



December 27, 2013

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, Pennsylvania 17105-3265

**Attention: Docket ID No. M-2012-2289411  
M-2008-2069887**

Dear Secretary Chiavetta:

The Electric Power Generation Association (“EPGA”) appreciates the opportunity to submit comments on the Commission’s Tentative Order dated November 8, 2012, addressing the amended Act 129 Demand Response Study, which includes the Preliminary Wholesale Price Suppression and Prospective TRC Analysis, which was prepared by the Statewide Evaluator (“SWE”), assessing the cost-effectiveness of the Phase I peak demand reduction program.

EPGA is concerned about the extent to which the Commission and the SWE are seeking to demonstrate cost-effectiveness for certain DR programs where none currently exists. Additionally, EPGA wishes to raise material issues relative to several of the SWE recommendations; namely, that the Commission is invited to use state ratepayer subsidized DR in the competitive wholesale electric capacity market to the detriment of unsubsidized market participants.

Further, EPGA is very concerned about the price suppression impacts of DR on the long-term price signals necessary to promote a reliable bulk power system.

It is within this context that EPGA submits the following comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jacob G. Smeltz", written in a cursive style.

JACOB G. SMELTZ, *President*  
Electric Power Generation Association

cc: Various members of the General Assembly

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Energy Efficiency and	:	Docket No.	M-2012-2289411
Conservation Program	:		M-2008-2069887
	:		
	:		

**COMMENTS OF THE  
ELECTRIC POWER GENERATION ASSOCIATION**

The Electric Power Generation Association hereby submits the following comments on the Tentative Order (“Order”)<sup>1</sup> found at the above captioned docket that invites comments on the amended Act 129 Demand Response Study (“DR Study”), which includes the Preliminary Wholesale Price Suppression and Prospective TRC Analysis prepared by the Statewide Evaluator (“SWE”), which assessed the cost-effectiveness of the Phase I peak demand reduction program.<sup>2</sup>

**INTRODUCTION**

The Electric Power Generation Association (“EPGA”) is a regional trade association headquartered in Harrisburg, Pennsylvania, whose membership includes major electric generating companies that supply wholesale power in Pennsylvania and surrounding states. EPGA member companies<sup>3</sup> own and operate more than 125,000

---

<sup>1</sup> See Tentative Order adopted Nov. 12, 2013, Docket No. M-2012-2289411, M-2008-2069887.

<sup>2</sup> See Act 129 Demand Response Study – Final Report, Prepared by the Pennsylvania Public Utility Commission, GDS Associates, et al, Submitted May 13, 2013, Addendum Added November 1, 2013, available at:

[http://www.puc.pa.gov/filing\\_resources/issues\\_laws\\_regulations/act\\_129/information/act\\_129/statewide\\_evaluator\\_swe\\_.aspx](http://www.puc.pa.gov/filing_resources/issues_laws_regulations/act_129/information/act_129/statewide_evaluator_swe_.aspx).

<sup>3</sup> EPGA member companies include Exelon Generation, FirstEnergy Corp., Homer City Generation, LP, PPL Generation, LLC, AES Beaver Valley, LLC, Dynegy, Inc., Tenaska, Inc., and UGI Development Company.

megawatts of generating capacity, approximately half of which is located in the mid-Atlantic region. Many of the electric generation facilities owned and operated by EPGA members are located in the Commonwealth.

EPGA members engage in marketing the energy, capacity, and ancillary services from their generating facilities in wholesale markets in interstate commerce and make wholesale electric sales through PJM Interconnection, LLC (“PJM”).

One of the primary functions of EPGA is to promote the benefits of the competitive electric markets and to encourage the safe and reliable generation of electricity. As such, EPGA takes great interest in legislation, policies, rulemakings and other actions taken by governmental agencies that impact the competitiveness of the wholesale electric markets.

## **SUMMARY OF CONCERNS**

While the Commonwealth, through the enactment of Act 129 of 2008, has determined that it is in the public interest to adopt cost-effective energy efficiency and conservation measures, EPGA is very concerned that the SWE recommends that the Commission go beyond what is required by statute in developing additional “benefits” of certain DR programs where the SWE has already concluded that those programs are not cost-effective. Further, EPGA believes that if the Commission were to adopt some of the recommendations, that it would distort the competitive wholesale electric markets using a state-subsidized resource, which was recently found to be unconstitutional by two federal courts.

Additionally, EPGA is extraordinarily troubled about the Commission's apparent interest in suppressing prices in the wholesale electric markets, which are already under considerable strain due to poor economic conditions, the abundance of low-cost natural gas, the distortive effects of state renewable portfolio standards, the importation of large amounts of capacity from outside the PJM region, and the proliferation of wholesale DR due to the incentivized payments those resources receive as a result of FERC Order 745.

Such activities, working individually and concomitantly, are producing an ongoing negative effect resulting in the early retirement, deactivation and closure of thermal generation in Pennsylvania. Given the industry's \$24.5 billion direct and indirect economic contribution to the Commonwealth, the loss of power stations must invariably work against the state and local economies.<sup>4</sup> Additional price suppression would exacerbate those conditions to the detriment of the state and local communities as well as all the impacted industries associated with the production of electrical power from thermal generation sources.

**SEVERAL SWE RECOMMENDATIONS WOULD IMPROPERLY SHIFT THE COMMISSION'S FOCUS FROM APPLYING THE LAW TO ASSISTING CERTAIN PROGRAMS IN PASSING TRC**

The Commission's responsibilities under Act 129 to determine if a program is cost-effective are clear. The Commission is required to compare the total costs of energy efficiency and conservation plans implemented under the Act to the total savings in energy and capacity costs to retail customers in the Commonwealth. If the

---

<sup>4</sup> In late 2012 the Edison Electric Institute determined the economic impact of the electric power industry to Pennsylvania, evaluating the direct impact of the industry given a level of industry sales, jobs (full time equivalent employees), wages and monetary benefits, output (the total value of electric power industry production), supplier economic impact, and induced economic impact. See [www.eei.org](http://www.eei.org).

Commission determines that the benefits of the plans exceed the costs, the Commission “shall set additional incremental requirements for reduction in peak demand the 100 hours of greatest demand or an alternative reduction approved by the Commission.”<sup>5</sup> If the Commission determines that a program is *not* cost-effective, Section 2806.1(b)(2) of Act 129 is equally clear:

(2) The commission shall direct an electric distribution company to *modify* or *terminate* any part of a plan approved under this section if, after an adequate period of implementation, the commission determines that an energy efficiency or conservation measure included in the plan will *not achieve the required reductions in consumption in a cost-effective manner* under subsections (c) and (d).<sup>6</sup> (emphasis added)

In such cases where the Commission takes action under Section 2806.1(b)(2), an electric distribution company must then submit a revised plan describing actions to be taken to offer substitute measures or to increase the availability of existing measures in the plan to achieve the required reductions in consumption under 66 Pa.C.S. § 2806.1(c) and (d). As such, once a program is determined to not be cost-effective, Pennsylvania consumers can still realize the benefits of cost-effective programs by having their EDC utilize other substitute measures.

This is materially important in the present instance because, “The SWE states that the majority of Act 129 DR programs, as offered in 2012, were not cost-effective.”<sup>7</sup> In response to the finding that these DR programs were not cost-effective, the Commission should have instantly taken action under 66 Pa.C.S. § 2806.1(b)(2), terminating the non cost-effective program and directing the EDC to proceed under 66 Pa.C.S. 2806.1(b)(3). Instead, the Commission directed the SWE to seek additional

---

<sup>5</sup> See 66 Pa.C.S. § 2806.1(d).

<sup>6</sup> See 66 Pa.C.S. § 2806.1(b)(2).

<sup>7</sup> See Tentative Order, P. 8.

methods to promote the “cost-effectiveness” of DR programs. Such an approach is not supported by the statute nor the General Assembly’s directive that the total resource cost test (“TRC”) is to be *applied* by the Commission, not postponed until such time as additional methods can be found to demonstrate newly discovered “benefits.” Indeed the Commission’s efforts through the SWE to seek alternative methods to actually help non cost-effective DR programs pass the TRC is entirely contrary to the statute.

In order to accomplish this purpose, the SWE has made the following recommendations:

- That the top 100 hours methodology be discontinued for any future phases of Act 129 as it leads to predictive difficulties and low TRC ratios.
- That the Commission adopt the California methodology of including 75% of the incentive payment as a proxy for participant costs, as opposed to the 100% proxy currently being utilized.
- That, if residential DLC programs are continued, the EDCs bid the reduction into the PJM forward capacity auctions.
- That, due to differences in LMPs and capacity prices across the state, any future DR targets be EDC-specific.
- That the decision to promulgate any future DR targets be made dependent on regional capacity prices.
- That the Commission consider avoided generation costs when determining any future DR targets.
- That the Commission consider the incremental value to the existing PJM DR market when proposing any future commercial and industrial DR targets.

- That the Commission consider those Phase I costs for DLC programs as sunk before determining the cost-effectiveness of any future DLC programs.
- That any future DR targets be based on the average load reduction observed over a subset of hours during which DR is likely to be a cost-effective alternative to generation.
- That any future commercial and industrial LC programs omit participation by those customers enrolled in the PJM ELRP.<sup>8</sup>

The intent of these recommendations is to create cost-effectiveness where none currently exists. The SWE invites the Commission to adjust methodologies, add “value” by suppressing wholesale prices (will be addressed in greater detail in next section), change DR targets, add additional avoided costs, consider incremental values, and use a subset of hours during which, “DR is *likely* a cost-effective alternative to generation” (emphasis added). The SWE’s recommendations would improperly adjust the cost-effectiveness of DR Programs. EPGA urges the Commission not to entertain SWE recommendations to alter the process and methodology of how it evaluates DR Programs under Act 129, and instead follow the law as required which would terminate non cost-effective programs and allow for the use of cost-effective programs.

**THE SWE’S RECOMMENDATION THAT THE COMMISSION DIRECT  
EDCS TO BID THE PEAK DEMAND REDUCTIONS FROM THEIR DIRECT  
LOAD CONTROL PROGRAMS INTO THE PJM FORWARD CAPACITY  
AUCTION WOULD DISTORT THE COMPETITIVE WHOLESALE  
MARKETS**

The competitive electric wholesale markets are designed to produce the best product at the most economic price and are intended to give “generation, demand

---

<sup>8</sup> Tentative Order, P. 8-9.

response, and transmission a reasonable opportunity to compete in solving reliability concerns.”<sup>9</sup> Through competitive markets such as the Energy Market, the Capacity Market and Ancillary Services Market, PJM Interconnection<sup>10</sup> manages the continuous buying, selling and delivery of wholesale electricity, procures capacity to meet future demand and provides for additional necessary ancillary services. These markets are regulated by the Federal Energy Regulatory Commission (“FERC”) and reviewed by PJM’s Independent Market Monitor (“IMM”). Fully functional competitive markets are an integral component to attract new resources, defer premature retirements, and add new capacity.

Market distortions are events in which a market reaches a market clearing price for an item that is substantially *different* from the price that a market would achieve at its natural equilibrium. An example of a market distortion is an out-of-market subsidy, which has the effect of providing non-market revenues to a market participant.

Subsidies are intended to promote and grow specific fuel sources, technologies or products. In the aggregate, subsidies to any particular form of energy or energy product will tend to depress prices and thereby encourage overconsumption of the subsidized resource. Such is the case in the present instance, where the Commission is requesting comment on the SWE’s recommendation that, “. . .if DLC programs are continued, the EDCs bid the reduction into the PJM forward capacity auctions.”<sup>11</sup> The

---

<sup>9</sup> PJM Interconnection, L.L.C., 115 FERC ¶ 61,079 at p. 6 (2006).

<sup>10</sup> PJM Interconnection is regional transmission organization which manages the bulk power system and wholesale electricity markets for all or parts of Pennsylvania, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Tennessee, Virginia, West Virginia and the District of Columbia.

<sup>11</sup> Order, *op. cit.*, P 8. The SWE’s recommendation that the Commission direct EDCs to bid peak demand reductions into forward capacity markets does not state whether each Pennsylvania EDC will have first taken ownership of its customers’ demand reductions, by way of any statute, tariff or contract.

revenue the EDCs receive from the BRA would then count as a “benefit” in the Act 129 cost-benefit analysis.

EPGA strongly objects to the potential use of state-sponsored ratepayer subsidized generation products in the wholesale electric markets. Such subsidized generation resources, which the SWE promotes in this recommendation, skew the appropriate development of all other resources in the competitive wholesale markets and create uneconomic results to the detriment of all other market participants. Unnecessary intervention in the current supply and demand dynamic of these markets will result in development of resources without respect to whether they are the most economical and contributes to an imbalance in proper market signals for future capacity.

This approach will also subsequently result in the crowding out of existing non-subsidized resources. Such preference is facially discriminatory towards subsidized generation resources and against unsubsidized resources which must compete without the benefits of a Commission endorsed, ratepayer financed product. In recent years, efforts such as this by other states to financially assist generation developers has created market distortions and threatened the competitiveness – and the benefits of competition – in the marketplace.

In fact, on September 30, 2013 and October 11, 2013, two separate federal courts found state-sponsored efforts to use subsidized resources in the competitive

---

Certainly, EDCs can only sell DR if they first obtain ownership of it from their customers; they cannot sell something they do not even own.

wholesale markets unconstitutional. In *PPL Energy Plus, LLC v. Hanna*<sup>12</sup>, the court held that the Long Term Capacity Agreement Pilot Program Act (“LCAPP”), a statute enacted by New Jersey to build natural gas plants in that state and use those ratepayer financed resources in the competitive wholesale markets, including the capacity market, was preempted by the Federal Power Act and in violation of the Supremacy Clause of the United States Constitution, and is therefore null and void.

In *PPL Energy Plus, LLC v. Nazarian*,<sup>13</sup> the court ruled that Maryland’s efforts to subsidize the building of generation in that state through the use of Public Service Commission mandated long-term contracts with a power developer which subsequently competed with those subsidies in the competitive wholesale market (including the capacity market) was violative of the Supremacy Clause of the United States Constitution by, “regulating in such a manner as to intrude into the federal field of wholesale electric energy and capacity price-setting.”<sup>14</sup> The court further noted that, “Where a state action falls within a field Congress intended the federal government alone to occupy, the good intentions and importance of the state's objective are immaterial.”<sup>15</sup>

DR has been created under Act 129 by captive ratepayers who pay a non-by passable surcharge:

(k) Recovery.—

---

<sup>12</sup> Civil Action No.: 11-745 in the United States District Court for the District of New Jersey.

<sup>13</sup> Civil Action No.: MJG-12-1286 in the United States District Court for the District of Maryland.

<sup>14</sup> *Ibid*, P. 85.

<sup>15</sup> *Ibid*, P. 86.

(1) An electric distribution company shall recover on a full and current basis from customers, through a reconcilable adjustment clause under section 1307, all reasonable and prudent costs incurred in the provision or management of a plan provided under this section. This paragraph shall apply to all electric distribution companies, including electric distribution companies subject to generation or other rate caps.<sup>16</sup>

For the Commission to endorse the use of this ratepayer financed DR in the competitive wholesale markets (in this case, the forward capacity market) is tantamount to the activities that it objected to relative to in cases involving other subsidized resource schemes promoted by other states (discussed above) before those cases were adjudicated in federal court.

In fact, the Commission advocated against these types of market interventions and special protections in well argued comments it submitted in FERC Docket No. EL11-20, a case where New Jersey enacted a law authorizing out-of-market subsidies for natural gas plants and EPA Docket No. EPA-HQ-OAR-2008-0708, where demand response providers were seeking an environmental pollution subsidy.<sup>17</sup> As the Commission stated in the FERC filing:

As a retail choice state, Pennsylvania’s retail market is dependent on a well functioning and highly competitive wholesale electricity market. The PaPUC relies upon effective wholesale competition to properly administer the provisions of the 1996 Pennsylvania law which opened Pennsylvania’s retail generation to competition in 1997. *Electricity Generation Customer Choice and Competition Act*, 66 Pa.C.S. §§ 2801 – 2812; P.L. 802, No. 138. **Governmental subsidies which intentionally target wholesale markets under the jurisdiction of the Federal Energy Regulatory Commission (“Commission”) could materially injure those markets and impact Pennsylvania by impairing forward-looking generation investment signals.**<sup>18</sup> (emphasis added)

---

<sup>16</sup> See Pa.C.S. § 2806.1(k) and (a)(11).

<sup>17</sup> Unfortunately the pollution subsidy was ultimately granted by EPA and now the issue is being considered by the General Assembly and other states. See House Bill 1699, Printer’s No. 2382.

<sup>18</sup> See Comments filed by the Pennsylvania Public Utility Commission, FERC Docket No. EL11-20, P. 2.

This statement was true when it was written and remains true today. Should the Commission adopt the SWE recommendation to order EDCs to use ratepayer financed DR in the wholesale capacity markets for the purposes of adding “value” to DR both in receiving additional capacity revenues as well as suppressing wholesale electric prices (see next section), it would be intentionally targeting wholesale markets and materially injuring those markets by impairing forward-looking generation investment signals.

**IF PRICE SUPPRESSION IS A BENEFIT OF DR  
THEN LOST ECONOMIC OUTPUT, JOB LOSS AND  
DISPLACEMENT OF THERMAL GENERATION IS A COST**

In its Order, the Commission spends much time celebrating the price suppression effects of DR Programs and specifically directed the SWE to quantify the resulting “benefit” of those effects to Pennsylvania electric customers. The SWE, using a complicated and untested methodology, made estimates of the suppression benefits for the Commonwealth by multiplying the total price suppression benefit for the specific EDC zone by the estimated percentages of load served.<sup>19</sup> The SWE then, “...de-rated MW reductions from non-residential DR programs using the Emergency Incremental Benefits Ration determined previously in its study and then determined the benefits of those that will be realized by Pennsylvania ratepayers using the EDC load contribution to the LDA.”<sup>20</sup> The grand total “PA Price Suppression Benefit” approximated \$32.2 million.<sup>21</sup>

The SWE’s recommendations do not recognize the unintended consequences of subsidizing theoretical capacity in the physical, competitive wholesale electric markets. The competitive wholesale electric markets are intended to be *competitive*. As noted

---

<sup>19</sup> Order, *op. cit.*, P. 22.

<sup>20</sup> Order, *op. cit.*, P. 22-23.

<sup>21</sup> Order, *op. cit.*, P. 23.

above, market distortions are when the market reaches a market clearing price for an item that is substantially *different* from the price that a market would achieve at its natural equilibrium. State sponsored programs intended to suppress prices are the very definition of a market distortion, which must inevitably lead to outcomes that are different as a result of the distortive event.

Demand response has grown considerably in the PJM markets. Just five years ago, it represented 1,365 MW (or, more appropriately, negawatts<sup>22</sup>) of capacity. Today, PJM has approximately 15,000 MW of DR capacity. Indeed, in the last Base Residual Auction (“BRA”), DR represented nearly 50% of all new capacity procured for the 2016/2017 delivery year. The growth of DR in PJM has been as a direct result of FERC Order 745, wherein FERC directed each organized market operator (“ISO”) to institute *incentive payments* for certain demand response resources that curtail energy consumption during certain hours that would confer a “net benefit” to purchasers of wholesale supply by reducing price volatility during those hours.

While EPGA continues to believe that the value (or benefit) to DR customers is the avoided costs they save by curtailing their electricity use, the imposition of full “incentive payments” has subsidized DR resources resulting in their exponential growth in the market. Demand response receives all the financial benefits of hard assets, without meeting the same requirements or producing the same level of reliability.

Each MW (or negawatt) of capacity that clears the PJM-administered capacity auction displaces a megawatt of other capacity that otherwise would clear the market. To the extent that the Commission endorses a ratepayer funded resource into the

---

<sup>22</sup> Negawatt power is a theoretical unit of power representing an amount of energy (measured in watts) saved. The energy saved is a direct result of energy conservation or increased energy efficiency.

market, that will necessarily push out an unsubsidized resource. As evidenced by the above cited information regarding the last several BRAs, all thermal generation, particularly coal-fired generation, has struggled to be competitive against this backdrop.

As the Commission is well aware, the Commonwealth is a preeminent thermal generation producing state. Pennsylvania is home to an abundant, diverse fleet of electric generation resources that make it the second largest electricity producing state in the nation. Over the past several years, however, large amounts of actual capacity (iron in the ground) have not cleared the BRA, have been subjected to suppressed capacity prices and have subsequently exited the market. This was most recently evidenced in the deactivation of 2 GW of capacity in the western part of the state, which raised concern from the Governor. As the Governor noted in a letter to PJM

Interconnection:

The closure of these two plants will impact the employment of nearly 400 Pennsylvanians who go to work at them each day, as well as hundreds of additional jobs supported by the plants' operations. Further, the impacts from these retirements to the local tax base will be significant. At a time when our economy is starting to improve, we can ill afford the loss of these valuable jobs and local revenue.<sup>23</sup>

One of the reasons that traditional thermal generation has not been able to successfully compete is due to the decline in capacity prices, which fell on average 30% in the 2016-2017 BRA. While there are many factors that influence the price of capacity, *the proliferation of price suppression efforts*, such as what the Commission invites in this proceeding, has had a materially negative effect on the market setting a natural price, further promoting the very causes that have resulted in the uneconomic situation some generating facilities have found themselves in.

---

<sup>23</sup> See Letter to Mr. W. Terry Boston, President & CEO, PJM Interconnection from Governor Tom Corbett, dated August 8, 2013.

As the Governor very eloquently described in his letter quoted above, there is truly a *cost* when prices are suppressed to the extent that environmentally controlled, high capacity resources cannot compete because their actual costs are subjugated to the intervention of public policy makers in the natural laws of economics. EPGA invites the Commission to further direct the SWE to study the resultant economic costs when suppression takes hold and power plants retire, both in the resulting negative economic impact as well as the long-term costs of replacing the lost capacity.<sup>24</sup>

The trumpeting of price suppression as a benefit also fails to consider the longer term costs associated with such policies. Strangling the economics of successfully running baseload generation for the purposes of enjoying lower prices today can and has resulted in resources becoming economically distressed, resulting in early retirements. At the same time, the true needs of the system are not being conveyed through appropriate long-term price signals, and the grid does not develop the resources necessary to meet the retirements. This is precisely what is occurring in PJM today. As noted recently by the PJM Capacity Senior Task Force:

The combination of the growing amount of committed capacity resources being Demand Response and the increase in Generation retirements has resulted in a decrease in the installed generation reserve margin. As a result, PJM expects more regular deployment of Demand Response in system operations. Under current rules and procedures, deployment of large amounts of demand response creates potential operational discontinuities which must be addressed to support ongoing reliable system operations. Additionally, the current rules permit Limited Demand Response to cover the entire amount of excess supply under the downward sloping demand curve which has *limited*

---

<sup>24</sup> As noted previously, according to an analysis done by the Edison Electric Institute, in late 2012, the electric power industry in Pennsylvania was responsible for \$15.5 billion of direct economic impact to the state's economy and indirectly responsible for an additional \$9 billion of economic impact to the state. Given the scope of the economic contributions made by generating facilities, the loss of a facility must invariably result in lost economic output which EPGA believes should be counted as a "cost" to the Commonwealth if the Commission is counting as "savings" the monetized result of price suppression.

*effectiveness of this mechanism as a forward investment signal for long term resources.*<sup>25</sup> (emphasis added)

In short, PJM now realizes that the long-term price signals that are necessary for developers of iron-in-the-ground generation are being diminished due to the sheer volume of price suppression occurring from resources exactly like those the SWE wishes to push into the forward capacity markets.

Compounding the negative effect of this is that those DR resources are subsidized by Pennsylvania ratepayers. This is the very type of price setting that the recent decisions in two federal courts rejected when they considered the cases in New Jersey and Maryland, with the only exception that those states sought to offer iron-in-the-ground resources (power plants) into the competitive markets, whereas in the present instance the resource is subsidized DR.

## **CONCLUSION**

EPGA is cognizant of the goals of energy efficiency that the General Assembly sought to enact in Act 129 of 2008. Through the use of ratepayer financed programs instituted through regulated utilities, the Commonwealth has been able to meet many of the targets that were set forth in Act 129. However, in 2012, certain DR programs were determined by the SWE to be not cost-effective, and the Commission has since directed the SWE to further evaluate other potential “benefits” of these programs.

When the SWE determined the DR programs to be not cost-effective, Act 129 should have directed the Commission to immediately require an EDC to modify or terminate those programs. Instead, the SWE was repurposed to discover additional

---

<sup>25</sup> See <http://www.pjm.com/committees-and-groups/task-forces/cstf.aspx>

methods to help those non cost-effective programs pass the TRC. The SWE recommendations are the subject of the Commission's Order.

EPGA is concerned that the SWE's recommendation to use ratepayer financed DR in the forward wholesale capacity markets constitutes the very market interventions the Commission previously opposed in cases involving New Jersey and Maryland, which were subsequently decided in favor of competitive generators. The use of subsidized DR, while not a subsidized electric power generator, is no less harmful to non-subsidized market participants.

EPGA is further alarmed at the Commission's seeming endorsement of price suppression mechanisms in the wholesale power markets. Such efforts have contributed to severely uneconomic conditions, forcing some baseload generators to retire or deactivate. As was summarized by the Governor in his letter to PJM, these results are economically harmful to the state and local economies and communities. The Commission should not promote schemes to artificially suppress prices, as there is a very real cost that is associated with such activities. Rather, the Commission should rely on the natural economic forces of supply and demand, a position it espoused in the New Jersey proceeding, where it stated:

Pennsylvania is one of a number of states that have abandoned direct 'command and control' regulation of vertically integrated utility monopolies in favor of a market based approach which relies on economic signals to "tell" potential investors when, where, and how to add generation capacity.<sup>26</sup>

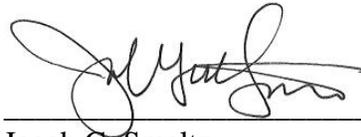
EPGA believes the Commission should not now abandon its support of a true market based approach to competitive wholesale electric markets. If a DR program is

---

<sup>26</sup>PaPUC Comments, FERC Docket No. EL11-20, *op. cit.*, P. 2.

not cost-effective, it should either be modified or terminated, pursuant to the law. There is no practical necessity, nor support in the statute, for pursuing the recommendations of the SWE.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jacob G. Smeltz", written over a horizontal line.

Jacob G. Smeltz  
Electric Power Generation Association  
417 Walnut Street  
Harrisburg, PA 17101  
Tel: (717) 909-3742  
Fax: (717) 909-1941  
jake@epga.org