

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.)	Docket No. ER09-13-000
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)	

COMMENTS AND MOTION FOR LEAVE TO INTERVENE
OF THE INDEPENDENT MARKET MONITOR FOR PJM

Pursuant to Rules 211, 212 and 214 of Part 385 the Commission’s Rules and Regulations,¹ Monitoring Analytics, LLC, in its capacity as the Independent Market Monitor for PJM² (“Market Monitor”), submits these comments and accompanying motion requesting leave to intervene in the above-reference proceeding. On October 1, 2008, PJM initiated this proceeding by filing amendments to the PJM Operating Agreement that would extend the application of the Three Pivotal Supplier (“TPS”) test to the PJM Regulation market. This filing to extend the application of the TPS test follows months of analysis and review in the Three Pivotal Supplier Task Force (“TPSTF”). Initially convened to evaluate the performance of the TPS test, the TPSTF has

¹ 18 CFR §§ 385.211, 385.212 & 385.214 (2008).

² PJM Interconnection, L.L.C., a FERC-approved Regional Transmission Organization. Capitalized terms used herein and not otherwise defined have the meaning set forth in the PJM Operating Agreement (“OA”) or the PJM Open Access Transmission Tariff (“OATT”). Citations to the Appendix to Attachment K of the OATT that parallel Schedule 1 of the OA are omitted.

spent recent months focusing particularly on the potential application of the TPS test to the regulation market, the only significant PJM market where the TPS test is not currently applied.

The Market Monitor believes that the TPS test has served PJM and market participants well as applied in the PJM energy and capacity markets and has long advocated the extension of the TPS test to the PJM Regulation market.³ The Market Monitor therefore welcomes PJM's filing to implement provisions applying the TPS test to the Regulation Market. The Market Monitor is pleased that PJM has moved forward with this effort, but does have concerns regarding specific aspects of the filed approach. The referenced filing is the result of a consensus among members with different interests that required concessions in order to achieve broad support in the TPSTF. The result was the inclusion of certain features that may result in non-competitive market outcomes. The Market Monitor believes that the market will be more competitive with the adoption of PJM's filing than it is currently and therefore supports the filing. However, the Market Monitor also requests that the Commission recognize that the Market Monitor will review the actual impact of these elements on market outcomes and report our conclusions to PJM, PJM members and the Commission. If the review results in a conclusion that these features result in non-competitive market outcomes, the Market Monitor will request that one or more of these provisions be removed or modified.

³ See, e.g., 2007 PJM State of the Market Report at 279.

I. COMMENTS

Matters of concern to the Market Monitor include:

Cost Adder: The proposed rules permit a \$12 adder to cost-based offers in place of the current \$7.50 adder.⁴ The load weighted, average offer price, which incorporated the option to use a \$7.50 adder, for all marginal units in the PJM Regulation Market during 2007 was \$12.06.

Opportunity Cost. The proposed rules provide that estimated unit-specific opportunity costs are calculated on the basis of the lower of cost-based or price-based energy offers.⁵ The current approach, consistent with the definition of opportunity cost elsewhere in the PJM tariff, uses the actual dispatch schedule of the resource, whether cost-based or price-based.⁶

Operating Reserves. The proposed rules provide for the elimination of the netting of revenues from the Regulation market against balancing operating reserve payments.⁷ Under the current rules, generators receive make whole balancing operating reserve payments only to the extent that the revenue from all PJM markets, including the Regulation market, is insufficient to cover their scheduled offer.

⁴ See proposed OA Schedule 1 § 3.2.2(c).

⁵ See proposed OA Schedule 1 § 3.2.2(d)&(e).

⁶ See, e.g., OA Schedule 1 §§ 1.11.4A, 3.2.3(d).

⁷ See proposed OA Schedule 1 § 3.2.3(e).

PJM explains (at 7) that the proposal includes the above mechanisms in order “to ensure adequate cost recovery and avoid creating any disincentives for suppliers to continue offering regulation into the market.” There is no factual basis for this assertion.⁸

If the Commission decides to accept PJM’s proposal as filed, the Market Monitor requests that the Commission specifically direct the Market Monitor to study the issue and report back on the effects of this rule change on market results, while reserving final judgment on the need for and level of such provisions until it has had an opportunity to review that analysis.

II. MOTION FOR LEAVE TO INTERVENE

The PJM Tariff requires that the Market Monitor, among other things, evaluate “the effectiveness of the bid mitigation rules.”⁹ The Market Monitor considers the mitigation program a critically important feature of PJM’s wholesale energy and capacity markets. Mitigation is necessary in order to ensure that all of PJM’s markets, including the Regulation Market, produce competitive outcomes even when the market structure cannot be relied upon to prevent the exercise of market power. At the same time, the markets should be allowed to operate without mitigation when the market structure makes mitigation unnecessary. In light of the foregoing, and because the

⁸ PJM asserts (at 5) that the TPSTF “considered evidence ... that regulating generators that are subject to offer capping offer even less of their capability into the market.” This proposition remains unsubstantiated.

⁹ OATT Attachment M § VI.

Market Monitor has the tariff-imposed obligation to objectively monitor, analyze and report on the markets administered by PJM, as well as to identify design flaws and structural problems, and to make “recommendations regarding any matter within its purview,” it is in the public interest that the Commission grant this motion.¹⁰ Rule 214 provides that the Commission may grant interventions where “[t]he movant’s participation is in the public interest.”¹¹ The Market Monitor has the exclusive duty to perform the market monitoring function, and no other party can adequately represent it in this proceeding. Accordingly, the Market Monitor moves that the Commission grant it leave to intervene and afford to it full rights as a party to this proceeding.

¹⁰ OATT Attachment M §§ IV & VI.

¹¹ 18 CFR § 214(b)(2)(iii).

III. CONCLUSION

The Market Monitor respectfully requests that the Commission afford due consideration to these comments as it evaluates the proposed tariff provisions before it.

Respectfully submitted,



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Dated: October 20, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Eagleville, Pennsylvania,
this 20th day of October, 2008.



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