.544; *Cal. Pub. Utils. Comm'n*, 133 FERC ¶ 61,059, at P 31 n.62 (2010).

<sup>10</sup> Joint Stakeholders are concerned that some commenters may promote a construct that provides a resource-specific FRR "alternative" in name only, and that cumbersome requirements will render it effectively useless.

matching of customer load with state-supported resources—so, for example, the state could ensure that load is matched in a way that protects competitive neutrality in the retail supply market.

To accomplish the foregoing, the Joint Stakeholders have agreed to a set of principles that we believe should guide the Commission’s formulation of the FRR-RS. These principles, attached in Exhibit A and discussed below, address a number of elements that must be addressed in order to ensure that the FRR-RS is workable.

***Implementation Timing.*** The implementation timeline for the FRR-RS should reflect that states may need to adjust or clarify state law to utilize the FRR-RS mechanism. Some states may need to pass legislation to use the FRR-RS, which is a slow and time-consuming process.<sup>11</sup> And even where new legislation is not necessary, states will still need lead time following the issuance of the Commission’s Order to design a state program that can readily be plugged into the FRR-RS structure established by the Commission. Thus, the Commission should also allow for a smooth transition by giving states enough time to work through any difficult implementation issues—while at the same time providing clear guidance regarding how the FRR-RS will work.<sup>12</sup>

***Eligibility for FRR-RS.*** As noted above, the Joint Stakeholders are not in uniform agreement as to the scope and application of the MOPR. We do agree, however, that any supply resource subject to the MOPR under its newly expanded terms, or otherwise excluded from RPM participation based on previous participation in the FRR-RS, should be eligible to elect the FRR-

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<sup>11</sup> For example, the Illinois Power Agency, which conducts procurements on behalf of some retail customers, would likely need additional authority and direction from the legislature to implement FRR-RS.

<sup>12</sup> Some of the Joint Stakeholders may address in separate comments specific transition mechanisms for the Commission’s consideration.

RS. Moreover, PJM must be required to make eligibility determinations (and, relatedly, determinations as to whether the MOPR covers a particular resource) with sufficient lead time to allow eligible resources to decide whether to elect the FRR-RS (and identify their matched load) or bid into the auction. States also must have sufficient information to implement an FRR-RS mechanism prior to the effectiveness of the expanded MOPR. This will require the Commission to be clear in its order adopting the FRR-RS reforms with respect to the scope of both the FRR-RS and the MOPR, since the two are linked. For example, the PJM tariff must make clear how a state program procuring capacity from a chosen resource type will be treated (*i.e.*, the tariff must either state that such an arrangement would be subject to the MOPR and thus render the capacity eligible for FRR-RS, or else state that the resource would not be subject to the MOPR).

***Timing and Process for Electing the FRR-RS.*** Consistent with the timing governing the existing FRR, a supply resource should be required to make its election to participate in the FRR-RS no later than four months before the PJM BRA. This will align the FRR-RS election with existing auction-related notification deadlines in the PJM tariff. Resources electing the FRR-RS should be required, at the time of the election, to identify the location of the load that will be removed with the resource, with enough specificity to permit compliance with locational constraints in the auction. This election and documentation setting forth compensation would be confirmed by an LSE or other relevant entity (such as a state power authority) by 30 days prior to the Base Residual Auction. The forward sale of capacity by the FRR-RS resource outside of the capacity market could be accomplished through a state-sponsored procurement process, or be made directly to LSEs without state facilitation, such as to comply with a requirement to source a minimum amount of energy from particular resources. And the forward capacity sale could be for unbundled capacity alone or for bundled capacity and other attributes (*e.g.*, zero-carbon

capacity).<sup>13</sup> Regardless of how the FRR-RS transaction is structured, it would be subject to the same notification and confirmation requirements.

***Amount of Commensurate Load and Locational Constraints.*** The Joint Stakeholders agree with the Commission that FRR-RS resources must be paired with a corresponding amount of load to reduce PJM's procurement of capacity through its auction. Specifically, RPM capacity procurement requirements for an LSE (which already account for reserves) should be reduced on a 1-for-1 unforced capacity ("UCAP") basis according to the amount of UCAP that the LSE procures through the FRR-RS. A resource's UCAP value already reflects expected unavailability of the resource based on historical statistics. It is therefore appropriate to use a resource's UCAP value when associating the resource with load. PJM would simply deduct the UCAP of the FRR-RS resource(s) from the capacity procurement requirement for the applicable zone.<sup>14</sup> However, PJM would respect zonal import limits in FRR-RS arrangements, which could result in a limitation on the amount of external FRR-RS resources permitted for a particular zone.

***FRR-RS Resource Compensation and Billing.*** States should have broad flexibility under the FRR-RS to design mechanisms to procure and arrange for the compensation of clean capacity resources of public policy interest. For example, states could direct the procurement of resources with cost-based pricing; competitively procure clean capacity resources; direct the procurement of capacity bundled with environmental attributes; or arrange for the procurement

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<sup>13</sup> The precise nature of the state-created compensation mechanism will vary by state. For example, compensation could be provided through a contract between a resource owner and an LSE or through payments made under a program of general applicability without any formal agreement between the resource owner and the LSE. In any case, the FRR-RS election by the resource owner would constitute acceptance of PJM performance obligations for capacity resources.

<sup>14</sup> For example, if the total capacity procurement requirement for a zone is 10,900 MW (10,000 MW peak load plus 900 MW reserves) and the FRR-RS resource UCAP is 1,000 MW, then the remaining zonal capacity requirement to be procured through RPM is 9,900 MW.

and compensation of clean capacity resources in other ways. Moreover, states could undertake procurements directly or indirectly through procurement requirements imposed on LSEs.

Regardless of how an FRR-RS mechanism is structured, any resulting wholesale sale of capacity would be subject to the Commission's jurisdiction under the Federal Power Act. To the extent the seller is relying on market-based rate authorization for such sale, the transaction would be subject to electronic quarterly reporting and FERC review under Section 206.

Although PJM would not procure FRR-RS resources through the capacity market, a state should have the option for PJM to serve as the clearinghouse for FRR-RS transactions. PJM's existing settlement and billing tools already allocate and recover capacity costs in accordance with state retail regulatory structures. To avoid the expense of states setting up duplicative settlement and billing mechanisms for FRR-RS capacity, a state could opt to have PJM collect payments to FRR-RS resources consistent with the FRR-RS documentation confirmed by the LSE or other relevant entity, for example, according to the terms of a bilateral contract with an LSE, or consistent with the state-sponsored procurement process.

***Capacity Performance Requirements.*** A state's FRR-RS resources must be Capacity Performance Resources subject to all performance requirements, non-performance charges, and bonus payments, consistent with the existing FRR mechanism. Also consistent with existing performance requirements for capacity resources, LSEs would have the option to contractually assume from an FRR-RS resource responsibility for capacity performance obligations (facilitating pooling risk among smaller FRR-RS eligible resources). The performance of FRR-RS resources, whether individual or aggregated, would be evaluated by PJM as it evaluates the performance of capacity resources today. PJM would assess performance and apply non-performance charges or bonus payments using its existing rules, although a state would have the

flexibility to determine how non-performance charges and bonus payments are allocated among a portfolio of FRR-RS resources that, as a whole, functions as a Capacity Performance resource.

***Partial FRR-RS Resource.*** Resources may elect to participate partially in an FRR-RS mechanism and partially in the Base Residual Auction, subject to certain requirements consistent with existing PJM tariff rules that allow a resource to segment its capacity into multiple offer blocks.<sup>15</sup> Specifically, FRR-RS election should be allowed for a portion of a resource if (i) the resource separates its capacity for purposes of offering into RPM and (ii) no capacity electing FRR-RS treatment is contained in any segment of capacity participating in RPM. This would allow resource owners to continue segmenting resources for purposes of submitting offers into the Base Residual Auction, but would ensure that the segment(s) participating in the Base Residual Auction would be clearly distinguished from the segment participating in an FRR-RS mechanism. A resource electing less than 100% FRR-RS would be required to provide its participating percentage when it makes its FRR-RS election four months in advance of the Base Residual Auction, as noted above. Rules and practices governing the submission of offers by joint owners of individual generating units would remain unchanged and, therefore, an FRR-RS election by one joint owner would not affect RPM participation by the other owner.

***FRR-RS Duration.*** The Joint Stakeholders do not believe that resources should be obligated to elect FRR-RS for any minimum period of time. The only restrictions on FRR-RS elections should be those needed to preserve reliability, such as the notice provisions above.

***RS-FRR Affiliate Transactions.*** Finally, wholesale sales from an RS-FRR resource with FERC market-based rate authority to an affiliated LSE with captive customers, if undertaken

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<sup>15</sup> PJM OATT, Att. DD, Sec. 5.6.1 (b)(ii) (“The Sell Offer may take the form of offer segments with varying price-quantity pairs for varying output levels from the underlying resource, but may not take the form of an offer curve with nonzero slope”).

pursuant to a state-sponsored clean capacity procurement, should not be subject to the Section 205 filing requirement under the seller's market-based rate tariff. This issue is important because a large share of the clean energy generation in PJM is owned by affiliated entities. In order to ensure that the FRR-RS is a workable mechanism for states to procure resources of public policy importance, the Commission will need to address potential affiliate transactions arising from state-directed procurements. Waiver of the affiliate restriction would recognize and respect states' jurisdiction over environmental attributes and resource procurement and planning, and their strong policy interest in procuring capacity from non-emitting resources.<sup>16</sup> At the same time, all parties should retain their rights under Section 206 to challenge a wholesale sale as resulting from affiliate abuse. To facilitate prompt review of affiliated RS-FRR arrangements by interested parties, the Joint Stakeholders believe that the documentation submitted to PJM with each RS-FRR election must indicate if the RS-FRR resource is selling capacity to an affiliated LSE with captive customers and must delineate the price under the contract for all capacity, energy, ancillary services, and state-jurisdictional emissions benefits or attribute credits being sold. PJM would then include such information in its postings regarding RS-FRR elections.

The Joint Stakeholders request that the Commission adhere to the foregoing principles in finalizing the FRR-RS. As discussed above, the FRR-RS must be workable if the Commission is to achieve its stated objective of allowing states to pursue their energy policy goals without procuring excess capacity through the PJM market. Regardless of how the Commission resolves other issues raised in this proceeding, adopting an FRR-RS mechanism consistent with these principles will lay the groundwork for broader reforms of the PJM capacity market.

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<sup>16</sup> See *supra* note 9; see also, e.g., *WSPP, Inc.*, 139 FERC ¶ 61,061, P 21 (2012); *Wheelabrator Lisbon, Inc. v. Conn. Dep't of Pub. Util. Control*, 531 F.3d 183, 186 (2d Cir. 2008).

## CONCLUSION

For the foregoing reasons, the Commission should adopt an FRR-RS mechanism that provides states with a meaningful ability to pursue energy policy goals, while continuing to rely on the PJM capacity market to serve the portion of their load not subject to energy policy mandates.

Respectfully submitted,

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# **Exhibit A**

FERC's June 29, 2018 order in Docket No. EL18-178 proposes implementation of a resource-specific Fixed Resource Requirement (FRR-RS) to provide an opportunity for the PJM market to account for the capacity contributions of state-incentivized resources. The undersigned parties endorse the following principles and terms for designing the proposed FRR-RS mechanism. This proposal is not intended to address questions regarding applicability of the Minimum Offer Price Rule (MOPR), but rather to describe eligibility for and functioning of the FRR-RS.

**An FRR-RS mechanism should:**

- **Protect customers from paying for duplicate capacity.** Expanding PJM's MOPR likely will prevent many state-incentivized nuclear and renewable resources from clearing the PJM capacity auction. Without a workable FRR-RS that provides an alternative way to compensate these resources for their capacity, customers will be forced to buy excess capacity through the PJM capacity market to "replace" the renewable and nuclear energy supported by the states but ignored by the capacity market. A workable FRR-RS would prevent these increased costs.
- **Preserve states' abilities to achieve clean energy policy goals.** Reducing the amount of capacity sold in the PJM auction by the amount of state-incentivized clean energy covered under an FRR-RS mechanism makes it possible for states to meet and expand their energy policy targets without being financially penalized.

**Specifically, FERC should:**

- **Require FRR-RS to allow load serving entities to buy capacity from all state-incentivized resources and receive full capacity credit for doing so.** The FRR-RS should provide maximum flexibility for the matching of customer load and state-incentivized resources, and provide a user-friendly mechanism for states to direct their load serving entities to procure capacity from state-incentivized resources.
- **Allow for a smooth transition by giving states enough time to work through any difficult implementation issues before fully imposing the MOPR.** States must be able to understand the new rules and clarify state law as needed to take full advantage of FRR-RS optionality. Because implementing FRR-RS effectively will require new regulation and/or legislation in many states, a transition mechanism must be established that allows for these processes to be carried out without forcing customers to pay excess costs in the interim.

**The elements of a workable FRR-RS set forth in the shared principles below protect the cost-effective achievement of state policy goals to the extent possible under the terms of FERC's PJM capacity market order in Docket No. EL18-178.**

## Shared Principles for Designing FRR-RS

### **Implementation Timing**

Because the FRR-RS is intended to mitigate the harm that would be caused by broad application of the MOPR, FERC should develop an implementation timeline for the expanded MOPR that reflects that states may need to adjust or clarify state law to utilize the FRR-RS opportunity. This may not be possible in a few months, especially where legislative action is needed.

### **Eligibility for FRR-RS**

At a minimum, any supply resource subject to the MOPR under its newly expanded terms, or otherwise excluded from RPM participation based on previous participation in FRR-RS, is eligible for FRR-RS.

Eligibility determinations (and determinations as to whether the MOPR covers a particular resource) must be made by PJM sufficiently far in advance of when a resource must make its decision to elect to utilize FRR-RS or offer into the auction such that the resource (and associated load) can make an informed decision with respect to that resource.

FERC must make the scope of MOPR and FRR-RS eligibility as clear as possible in its order, such that states are able to legislate with knowledge as to how state rules will be treated by FERC. For example, the PJM tariff must make clear how a state program calling for capacity or bundled procurement from a chosen resource type will be treated (i.e., it must either state that such an arrangement would be subject to MOPR and thus render the capacity eligible for FRR-RS, or else state that the resource would not be subject to MOPR).

### **Process for Electing FRR-RS**

At the time of the FRR-RS election, the capacity resource must identify the location of the load that will be removed with the resource, with enough specificity to permit compliance with locational constraints in the auction. This election and documentation setting forth compensation must be confirmed by a load serving entity (LSE) or other relevant entity (e.g., state power authority) by 30 days prior to the Base Residual Auction (BRA).

Thus, prior to the FRR-RS election, capacity resources will assign their capacity forward outside of RPM through a state-sponsored procurement process or directly to LSEs without state facilitation. Forward capacity assignments can be for unbundled capacity alone or for bundled capacity and other attributes (e.g., RECs or ZECs).

<b>Timing of Election</b>	Consistent with the existing FRR, FRR-RS election must be made no less than four months before the PJM BRA. As explained above, PJM must indicate whether a resource is subject to the MOPR and therefore eligible for FRR-RS in advance of such election.
<b>Locational Restrictions on FRR-RS Election</b>	PJM zonal import limits shall be respected in FRR-RS arrangements.
<b>Amount of Commensurate Load</b>	RPM reliability requirements (taking into account reserves) for an LSE shall be reduced on a 1-for-1 UCAP basis according to the amount of UCAP procured through FRR-RS by or on behalf of that LSE.
<b>FRR-RS Resource Compensation</b>	Capacity from FRR-RS resources shall be compensated as set forth in documentation confirmed by the LSE or other relevant entity, e.g., according to the terms of a bilateral contract with an LSE, or consistent with the state-sponsored procurement process. Such compensation could include cost-based pricing, competitively procured pricing, environmental attribute pricing and/or other state-established compensation mechanism, subject to EQR reporting and FERC review under Section 206.
<b>FRR-RS Billing and Administration</b>	At the option of the state or LSE (as indicated in the documentation submitted by the FRR-RS resource to PJM), PJM will use its existing billing and accounting mechanisms to collect costs from the load and disburse payment to FRR-RS resources consistent with the FRR-RS documentation provided to PJM.
<b>FRR-RS Capacity Performance Requirements</b>	Consistent with the current FRR, FRR-RS resources will be Capacity Performance Resources subject to all performance requirements, non-performance charges, and bonus payments. LSEs shall have the option to contractually assume from the resource responsibility for Capacity Performance charges and bonuses (facilitating pooling risk among smaller FRR-RS eligible resources). PJM will continue to review the performance of Capacity Performance resources, whether individual or aggregated, as it does today, including the assessment of performance and application of non-performance charges or bonus payments. A state may determine how non-performance charges and bonus payments are allocated among a portfolio of FRR-RS resources that, as a whole, functions as a Capacity Performance resource.
<b>FRR-RS Election for a Portion of a Resource</b>	FRR-RS election shall be allowed for a portion of a resource if (i) the resource separates its capacity for purposes of offering into RPM and (ii) no capacity electing FRR-RS treatment is contained in any segment of capacity participating in RPM. A resource electing less than 100% FRR-RS must provide its participating percentage when it makes its election. Rules and practices governing the submission of offers by joint owners of individual generating units shall remain unchanged and, therefore, an FRR-RS election by one joint owner shall not affect RPM participation by the other owner.

**FRR-RS Duration**

Resources shall not be obligated to continue to elect FRR-RS for a minimum period of time. The only temporal restrictions shall be those needed to preserve reliability, such as the provision regarding notice of FRR-RS election.

**FRR-RS Affiliate Transactions**

A wholesale sale from an FRR-RS resource with FERC market-based rate authority to an affiliated LSE with captive customers undertaken pursuant to a state-incentivized clean energy program shall not be subject to the section 205 filing requirement under the seller's market-based rate tariff if the procurement was consistent with the rules governing the state program, in recognition of the state's jurisdiction over the compensation for environmental attributes. Any party seeking to challenge such a wholesale sale could initiate a section 206 proceeding seeking FERC review of the transaction. During such review, the party challenging the wholesale sale may demonstrate that adjustment of the rates, terms or conditions of the wholesale sale is necessary to protect retail customers from affiliate abuse. To facilitate prompt review of affiliated FRR-RS arrangements by interested parties, the documentation submitted with each FRR-RS election must indicate FRR-RS resource is selling capacity to an affiliated LSE with captive customers and must delineate the price under the contract for all capacity, energy ancillary services, and state-jurisdictional emissions benefits credits being sold, and PJM shall include such information in its postings regarding FRR-RS elections.

**These principles are endorsed by the undersigned organizations:**

**Citizens Utility Board of Illinois**

**Exelon Corporation**

**Natural Resources Defense Council**

**Nuclear Energy Institute**

**Office of People's Counsel for the District of Columbia**

**Public Service Electric and Gas Company**

**Sierra Club**

**Talen Energy**