

4.	Order No. 719 Does Not Require Joint Administration of Monitoring and Mitigation Provisions. In Fact, Order No. 719 Prohibits Joint Administration of Monitoring and Mitigation Provisions. PJM’s Proposal Is Not Compliant with Order No. 719.....	51
5.	Order No. 719 Does Not Disturb the PJM/MMU Settlement Agreement Regarding Market Monitoring Issues	55
D.	The April 29 th Filing Fails to Comply with the Specific Requirements of Order No. 719.....	56
1.	The April 29 th Filing Subordinates the Market Monitor to PJM	56
2.	Order No. 719 Does Not Disturb the “Structure and Tools” Agreed Upon in the 2007 PJM/MMU Settlement.	59
3.	Order No. 719 Does Not Permit the Continued Failure in PJM’s Tariff to State Clearly Which Tasks Are the Responsibility of PJM and Which Are the Responsibility of the Market Monitor.....	60
E.	The Market Monitor Proposes Tariff Revisions that Would Clarify and Make Less Discretionary Certain MMU Mitigation Activities	63
F.	The Market Monitor Proposes Provisions that Would Correct the Flaws in the April 29 th Filing; Affirm the 2007 PJM/MMU and RPM Settlements; Preserve and Strengthen the Market Monitoring Function in PJM; and Remove Unnecessary Future Acrimony Over the Performance of the Market Monitor’s Duties.....	64
III.	Conclusion	68
	LIST OF ATTACHMENTS	70

Pursuant to Rules 211 and 212 of the Commission's Rules and Regulations ("Regulations"), 18 CFR 385.211 & 385.212 (2008), Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM ("Market Monitor"), submits this protest and compliance proposal in response to the filing submitted by PJM Interconnection, L.L.C. ("PJM") in the above captioned proceeding on April 29, 2009 ("April 29th Filing").¹ The Commission should reject certain significant aspects of the April 28th Filing that exceed the scope of what Order No. 719 directed regarding market monitoring policies and are contrary to the letter and spirit of those directives.² Specifically, certain proposed Tariff changes in the April 28th Filing do not strengthen PJM's independent market monitoring function, a stated goal of Order No. 719, but instead would create a new and duplicative function inside PJM that does not comply with Order No. 719 and is contrary to the settlement of market monitoring issues in 2007 ("2007 PJM/MMU Settlement").³ If adopted as filed, the April 28th Filing would weaken the ability of the Market Monitor to perform its duties as envisioned by the Commission and agreed to in the 2007 PJM/MMU Settlement and ensure compliance

¹ Capitalized terms used herein and not otherwise defined have the meaning specified in the PJM Open Access Transmission Tariff ("OATT") or the PJM Operating Agreement ("OA") (collectively, the "Tariff" or "PJM Tariff").

² *Wholesale Competition in Regions with Organized Markets*, Order No. 719, 125 FERC ¶61,071 (2008); *see also* Notice of Proposed Rulemaking, 122 FERC ¶61,167 (2008) ("NOPR"); Advanced Notice of Proposed Rulemaking, 119 FERC ¶61,306 (2007) ("ANOPR").

³ *See* Order No. 719 at PP 12, 315–16, 361.

with the FERC Market Rules.⁴ This result would not be just and reasonable, which renders PJM's proposal unjust and unreasonable, and PJM has not demonstrated that any provisions that it removes or replaces related to the Market Monitor's role are unjust or unreasonable.

For over ten years, PJM has had an effective monitoring and mitigation program because Market Participants and the Market Monitor have engaged in a process under which they typically have agreed ex ante to the cost-based inputs that are used by PJM to apply prospective mitigation. This prospective mitigation includes the application of local market power mitigation in the energy market, market power mitigation in the capacity market and market power mitigation in the regulation market, all of which use a structural market power test, the Three Pivotal Supplier ("TPS") test. The level of these inputs is critical because they set prices precisely at those times when system constraints and other factors result in market structures most vulnerable to market power and manipulation. This ex ante process avoids costly litigation, avoids the

⁴ The PJM Market Monitoring Plan defines the "FERC Market Rules" to "mean the market behavior rules and the prohibition against electric energy market manipulation codified by the Commission in its Rules and Regulations at 18 CFR §§ 1c.2 and 35.37, respectively; the Commission-approved PJM Market Rules and any related proscriptions or any successor rules that the Commission from time to time may issue, approve or otherwise establish." The "PJM Market Rules" are defined to mean "the rules, standards, procedures, and practices of the PJM Markets set forth in the PJM Tariff, the PJM Operating Agreement, the PJM Reliability Assurance Agreement, the PJM Consolidated Transmission Owners Agreement, the PJM Manuals, the PJM Regional Practices Document, the PJM-Midwest Independent Transmission System Operator Joint Operating Agreement or any other document setting forth market rules." OATT, Attachment M § II.

imposition of ex post penalties, creates certainty and facilitates rational decision making based on communication. The Market Monitor cannot compel compliance, but its ability to make clear, credible, coherent and self-binding determinations provide an incentive for voluntary compliance.

Based on a misreading of Order No. 719's requirements and an apparent dissatisfaction with the structure and tools for market monitoring resulting from the 2007 PJM/MMU Settlement, PJM has proposed changes that would compromise the ability of the Market Monitor to continue to employ this successful approach for developing the inputs to prospective mitigation in PJM. The April 28th Filing would add a new step in most provisions where the Market Monitor's responsibilities to make certain determinations are established. This new step would create the opportunity for PJM to substitute its own market power determinations for those of the Market Monitor. This approach would establish a duplicative "shadow" market monitoring function that vitiates the incentives for Market Participants to continue to fully participate in the existing arrangement. The result will be that the Market Monitor will be less able to deter misconduct ex ante and will have to rely more on post hoc adversarial processes. This will subordinate market monitoring, weaken the effectiveness of market monitoring, will create uncertainty for market participants and could prove damaging to public confidence in organized wholesale electricity markets.

PJM's vague concerns about its institutional prerogatives do not warrant this overstepping of the requirements of Order 719.

The April 29th Filing is also contrary to the letter and spirit of the 2006 settlement concerning PJM's Reliability Pricing Model ("RPM"), because the April 29th Filing would materially alter certain provisions included in the 2006 RPM settlement that expressly assigned duties to the Market Monitor to ensure that RPM produces competitive results.⁵ Attachment DD expressly and specifically provides for the Market Monitor to develop ex ante, in conjunction with Market Sellers, the Market Seller Offer Caps that Market Sellers submit to PJM for use in prospective mitigation under the TPS test.

The April 29th Filing also errs by omission. Although the Commission observes (at P 330) that the current "structure and tools" available to the market monitoring function in PJM are in accord with its determinations in Order No. 719, it does require certain revisions concerning how the market monitoring function should be codified. Specifically, the April 29th Filing fails to fully comply with Order No. 719's directives that the Tariff's provisions related to market monitoring (i) avoid subordination of the market monitoring function to the RTO, (ii) separately and clearly codify in one place in

⁵ See Settlement Agreement and Explanatory Statement of the Settling Parties Resolving All Issues, filed in Docket Nos. ER05-1410-000, et al. on September 29, 2006 ("2006 RPM Settlement"); see also *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331 (2006).

the Tariff the market monitor's role, (iii) fully employ the market monitor's expertise, (iv) avoid wasteful duplication and (v) reduce the opportunity to exercise discretion.⁶ The April 29th Filing has adequately addressed a number of secondary and tertiary matters concerning the market monitoring function, but, if implemented, it could seriously undermine the ability of the Market Monitor to meaningfully protect competition. If the monitoring and mitigation program in PJM is weakened in the manner proposed in the April 29th Filing, the ability of the Market Monitor to detect and deter abuses will be compromised, PJM markets will be less efficient and competitive, and inefficient transfers of wealth will occur in PJM.

The Market Monitor is aware that these consequences may not be readily evident on the face of the April 29th Filing. Although it is plain enough that the terms of the April 29th Filing would create a new conflicting internal market monitoring function, it may not be clear to observers less intimately involved with current practices in PJM how this compromises the effectiveness of the market monitoring function. To appreciate the detrimental impact, it is necessary to understand the governance process in PJM, the specific characteristics of PJM markets and its mitigation program and PJM's sometimes conflicting institutional incentives. These factors all help explain why

⁶ See Order No. 719 at PP 375, 378, 379 & 392

the existing approach has served PJM and its members well and why the assumption of a new role in the process by PJM will compromise that approach.

In order to facilitate the Commission's consideration of the issues raised here, the Market Monitor includes proposed Tariff revisions that would better serve the Commission's specific objectives in Order No. 719. The Market Monitor's proposed changes delineate the Market Monitor's limited but exclusive spheres of responsibility and clearly and centrally codify these spheres, thereby preserving PJM's existing successful approach and achieving conformity with the requirements of Order No. 719. Clearly distinguishing the Market Monitor's responsibilities along the lines established in Order No. 719 and avoiding, rather than creating, overlapping authority will strengthen the independence of the market monitoring function.

The Market Monitor's proposed changes, included in a clean version (Attachment A) and a version redlined against the clean sheets PJM included as Attachment A to the April 29th Filing (Attachment B) would bring PJM into full compliance with the requirements of Order No. 719 and avoid including changes that exceed the scope or conflict with the objectives of Order No. 719. In addition to the explanation here, the Market Monitor has included (Attachment C) a section by section explanation of each revision proposed. The Market Monitor is confident that the Commission's approval of these revisions to the base April 29th Filing will not only achieve compliance with the specific directives of Order No. 719, including

strengthening market monitoring in PJM, but will help to foster productive and stable relationships among the Market Monitor, PJM and Market Participants. The Market Monitor has also included (Attachment D) flow diagrams illustrating the sequence of MMU and RTO responsibilities in reviewing participant offers.

I. BACKGROUND

A. The Reliance Placed on Market Monitoring

The Commission has increasingly come to rely upon independent market monitoring for objective reporting on market design and performance and detecting and discouraging the exercise of market power and other market misbehavior.⁷ As the Commission observed in the Notice of Proposed Rulemaking (“NOPR”) issued in this proceeding in February 2008, “an independent MMU is an important element upon which we rely to safeguard competition.”⁸ In recent years, the Commission has increasingly looked to the market monitoring function as the means not only to promote economic efficiency, but to ensure that the pricing of electricity under a regime

⁷ See *PJM Interconnection, L.L.C.*, 86 FERC ¶61,247 (1999) (“Our approval of market-based rates in PJM in an order considered concomitantly [sic] relies in part on implementation of an adequate monitoring plan and the ability to promptly remedy any market power problems that the MMU may detect”).

⁸ NOPR at P 190, citing *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs. ¶31,089 at p. 31,155 (1999), *order on reh’g*, Order No. 2000-A, FERC Stats. & Regs. ¶31,092 (2000), *aff’d sub nom. Pub. Util. Dist. No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001). “MMU,” as used in this pleading, depending on the context, means “MMUs” as used generically in Order No. 719 to refer to any entity responsible to administer in whole or in part an RTO’s market monitoring function or PJM’s Market Monitoring Unit.

of regulation through competition remains lawful.⁹ Particularly in an organized wholesale electricity market like PJM, with a complicated and unique market design, tariff structure and governance process, it is essential that the market monitoring function have the ability to engage in ex ante discussions with Market Participants about what constitutes appropriate market conduct and behavior. The exercise of market power is the single most significant threat to the efficient and lawful pricing of electricity, and such exercise cannot be addressed routinely and effectively through a post hoc administrative process, which is what likely would occur if PJM's proposed revisions are accepted. Matters that could be addressed inexpensively and through compromise before the markets have cleared, require, post clearing, a process that is costly, adversarial and unlikely to afford complete relief. Even if the benefits of market

⁹ See *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697-A, 123 FERC ¶¶61,055 at P 431 (2008) (“[U]nlike *Farmers Union*, where the court identified as a ‘fundamental flaw’ the absence of any monitoring to ensure that rates remain within a zone of reasonableness, the market-based rate program does not rely solely on the market, without adequate regulatory oversight, to determine rates. Rather, the market-based rate program includes post-approval oversight through reporting requirements and ongoing monitoring. In addition, market monitoring by the Commission helps ensure that rates remain within a zone of reasonableness.”); *PJM Interconnection, L.L.C.*, 121 FERC ¶¶ 61,173 at P 23 (2007) (“In the case before us, the Commission is faced with the non-cost factor of ensuring that sufficient capacity is procured and reliability is maintained in the PJM region. Further, not only is every jurisdictional seller in the capacity market required to have individual seller market-based rate authorization (based on a demonstration that it lacks horizontal and vertical market power), but it is also subject to mitigated bids and market monitoring to ensure that rates in PJM remain within a zone of reasonableness. This is in full accord with the Commission's statutory obligation. [n.30: *Elizabethtown Gas Co. v. FERC*, 10 F.3d 866, 870 (D.C. Cir. 1993) (“when there is a competitive market the FERC may rely upon market-based prices in lieu of cost-of-service regulation to assure a ‘just and reasonable’ result”)]; see also *Midwest Independent Transmission System Operator, Inc.*, 120 FERC ¶¶61,202 at PP 9, 12 (2007), citing *Farmers Union Cent. Exchange, Inc. v. FERC*, 734 F.2d 1486, 1501–03 (D.C. Cir. 1984).

power could be completely reclaimed from an individual Market Participant, the competitive market outcome that would have occurred can never be recreated and the Market Participants damaged can never be compensated.

Of course, even this sub-optimal post hoc process assumes a vigorous effort on the part of the MMU to perform its duties in the face of a framework less amenable to its purposes. Some may perceive an interest in this result, on the assumption that their misconduct will avoid detection because the MMU will never have sufficient resources to continually initiate enforcement actions at the Commission.

Reliance on market monitoring to ensure the integrity of a complicated wholesale market design means that this function must continue to have the capability to provide early notice of any problems that it detects and to address them in a discrete, timely, voluntary and cost-effective manner. This role cannot be effectively performed, and this Commission's and the public's reliance is misplaced, if the Market Monitor cannot communicate its views effectively and attempt to achieve voluntary compliance.

The Commission has repeatedly stated in this proceeding that its goal is to "strengthen MMU independence."¹⁰ The Commission explains (at P 310) that a key purpose of Order No. 719 is to make "reforms to enhance the performance and transparency of organized RTO and ISO markets" by addressing the "independence

¹⁰ Order No. 719 at 316; *see Id.* at PP 12, 13, 316 & 361, ANOPR at PP 2, 32, NOPR at PP 3, 170-01, 217.

and functions of the MMU.” Order No. 719 states (at P 2) that the Commission included requirements “intended to be incremental improvements to the operation of organized markets without undoing or upsetting the significant efforts that have already been made in providing demonstrable benefits to wholesale customers.”

The first test of any compliance filing submitted is whether that proposal advances or hinders these goals. The Commission should not accept certain parts of the April 29th Filing, identified below, because they are inconsistent with the Commission’s reliance on market monitoring to support competition-based regulation and the fundamental objectives of Order No. 719, and the Commission should either accept the Market Monitor’s proposed revisions or direct PJM to file a version consistent with the Market Monitor’s proposal.

Since the Commission first required PJM to include an independent and objective MMU in 1999, the wisdom of that course has become more apparent.¹¹ Without an effective mitigation program, market power rather than competitive forces will set prices in the organized wholesale electricity markets. A mitigation program in a market structured like PJM’s cannot be effective unless the market rules are properly designed and market conduct and behavior monitored down to the level of individual resources. PJM markets fortunately have had such an effective program since their inception, and

¹¹ See *PJM Interconnection, L.L.C.*, 81 FERC ¶61,257 at 62,282 (1997).

this program has contributed to the consistently competitive results produced by PJM markets.

There is no reason to replace the current market monitoring program with the flawed proposal in the April 29th filing, and certainly not to achieve Order No. 719's objective (at P 316) to "strengthen MMU independence" in PJM. What would most strengthen market monitoring in PJM are Tariff provisions that, consistent with Order No. 719's directives, expressly and clearly codify the Market Monitor's current role, including its long-standing practice of reviewing and attempting to come to agreement with Market Participants on the cost and other components of offers before they are submitted in PJM energy and capacity.

B. Order No. 719 Strengthens Market Monitoring

In accordance with the objectives of organized wholesale market reform, Order No. 719 strengthens market monitoring and market monitoring units ("MMUs") by requiring that MMUs be structured to protect their independence and have the tools to perform their duties.¹² The Commission observed (at P 330) "that the PJM/MMU Settlement Agreement is in accord with our determinations in this Final Rule regarding the appropriate MMU structure and tools," and thereby confirmed an arrangement that addresses Order No. 719's substantive objectives.

¹² Order No. 719 at PP 318–32.

Order No. 719 also strengthened the independence of the MMUs by providing that: the MMU's duties should be clearly set forth in a dedicated section of the RTO tariff; the MMU tariff administration duties should be clearly distinguished from the duties of the RTO to implement the market rules and conduct system operations; wasteful duplication of the RTO's responsibilities should be avoided; and that subordination of MMUs to the RTO organizational prerogatives should be prevented.¹³ Order No. 719 called for the development of mitigation provisions that could be applied as objectively as possible and provided for an MMU code of ethics.¹⁴

Order No. 719 also strengthened MMUs by explicitly not taking certain actions that could have impeded the ability of MMUs to carry out their functions. In the NOPR (at P 207), the Commission had contemplated removing MMUs completely from tariff administration, including mitigation. The Commission acknowledged the merits of the counter arguments. The Commission explained and summarized the reaction (at P 372):

Many commenters, however, raise substantial concerns over removing MMUs from mitigation, including the following: (1) there is a greater conflict of interest for the RTO or ISO to administer mitigation, as it has a vested interest in keeping its market participants happy, especially the larger players who can threaten to leave the RTO or ISO if they choose; (2) the MMU serves as a useful buffer between the RTO or ISO and the market participants, performing what is often viewed as a hostile act; (3)

¹³ Order No. 719 at PP 361–79, 388–94.

¹⁴ Order No. 719 at PP 379, 383–387.

there is an inherent tension between mitigation and the RTO or ISO goal of promoting new markets; (4) the MMU is better equipped by training and market access to detect the need for mitigation; (5) removing the MMU from mitigation would distance it from the market insights it needs to perform its monitoring functions; (6) if removed from tariff administration, the MMU would not have access to the mitigation settlement process and thus could not adequately monitor the RTO's or ISO's mitigation performance; (7) there would be much duplication of costs, since the MMU would have to retain most of its mitigation capabilities in order to monitor the RTO's or ISO's conduct of mitigation; (8) there would be extensive transition costs and software licensing concerns; and (9) there is no empirical evidence of an existing problem with the MMUs performing mitigation.

The Commission, therefore, determined (at P 373) to “adopt a compromise approach.”

In order to address its concerns about MMUs' potential conflicts of interest and subordination, Order No. 719 does not authorize (at P 375) MMUs to implement prospective mitigation or to participate with the RTO in administering market rules or system operations. Order No. 719 also prohibits MMUs from the distraction of implementing purely administrative rules.

However, in response to the objections raised concerning potential RTO conflicts of interest, Order No. 719 provided (at P 375) that MMUs may continue to perform retrospective mitigation and to provide the inputs to prospective mitigation because the Commission's concerns about conflicts and subordination of MMUs are not implicated. Order No. 719 establishes a rational division of responsibilities in tariff administration between MMUs and their host RTOs that is consistent with traditional practice in PJM,

in accord with the 2007 PJM/MMU Settlement and likely to prove durable and enhance the market monitoring and mitigation functions in the organized wholesale markets.

C. The 2007 PJM/MMU Settlement

On April 17 and 23, 2007, numerous state consumer advocates and the Organization of PJM States, Inc., on behalf of itself and a number of its constituent state public utility commissions filed a complaint alleging that PJM violated Tariff obligations with respect to the independence of the PJM Market Monitoring Unit.¹⁵

After four months of a contentious investigation and discovery process, on August 2, 2007, PJM submitted a unilateral offer of settlement (“Unilateral Offer”) intended to resolve market monitoring structural issues raised by the complainants.¹⁶

¹⁵ See Dockets Nos. EL07-56-000 & EL07-58-000 (consolidated). The Joint Consumer Advocates included: Allegheny Electric Cooperative, Inc.; Borough of Chambersburg, Pennsylvania; Cities and Towns of Hagerstown, Thurmont and Williamsport, Maryland; District of Columbia Office of the People’s Counsel; Illinois Citizens Utility Board; Indiana Office of Utility Consumer Counsel; Maryland Office of the People’s Counsel; New Jersey Division of Rate Counsel; Office of the Attorney General of Virginia, Division of Consumer Counsel; Office of the Ohio Consumers’ Counsel; Old Dominion Electric Cooperative; Pennsylvania Office of Consumer Advocate; PJM Industrial Customer Coalition; Southern Maryland Electric Cooperative, Inc.; State of Delaware, Division of the Public Advocate. Constituents of “OPSI” that individually joined the complaint included: Delaware Public Service Commission; District of Columbia Public Service Commission; Indiana Utility Regulatory Commission; Kentucky Public Service Commission; Maryland Public Service Commission; New Jersey Board of Public Utilities; North Carolina Utilities Commission; Public Utility Commission of Ohio; Pennsylvania Public Utility Commission; Virginia State Corporation Commission

¹⁶ Offer of Settlement submitted August 2, 2007, by PJM Interconnection, L.L.C. in EL07-56-000 and EL07-58-000.

The most important element of the Unilateral Offer was PJM's proposal to structure its MMU as a fully external and independent entity:

The Settlement provides that a separate corporate entity, independent from and legally unaffiliated with PJM, will serve as an external MMU, and will implement the PJM market monitoring plan on a completely independent basis under contract with PJM. ... In particular, the Settlement adopts the essential elements of the Midwest ISO structure, *which relies entirely on an external MMU that cannot be replaced without Commission approval.* ... [T]he PJM Board strongly favors an external MMU, and element is essential to the Settlement. Externalizing the MMU eliminates concerns about the market monitor or his staff answering, administratively or otherwise, to PJM management with the authority to set their individual compensation, or to terminate or discipline them. *As all concerned agree, the current internal structure of market monitoring in PJM is not workable. The Commission should, therefore, accept the establishment of an external MMU for PJM.*¹⁷

Another important element of PJM's Unilateral Offer was a sharply circumscribed role for the market monitoring function. The Unilateral Offer proposed (at 12) to limit that role to "strictly one of monitoring, reporting and recommending rule change[s]." In its Unilateral Offer, PJM explained that the external Market Monitoring Unit would not "participate in the (1) the actual design and implementation of market rules, (2) the implementation of the PJM Tariff and Operating Agreement or any market rules stated therein, or (3) PJM operations. The Unilateral Offer also sought (at 12-13) to remove the market monitoring function from its direct ex ante role of interacting with Market Participants regarding appropriate conduct and behavior (i.e., developing the inputs to

¹⁷ *Id.*, Explanatory Statement at 7 (emphasis added).

prospective mitigation and applying retrospective mitigation.) This was consistent with a common objective in the Unilateral Offer to deny the Market Monitor access to those stages of the process where the communication of its views could have the most impact.¹⁸

PJM's arguments supporting its Unilateral Offer derived from both a misunderstanding of the monitoring function and an undue perception of intrusion on its prerogatives as an RTO. In support of its Unilateral Offer, PJM argued:

The MMU should not both decide during implementation of the tariff whether particular bids and offers are appropriate under the tariff, while at the same time monitoring the RTO's and market participants' compliance with the tariff.

More fundamentally, PJM alone is responsible for implementing its tariff, which includes in the first instance determining what the tariff requires and how to comply with the tariff. It is not the MMU's tariff; if the tariff is misapplied, PJM is the party that must answer to the Commission. Therefore, there can be no parallel role in tariff administration for any other entity that is independent of PJM.¹⁹

¹⁸ The Unilateral Offer also sought to exclude the Market Monitor from offering timely input to market design, providing that the "the MMU will not attend lower level committee or working group meetings where the formation of proposals or design of market rules is under development." *Id.* at 11 The Unilateral Offer also sought to significantly circumscribe the Market Monitor's opportunity to participate in senior committee meetings. *Id.* This would have afforded the Market Monitor less access to the PJM governance process than the general public and would have prevented the Market Monitor from contributing its views about market design at a time and place where they could be most easily adopted and championed by others in the process that found them meritorious.

¹⁹ Reply Comments of PJM Interconnection, L.L.C., filed in Docket No. EL07-56-000 on September 9, 2006 at 20.

PJM alleged in the Unilateral Offer that the Market Monitor is conflicted because it (i) decides “during the implementation phase whether particular bids and offers are appropriate under the tariff” and (ii) monitors “compliance with the tariff.” However, as there is no meaningful distinction between the cited actions, there is no conflict to reconcile. Determining whether offers are appropriate under the tariff is the same thing as monitoring compliance with the tariff. The market monitor’s determination does not change. If a Market Participant behaves in a manner inconsistent with the Market Monitor’s determinations, the Market Monitor may seek recourse from the Commission, and the Commission then affirms or overrules the Market Monitor’s determination.

PJM’s argument (*Id.*) seemed to place some importance on whether monitoring occurs “during the implementation” phase. The monitoring in question actually occurs prior to, not concurrently with the implementation of mitigation. Pre-implementation monitoring is far preferable to post-hoc monitoring because it allows the Market Monitor to explain its position to Market Participants before the behavior has occurred, before there are any consequences for which it may be liable and before the market has cleared.

PJM’s claim in the Unilateral Offer that it alone must administer each and every provision of the Tariff is equally infirm. There is a clear division between the role of administering the markets and coordinating network operations and the role of

reviewing Market Participants' conduct in its markets. PJM has a Tariff-defined responsibility to address market power issues as an RTO and regulated entity, but it discharges that responsibility by supporting a fully independent and objective market monitoring function. PJM need not do more, especially if more is really less.

The Tariff routinely assigns duties and obligations to Market Participants, and a host of other entities defined in the Tariff (i.e., Load-Serving Entities, Transmission Customers, etc.). PJM is no more responsible for its Market Participants' compliance than it is for the administration of Attachment M. Market Participants have primary responsibility to develop their own offers, including cost-based offers, in accordance with the Tariffs. The Tariff imposes very specific obligations on Market Participants that they fulfill in the course of compliance. The process provided in the Tariff for developing cost-based offers is implemented by Market Participants subject to review by the Market Monitor to ensure that competition produces just and reasonable prices in PJM. This process relates more to each Market Participant's individual authorization to charge market-based rates pursuant to the Commission regulation under the Federal Power Act than it does to PJM's duties to clear the markets and manage the bulk power grid.

PJM's Unilateral Offer was not well received by the Complainants.²⁰ In its September 20, 2007 Order, the Commission addressed PJM's Unilateral Offer and the consolidated complaints, finding, among other things, that the evidence raised questions about whether the tension between PJM's management and the market monitor prevented a workable relationship that could compromise the MMU's ability to perform its Tariff-defined functions.²¹ The Commission further found that it would be "desirable for the parties themselves to work out the details of the relationship between PJM and its Market Monitor."²² Consequently, the Commission did not accept the Unilateral Offer and instead established settlement procedures facilitated by the Commission's Chief of Staff.²³

PJM filed a settlement resolving all issues in this process on December 19, 2007, and the Commission approved the arrangement by order issued March 21, 2008, noting

²⁰ See, e.g., Initial Comments of the Joint Complainants on Unilateral Offer of Settlement, Comments of Organization of PJM States, Inc. Opposing PJM Interconnection, L.L.C.'s Offer of Settlement, Comments of the Electricity Consumers Resource Council on Settlement Offer of PJM Interconnection, L.L.C., filed in Docket No. EL07-56-000, et al., on August 22, 2007 ("Other problems include lack of participation in lower committees and working groups which effectively cuts off access by MMU to PJM staff and members, and no role in tariff administration when the market monitor is supposed to enforce the rules" (ELCON at 7)).

²¹ *Organization of PJM States, Inc. v. PJM Interconnection, L.L.C., et al.*, 120 FERC ¶61,254 at P 2 (2007).

²² *Id.* at P 2.

²³ *Organization of PJM States, Inc. v. PJM Interconnection, L.L.C., et al.*, 121 FERC ¶ 61,021 (2007).

that it “provides that the MMU will operate external to PJM.”²⁴ The approved settlement does not reflect the extreme objectives from the Unilateral Offer, including removing the MMU from any role in mitigation or Tariff administration. The Joint Complainants recognized their critical interest in keeping the Market Monitor involved in market design and minimizing the exercise of market power in PJM markets.

What transpired in the settlement discussions remains confidential, but the settlement agreement filed and approved by the Commission includes revisions to Attachment M that specifically list market power mitigation as one of the Market Monitoring Unit’s functions and responsibilities. This outcome is contrary to the result sought by PJM in its Unilateral Offer.²⁵ Section IV.E of Attachment M, as revised by the 2007 PJM/MMU Settlement, defines the Market Monitoring Unit’s role and responsibility in mitigation as follows:

The Market Monitoring Unit may, consistent with the PJM Market Rules, recommend to PJM that it take specific mitigation action that PJM is authorized to take under the PJM Market Rules to address market behavior or conditions. The Market Monitoring Unit shall not, however, have authority to require modification of PJM operational decisions, including dispatch instructions. If PJM does not accept the Market Monitoring Unit’s recommendations regarding mitigation actions, the Market Monitoring Unit may report its mitigation recommendations to the Authorized

²⁴ *Organization of PJM States, Inc. v. PJM Interconnection, L.L.C., et al.*, 122 FERC ¶61,257 at P 22.

²⁵ Section 4.8 of the Unilateral Offer provided, “[T]he MMU shall not participate in: (1) the implementation of market rules, (2) the implementation of the PJM Tariff and Operating Agreement or *any market rules stated therein*, or (3) PJM Operations (emphasis added).

Government Agencies, Commission staff, State Commissions or the PJM members, as the Market Monitoring Unit deems appropriate. *Nothing in the Plan shall be deemed to supersede any authority the Market Monitoring Unit may have under the PJM Market Rules*, nor shall anything in this Plan preclude any person or entity from seeking to modify such authority in a filing with the Commission (emphasis added).

Thus, the PJM/MMU Settlement, in the section concerning “Mitigation,” expressly provides for the continuity of “any authority” that the Market Monitor may have under the PJM Market Rules. This provision applies explicitly to the newly external MMU. This provision codifies the traditional role played by the Market Monitor, since its establishment, in monitoring the potential exercise of market power by Market Participants under the various PJM Market Rules where the Monitor’s role was established.²⁶ This provision made this continued role a term of the settlement, not an open matter to be addressed in subsequent filing.²⁷ The 2007 PJM/MMU Settlement made the Market Monitor’s authority explicit and expressly tied the settlement to all the applicable PJM Market Rules.

²⁶ See OATT, Attachment M, § III.C (effective April 1, 1999) (“The Market Monitoring Unit shall be responsible for monitoring ... [t]he potential of any Market Participant(s) to exercise undue market power”).

²⁷ The last sentence permits continued evolution of the Market Monitor’s role in this area. For example, a future filing, developed under the normal processes for tariff revision and submitted pursuant to Section 205 or 206 of the Federal Power Act, could accord additional or strengthened responsibilities to the Market Monitor. This scope of the compliance filing in this proceeding should be limited to the codification and clarification of existing practices, not to circumvent established processes for changing the tariff.

The provision directly refutes any possible argument that the settlement somehow contemplated or even left as an open issue, the creation of a new role for PJM to participate in the Market Monitor's administration of these limited components of the mitigation program, as part of making the monitoring function external. On the contrary, this provision specifically ensures the continuity of the Market Monitoring Unit in its current roles, consistent with externalization and the other terms of the settlement.

The 2007 PJM/MMU Settlement included a *Mobile-Sierra* clause applicable to Attachment M and certain provisions of the Operating Agreement not implicated here.

Section III of the Settlement included a limitation applicable specifically to the April 29th

Filing:

[I]f the Commission issues a final rule in Docket No. RM07-19 (or in any other rulemaking proceeding affecting market monitoring) that requires a change to Attachment M or Section 18.17.4 of the PJM Operating Agreement, PJM shall not be precluded by this Settlement Agreement from submitting a compliance filing effecting such change, provided, however, that any such filing shall be limited solely to changes required by the Commission, not discretionary changes made on behalf of PJM or any other person or entity.

Attachment M as revised in the 2007 PJM/MMU Settlement includes a provision recognizing the Market Monitor's role in implementing provisions related to the development of the inputs to prospective mitigation, conducting retrospective mitigation and other mitigation-related matters. Except to the extent that the

Commission requires a change, such as it did with respect to the clarification and inclusion in one place of all the provisions administered by the Market Monitor, the April 29th Filing should but does not respect the outcome of the 2007 PJM/MMU Settlement.

Moreover, the limitation of the compliance filing to those items required by the Commission is consistent with general Commission precedent applicable to compliance filings.²⁸

D. The 2006 RPM Settlement

On August 31, 2005, PJM filed to reform its capacity market, seeking to establish a market featuring compulsory participation by both load and supply, forward procurement, variable demand and more granular locational signals.²⁹ The reform of PJM's capacity markets had significant financial implications and engendered considerable and persistent controversy. Nonetheless, PJM was able to secure a settlement including substantial support from load interests.³⁰ Among the terms agreed to in RPM are effective mitigation rules that expressly define the role of the Market Monitor in administering provisions related to the development of inputs to

²⁸ See, e.g., *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331 (2006).

²⁹ *Id.*; *PJM Interconnection, L.L.C.*, 126 FERC ¶61,275 (2009).

³⁰ See 2006 RPM Settlement at 1-2.

prospective mitigation. These provisions carefully distinguish between tasks administered by PJM and those tasks administered by the Market Monitoring Unit. Load interests supporting these settlements have indicated these provisions served as an important basis for their support or decision not to oppose.³¹ The Commission has welcomed these settlements as the products of consensus. This approach adopted in the 2006 RPM Settlement, which assigns the Market Monitoring Unit an important role in developing the inputs used in prospective mitigation, has now been explicitly endorsed in Order No. 719.³²

E. The Current Role of the Market Monitor in Developing Inputs to Prospective Mitigation

The PJM Market Rules currently assign to the Market Monitor a limited but critical role in developing the inputs to prospective mitigation for PJM markets. Since March 1999, the Market Monitor has successfully undertaken this task, assisting in, and

³¹ See, e.g., Reply Comments of Office of the Ohio Consumer' Counsel on Offer of Settlement, filed in Docket No. ER05-1014, et al., at 5-6 ("For OCC, it has been difficult not to oppose the Settlement Agreement... Each of the proposed modifications put forth by PPL/PSEG go to the heart of the RPM construct and would return to RPM as filed, or worse—a prospect OCC could never accept were the Settlement Agreement modified by this Commission. Among its sweeping proposed modifications to the Settlement, PPL/PSEG request that the Commission ...“constrain and define” the PJM Market Monitoring Unit’s function in implementation of RPM... eliminating market power mitigation, as requested by PPL/PSEG, would likely cause OCC to seriously reconsider its willingness to not oppose the Settlement Agreement.”); Reply Comments of Indicated Buyers on Settlement Agreement and Offer of Settlement, filed in Docket No. ER05-1410-000, et al., at 7 (“[T]he issue of market power mitigation is so essential to the Indicated Buyers’ ability to agree to the Settlement Agreement as a just and reasonable package that any modifications to dilute those provisions could not possibly be resolved through any renegotiation by the Settling Parties.”)

³² Order No. 719 at PP 373-75.

for a substantial period, managing the development of the formulaic basis for Seller Offer Caps, monitoring their use by Market Participants and discussing and resolving the calculations and levels of these offer caps as inputs to the mitigation program administered by PJM for the Day-ahead and Real-time Energy Markets. More recently, a similar approach has been adopted for the development of Market Seller Offer Caps on the basis of avoidable cost as inputs for use in the mitigation program included in the Reliability Pricing Model (“RPM”). The Market Monitor receives the offer cap data directly from participants through its web-based interface, screens the data and discusses the details with each Market Participant. The result is either agreement or disagreement, well in advance of the auction. In either case, the Market Participant, not the Market Monitor, decides what offer to make. The Market Monitor has successfully performed this role for RPM auctions covering six Delivery Years (2007/2008 through 2012/2013). In no case does the Market Monitor have any discretion in determining the offers made by Market Participants.

The Market Monitor also implements retrospective mitigation rules, such as the FTR forfeiture rule.³³

It is important to recognize, however, that the Market Monitor’s role related to the inputs to mitigation falls well short of the broader scope of MMU authority

³³ See OA § 5.2.1(b).

permitted in Order No. 719. Order No. 719 states (at P 375) that the “MMU may provide the inputs required by the RTO or ISO to conduct prospective mitigation.” Order No. 719 defines a paradigm in which market monitors may directly provides inputs to the RTO, which the RTO uses when applying prospective mitigation. In PJM, the Market Monitor and Market Participants discuss issues related to cost-based offers prior to offer submission, but Market Participants alone make the ultimate decision about what offers to submit to PJM.

The Market Monitor engages directly in discussions with Market Participants with the objective of achieving agreement on appropriate costs or values for inclusion in an offer, consistent with the requirements of the PJM Tariff and manuals. Typically, agreement is obtained, and the Market Participant is able to proceed, confident that the Market Monitor agreed that the proposed costs or values raise no market behavior or compliance concerns. But, if no agreement is reached, the Market Participant decides what offers to submit to PJM. When a Market Participant who has been unable to come to agreement with the Market Monitor has submitted its own offer, PJM has accepted such offer without additional review. The Market Monitor takes action on such offers when they are expected to have an impact on the market.

The Market Participant has exclusive responsibility for the accuracy of the costs that are the basis of its cost-based offer as well as its conduct and behavior in

developing and submitting such an offer. PJM does not have and never has had such responsibility.³⁴

This is the well established and long standing difference between the role of the Market Monitoring Unit and the role of PJM.³⁵ PJM evaluates offers based on whether the offer can be processed to clear the market and is consistent with the reliable operation of the system, consistent with its responsibilities. The Market Monitor evaluates offers only with respect to whether they may reflect the potential ability to exercise market power. This constitutes a clear line, allows for separate and independent administration of the respective criteria, and does not involve the joint participation in administration of a tariff provision that raises the conflict of interest or subordination issues that concern the Commission.

³⁴ See OA Schedule 1 § 1.10.1A(d).

³⁵ Section 5.8 of Attachment DD § 5.8 to the PJM OATT directs PJM to reject Sell Offers that (i) fail to specify “a positive megawatt quantity” or “either designate as self-schedule or to specify in Offer Price,” (ii) are not receive on time, (iii) include a quantity exceeding the amount of installed and uncommitted capacity, or (iv) in the case of FRR entities, do not comply with certain sales restrictions. None of these bases for evaluation has anything to do with market power or manipulative conduct. Likewise, section 1.10.1A(d)(i)–(viii) of the PJM Operating Agreement specifies the requirements for acceptable Sell Offers in the energy markets. A number of items involve accuracy and elements necessary for processing. Rules that protect market, such as the objective \$1,000 in subsection (viii) and the requirement to include amounts and prices for the whole operating day in subsection (ii) prevent market power or manipulative conduct are objective, but if they are satisfied, PJM has no tariff imposed duty to inquire more deeply about the conduct associated with the offer. The PJM Market Monitoring Unit’s responsibilities, which address market power and compliance, were initially and continue to be codified at Attachment M.

This is also the well established and long standing difference between the role of the Market Participant and the role of PJM. If PJM accepts an offer that results in the exercise of market power or in market manipulation, PJM is not liable for such market misconduct and is not required to take the highly disruptive act of rerunning the markets.³⁶ This is an important feature of PJM's market design protecting confidence in PJM's markets.

Although Market Participants may not always agree with the Market Monitor's views on what constitutes appropriate costs or the steps required for sufficient verification, Market Participants have long recognized the advantages of this process which permits technical discussion of issues prior to the submission of offers and reduces uncertainty by providing the views of the Market Monitor prior to acting. Agreement from the Market Monitor means that the Market Participant can proceed, confident that these actions will not be subsequently challenged by the Market Monitor. Disagreement means the Market Participant can pause to carefully consider the cost and benefits of its actions and, if desired, to request that the Commission resolve the matter. Regardless, the Market Participant determines its own course and is solely responsible for its cost-based offers.

³⁶ See OA Schedule 1 § 6.4.2(f).

The Market Monitor's role does not constitute "participation" in PJM's administration of prospective mitigation. The respective roles are sequential, which is illustrated in the flow diagrams included as Attachment D. The Market Monitor does not "participate" with PJM in administering these provisions. The Market Monitor has exclusive, not shared, authority in this area, and, consequently, has no exposure, under the current external arrangement, to subordination to PJM as a consequence of this activity. The Market Monitor can independently make its own determinations, but it cannot prevent the Market Participant's chosen course and the Commission will decide the propriety of that course, if tested.

There is no conflict of interest in the Market Monitor's role. This activity itself constitutes monitoring. Further, this process is not about the application of rules for clearing the market and is not about system operations. Inclusion of this process in the Tariff ensures transparency and that Market Participants cannot avoid undesired answers about what constitutes appropriate conduct by never raising the question. What this process involves is proactive monitoring by the Market Monitor and a voluntary commitment to adhere to certain market conduct by the Market Participant. Only participation in the process is compulsory, agreement to a particular value is not.

The Market Monitor's role in reviewing the cost data that Market Participants include in their offers falls squarely within the Market Monitor's general authority specified in the PJM's Market Monitoring Plan, to monitor "[t]he potential for a Market

Participant to exercise market power or violate any of the PJM and FERC Market Rules or the actual exercise of market power or violation of the PJM or FERC Market Rules.”³⁷ However, the PJM Market Rules have not always spelled out how the Market Monitor achieves these objectives in practice or specifically identified the Market Monitor’s role. Even Attachment DD, which does specify the Market Monitor as the entity administering mitigation related provisions, does not provide much detail. The requirements in Order No. 719 that the Tariff “clearly state which functions are to be performed by MMUs, and which by the RTO or ISO,” and “to consolidate all its MMU provisions in one section of its tariff” provides a welcome opportunity to correct this deficiency.³⁸

The Market Monitor appreciates that the traditional approach to monitoring Market Participants has been at least as subtle as it has been effective. For nearly ten years the interactions between the Market Monitor and PJM Market Participants have proceeded so smoothly that there has been little cause for those outside of the process, including PJM staff and stakeholders other than Market Participants, to understand in detail how the process works and how it serves the joint and several interests of all concerned. The public will be better served by clearly codifying this process.

³⁷ OATT, Attachment M § IV.B.4.

³⁸ Order No. 719 at PP 378 & 392.

II. PROTEST

PJM's approach to compliance is not just and reasonable in its current form. PJM takes an extreme position on market monitoring issues that has no basis in the compromise approach for strengthening MMU independence included in Order No. 719. The Commission should also reject the April 29th Filing because it does not comply with the 2007 PJM/MMU Settlement, the 2006 RPM Settlement, Order No. 719's endorsement of a clear role in mitigation for MMUs, Order No. 719's prohibition of joint administration in order to avoid subordination of the MMU to the RTO, and Order No. 719's specific endorsement of the 2007 PJM/MMU Settlement.

The April 29th Filing passes up an opportunity to strengthen MMU independence by making what should have been a non-controversial effort to better consolidate and explain the role of the monitoring function as it is applied in developing the inputs used in prospective mitigation and in conducting retrospective mitigation. Instead the April 29th filing would restructure the market monitoring function in a manner that raises the very issues of interference in the market monitoring function that were resolved in the 2007 PJM/MMU Settlement.

A. The April 29th Filing Does Not Comply with the 2007 PJM/MMU Settlement That Externalized the Market Monitoring Function

In the relatively short period since the controversy over market monitoring independence in 2007, resolved by the settlement approved by the Commission in

March 2008, PJM and the Market Monitor have established a positive working relationship, and PJM, the Market Monitor and OPSI have cooperated productively on a number of matters, including, most notably, the recently approved reforms for RPM. The Market Monitor does not understand the interest at PJM in reopening these contentious issues and attempting to change the outcome less than a year after they became effective. PJM offers no compelling reason for resuming the debate over the appropriate structure of the market monitoring function at PJM. PJM offers nothing more than an implausible legal argument for its extreme positions that the Market Monitor can play no role in the administration of the parts of the Tariff related to its responsibilities and that the MMU should be subordinate to PJM in performing its key functions.

Ironically, Order No. 719, the legal basis for the April 29th Filing, is a uniquely unsuitable foundation from which to launch this effort, as the rule explicitly endorses the substance of the 2007 PJM/MMU Settlement and specifically accommodates the existing arrangements that PJM seeks to overturn (*see infra* Section II.C.5). Although achieving the clarity of roles and the consolidation of the Market Monitor responsibilities in one place in the Tariff requires some effort, there is no reason why these objectives could not have been accomplished without controversy.

B. The April 29th Filing Does Not Comply with the 2006 RPM Settlement

The settlement that produced RPM assigned a role to the Market Monitor in developing the inputs to prospective mitigation.³⁹ The April 29th Filing would strip away tools from the Market Monitor that the settlement specifically assigned to the Market Monitor. PJM signed this settlement and the Commission approved it subject to limited modification.⁴⁰ Those rules afford confidence to the settling parties that the mitigation included in RPM would be effectively administered by an entity whose interest in ensuring market efficiency was not compromised by conflicting institutional concerns. To the extent that any party agreed on RPM on the basis of such assurances, that reliance would be inappropriately undermined.

C. The April 29th Filing Exceeds the Scope of Order No. 719 When it Requires PJM's Participation in the Administration of Certain Market Monitoring Provisions That Have Hitherto Been the Market Monitor's Exclusive Responsibility

1. Order No. 719 Does Not Require the Removal of the Market Monitoring Function from All Aspects of Tariff Administration. On the Contrary, the Rule Endorses a Role for Market Monitoring.

The April 29th Filing argues for provisions that weaken the market monitoring function on the basis of a faulty interpretation of what Order No. 719 requires, and does not comport with the Market Monitor's current role in administering the development

³⁹ See OATT, Attachment DD § 6.

⁴⁰ See *supra* note 5.

of the inputs to prospective mitigation in PJM. In its Unilateral Offer of Settlement, PJM asserted that the Tariff could not assign any responsibility to implement a Tariff provision to the Market Monitor. Despite the fact that this position was not accepted in the 2007 PJM/MMU Settlement, the April 29th Filing continues to take the same position while also supporting an approach that, inconsistent with this position, provides a role for the Market Monitor in administering the tariff, but one that is subordinate to the RTO. The April 29th Filing argues that the Tariff cannot assign responsibility to any party other than PJM management to carry out any action, perform any duty or implement any program or plan. In the April 29th Filing, PJM continues to assert that the Market Monitor can have no role in Tariff administration, but also modifies that approach to allow for the specification of Tariff duties for the Market Monitor, provided that the Tariff also specifies that the Market Monitor is subordinate to the RTO in performing this duty.

Nothing in PJM's theory that it alone can administer the Tariff limits its application to MMUs. PJM's interpretation of "tariff administration or implementation" means in practice that the Tariff must afford PJM management the opportunity to reverse the action, determination or decision made by any party to whom the Tariff assigns responsibility. Although here this declaration of PJM's prerogatives is directed at the MMU, others including Market Participants, Members, Transmission Customers, Load-Serving Entities, Committees and Authorized Government Agencies, could be

surprised by the implications of this position for the many provisions that assign duties, obligations and determinations to them.

Order No. 719 not only omits any directive to change the structure and tools that emerged from the 2007 PJM/MMU Settlement, an omission sufficient to put the objectionable aspects of the April 28th Filing in violation of the settlement, Order No. 719 includes (at 330) a specific finding that the rule and settlement are in accord. PJM's creation of a new internal market monitoring function in the April 28th Filing, thus, violates the settlement. Moreover, even if the limitations imposed under the 2007 PJM/MMU Settlement did not exist, the general limitation of a compliance filing to those items required by the Commission is consistent with Commission precedent applicable to compliance filings.⁴¹

A careful reading of Order No. 719 reveals not only a lack of foundation for PJM's extreme and sweeping view of its prerogatives, but that Order No. 719 specifically contradicts both PJM's theory and the manner in which PJM applies that theory in the April 29th Filing. The Commission should reject the April 29th Filing to the extent that it is not compliant with what Order No. 719 requires. The Commission should reject PJM's proposal to assert for itself a new and duplicative role in market monitoring and to PJM's proposal to limit the MMU to a newly subordinate role. Order

⁴¹ See, e.g., *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331 (2006).

No. 719 does not require either, and affirmatively prohibits both. It is clearly beyond the scope of compliance to propose Tariff changes that contradict the specific directives of Order No. 719.

a. The MMU's Current Role is Consistent with Order No. 719

The Market Monitor in PJM does not now and never has participated in running the markets or operating the system. It has never played any role in administering purely administrative tariff provisions such as those that the Commission excluded (at P 377) from the market monitoring function. Moreover, the Market Monitor has no role, and never had a role in administering prospective mitigation. The Market Monitor has no role, for example, in the application of the Three Pivotal Supplier tests in PJM's energy, regulation and capacity markets. The Market Monitor's role is and has been to monitor PJM's application of the test and to promote its optimal design. The Market Monitor has no direct role in price formation in PJM and any problems detected by the Market Monitor would be for the purpose of prospective correction and not to rerun markets that have cleared.

Market Participants, not the Market Monitor, are responsible for providing inputs to PJM.⁴² The Market Monitor does not interfere with PJM's receipt of offer

⁴² The Market Monitor has never served as more than a "data bridge" for such inputs, forwarding inputs provided by Market Participants directly to PJM for sake of convenience and efficiency and this occurred only in the case of ACR offers in RPM. The Market Monitor proposes to discontinue

inputs, and its determinations are not binding on PJM or Market Participants. PJM determines whether to accept offers, including cost-based offers, on the basis of certain objective bright-line rules in the OATT that relate primarily to whether the offer can be used to clear the markets. PJM's acceptance or rejection of an offer submitted is appropriately limited to whether the offer is accurate, meets objective specifications and can be processed.⁴³ PJM has never had a role duplicating the Market Monitor's review of Market Participant's offers regarding whether an offer constitutes an attempt to exercise market power or constitutes a violation of the FERC Market Rules prohibiting manipulation. This task has been the Market Monitor's alone.

This clear line between an evaluation of offers based on whether the RTO can process them, and the ex ante interaction of the MMU and Market Participants

even this "bridging" practice, in the interest of ensuring the clarity of its role consistent with Order No. 719.

⁴³ Section 5.8 of Attachment DD § 5.8 to the PJM OATT directs PJM to reject Sell Offers that (i) fail to specify "a positive megawatt quantity" or "either designate as self-schedule or to specify in Offer Price," (ii) are not receive on time, (iii) include a quantity exceeding the amount of installed and uncommitted capacity, or (iv) in the case of FRR entities, do not comply with certain sales restrictions. None of these bases for evaluation has anything to do with market power or manipulative conduct. Likewise, section 1.10.1A(d)(i)-(viii) of the PJM Operating Agreement specifies the requirements for acceptable Sell Offers in the energy markets. A number of items involve accuracy and elements necessary for processing. Rules that protect market, such as the objective \$1,000 in subsection (viii) and the requirement to include amounts and prices for the whole operating day in subsection (ii) prevent market power or manipulative conduct are objective, but if they are satisfied, PJM has no tariff imposed duty to inquire more deeply about the conduct associated with the offer.

concerning the appropriate level of cost offers, constitutes the obvious basis for harmony between the respective spheres of activity of the RTO, with its responsibility to clear the markets and operate the system, and market monitoring, with its responsibility to monitor the conduct and behavior of market participants.

The purpose of the Market Monitor's role in prospective mitigation is to provide to Market Participants an upfront determination of the Market Monitor's position on the particular costs, the methods of calculation and the adequacy of documented cost support. The Market Monitor also calculates default costs that Market Participants can use as an alternative to calculating their own costs. The current mitigation program establishes a procedure within which Market Participants and the Market Monitor attempt to reach agreement regarding an appropriate offer. It requires that the Market Monitor make a clear and up front determination on this issue that affords the Market Participant certainty about the position of the Market Monitor.

Market participants benefit from a single point of contact for getting market monitoring feedback. That single point of contact has been and is logically the Market Monitor. The injection of PJM into this process constitutes the kind of "wasteful duplication" that Order No. 719 seeks to eliminate.⁴⁴

⁴⁴ Order No. 719 at 372.

Ex ante monitoring of Market Participant behavior serves to deter the exercise of market power and manipulative behavior rather than rely on necessarily sporadic ex post enforcement. In markets requiring mitigation to ameliorate an uncompetitive market structure, ex post and reactive monitoring is inadequate to ensure the integrity of pricing in such markets and is an extremely inefficient way to attempt to ensure competitive outcomes. The importance of this aspect of monitoring should not be underestimated. Ex ante determination of appropriate cost inputs is critical to the efficient performance of the organized wholesale power markets. The existence of such an approach should be an express condition for public utilities to obtain authorization to charge market-based rates. The failure to provide for such deterrence against the exercise of market power means that customers will pay higher prices for energy than is justified under the law or is efficient.

b. The Proposed PJM Role in Monitoring Creates a Conflict of Interest for the RTO

PJM's proposed role in market monitoring decisions creates substantial potential RTO conflicts of interest. The RTO's goal to effectively monitor its Members' behavior to serve the public interest will conflict with the RTO's need to respond to a variety of interests in addition to their own institutional interests. Order No. 719 seeks to further enhance such responsiveness.

It was precisely the Market Monitor's refusal to subordinate the interest in rigorous monitoring to PJM's institutional interests that led to the disagreements with PJM management and ultimately to the externalization of the market monitoring function in 2007. The creation of an institutionally as well as professionally independent MMU created a workable arrangement. If PJM is permitted to assert a new and duplicative role in performing the market monitoring function for which it is so manifestly ill-suited, and can subordinate and ignore the determinations of the independent and external MMU, then the solution achieved in 2007 is undone.

2. Order No. 719 Does Not Prohibit External Market Monitors from Exclusively Administering All Provisions Related to Monitoring and Certain Provisions Related to Mitigation

The guiding legal assumption underlying PJM's approach to compliance is stated in the April 29th Filing's proposition (at 40) that "the Commission has very specifically determined that MMUs should not have any role in tariff administration, tariff implementation or prospective mitigation" (emphasis added). In support of this claim PJM cites: (i) a passage where Order No. 719 (at P 361) describes the proposal in the NOPR "that MMUs be removed from tariff administration" while failing to recognize that the Commission then acknowledges a host of "meritorious" arguments against the idea and explains the "compromise approach" adopted instead; (ii) the failure of Order No. 719 (at P 354) to list "tariff administration" as an MMU function, which incorrectly assumes that "tariff administration" is itself a function rather than the process under

which the functions are carried out; and (iii) section 35.28(g)(3)(iii)(A) of the Commission's Regulation which provides that "MMUs may not participate in the administration of the [RTO's] tariff" or "conduct prospective mitigation," while failing to note that the Regulation provides in the next two subsections (subsection (3)(iii)(B) and subsection (3)(iii)(A)) that MMUs may "provide the inputs required for [RTOs] to conduct prospective mitigation" and may "conduct retrospective mitigation." In each case, the cited language is misread by PJM or does not support PJM's proposition.

The extreme position adopted in the April 29th Filing does not even account for the Market Monitor's obvious and necessary role in administering the PJM Market Monitoring Plan, included in Attachment M of the Tariff. According to the logic of PJM's proposed interpretation, Order No. 719 would require that the tariff deprive the Market Monitor of the ability to make referrals under Section IV.I.2 or issue state of the market report reports under Section VI.A of Attachment M without affording an opportunity for PJM to reverse such actions. PJM does not distinguish why, under its theory, it did not also include provisions allowing PJM to duplicate or reverse the Market Monitor's ability to make such referrals and to submit reports.

Although the April 29th Filing does not explicitly propose restrictions on the Market Monitor's administration of Attachment M, PJM has resisted efforts to reasonably delineate the boundaries of its asserted authority with respect to market monitoring. A prime example is PJM's specific rejection of the Market Monitor's request

in Task Force 719 that Attachment M specify that the Market Monitor's administration of the PJM Market Monitoring Plan is "exclusive." Prior to Task Force 719, the Market Monitor would not have considered such a qualification necessary, because Attachment M defines the "Market Monitoring Unit" as "the organization that is responsible for implementing the Plan" (emphasis added). PJM's resistance to a minor change that would codify this point coupled with its claim (at 38) that "the Commission's express intent in Order 719 was to ensure that external MMUs are not involved in administering the RTO tariff" suggests that PJM may be confused about the relationship of the Market Monitoring Unit to the PJM Market Monitoring Plan, which the Market Monitoring Unit independently administers.

A careful reading of Order No. 719 would have allowed for a better understanding of the subtleties and interrelationships that the Commission intended to establish. Order No. 719 clearly defines the portions of the tariff that an MMU may and may not administer, it specifically permits tariff administration of areas in the MMU's purview and it avoids the more radical approach the Commission initially contemplated in the NOPR. These clear definitions do not impact the arrangement in PJM because the Market Monitor has never performed and is not requesting authority to perform any of the prohibited roles in tariff administration.

A measured analysis of the Commission's solution first requires an appreciation of the problems that the Commission sought to remedy. The Commission explains (at

PP 357, 371) its delineation of the RTO's versus the MMU's role, how subordination can result and is to be avoided and areas where the MMU needs to act independently:

We agree that the MMU's role in recommending rule and tariff changes is advisory in nature, and that the MMU should not become involved in implementing rule and tariff changes (*unless a tariff provision specifically concerns actions to be undertaken by the MMU itself.*) (Emphasis added.)

...

[T]here is an inherent conflict of interest in an MMU *conducting* mitigation and also opining on the state of the market, the health of which may in part reflect the results of its mitigation. We also observed that by *supporting* RTOs and ISOs in tariff administration, MMUs become subordinate to the RTO or ISO, thus weakening their independence. (Emphasis added.)

The Commission does not state that the PJM Tariff cannot charge the Market Monitor to administer, implement, carry out or assume responsibilities for specific duties, tasks and responsibilities related to its purpose. It says just the opposite, providing (at P 357) that MMUs may become involved in implementing rule and tariff changes if "a tariff provision specifically concerns actions to be undertaken by the MMU itself." Moreover, the Commission clarified (at P 376) that it did not intend to disturb existing arrangements assigning administrative tasks to external MMUs: "[A] number of our orders specifically lodge elements of mitigation and administration within the MMUs. Many of these may properly be considered retroactive mitigation, and the RTOs' or ISOs' tariffs would not need to be adjusted to remove these responsibilities from the MMU's purview."

The Commission's stated concerns about the MMU role in tariff administration only apply when the market monitoring function "participates" in or "shares" responsibility for carrying out functions that the RTO must also be involved in and for which the RTO must take ultimate responsibility. The Commission makes clear that these functions are system operations and clearing the markets. This is plain in every instance of Order No. 719, the NOPR and the ANOPR where this issue is addressed in detail.⁴⁵ Moreover, the Commission's concern about conflicts of interest and subordination of the market monitoring function are expressed only with respect to these core operations and markets functions. Implementing prospective mitigation falls within the ambit of "clearing the market," and so the Commission limits participation in administering these provisions to internal market monitoring functions.

⁴⁵ See Order No. 719 at P 375 ("It is only prospective mitigation that affects the operation of the market, and therefore it is only prospective mitigation that creates a potential conflict of interest for an MMU"); ANOPR at P 118 ("[T]he Commission is concerned that an MMU's performance of these mitigation functions can compromise its independence in evaluating and reporting on market performance. In order for the MMU to support the RTO or ISO in tariff administration, it must be subordinate to RTO and ISO management. The operations and mitigation functions performed by MMUs directly affect market outcomes and performance. Because of this, there is an inherent conflict between an MMU reporting on market outcomes that the MMU itself has influenced. This conflict is of particular concern where the MMU has significant discretion in affecting offers, bids, and prices. There is significant potential for conflict between an MMU maintaining independence of RTO and ISO management and supporting tariff administration in a subordinate capacity. It may not be possible for MMUs to maintain independence while supporting tariff administration."); NOPR at P 207 ("The current practice of allowing MMUs to support the RTOs and ISOs in tariff administration necessarily makes their role subordinate to that of the RTOs and ISOs, and thus weakens that independence. Furthermore, freeing MMUs from tariff administration would allow them to objectively monitor the markets, without the bias that might arise from their personal involvement in tariff administration.").

In addition, Order No. 719 does exclude (at P 377) the Market Monitor from a role conducting “purely administrative matters:”

Purely administrative matters, such as those identified by CAISO (enforcement of late fees and the untimely submission of outage reports and meter data), should be conducted by the RTO or ISO, rather than the MMU. Such activities are remote from the core duties that this Final Rule assigns to the market monitoring function.

Purely administrative matters do not include the core duties of monitoring and mitigation that Order No. 719 addresses at some length in the immediately preceding passages. The examples provided included assessing late fees and enforcing deadlines for the receipt of meter data. Had the Commission actually issued a blanket prohibition against any role by MMUs in administering or implementing any and all tariff provisions as PJM suggests, Order No. 719’s inclusion of a specific prohibition against MMUs’ involvement with purely administrative matters such as those would not have been necessary.

PJM’s interpretation fails to accord meaning to Order No. 719’s specific directive on “purely administrative matters” as distinct from all matters, nor does PJM’s interpretation account for the specific passages where the Commission acknowledges a limited role for MMUs in implementing mitigation and in administering related portions of the tariff. PJM cannot simply read these passages out of Order No. 719 in deference to a general proposal in the NOPR that was explicitly rejected in the Commission’s determination. Specific directives take precedence over general ones.

Moreover, Order No. 719's discussion of "purely administrative matters" cannot be reconciled with an alleged prohibition of every administrative role. The directive specific to administrative matters shows that the Commission had no intent to provide for a blanket prohibition against an MMU role in tariff administration. PJM's interpretation violates the canons of construction applicable to the interpretation of legal documents.⁴⁶ Likewise, the weight that PJM accords (at 39) to provisions summarizing draft rules while ignoring conflicting provisions in the rule has no merit as a guide to reading Commission orders. The Commission should reject this unsound approach to reading its orders.

3. Order No. 719 Expressly Approves a Role for the Market Monitoring Function in Developing the Inputs for Use in Prospective Mitigation and Conducting Retrospective Mitigation

Contrary to the prohibition of the market monitoring function from any role in administering the tariff that PJM alleges, Order No. 719 specifically sanctions a market role in administering the tariff in some detail, and in precisely those areas of tariff administration that have been the center of controversy in Task Force 719.

⁴⁶ Assuming that PJM could establish that Order No. 719 is ambiguous (and it has not attempted to argue that it is), PJM's interpretation is flawed because it fails to give effect to every clause and word of the rule and renders part of it inoperative. *See Negonsott v. Samuels*, 507 U.S. 99 (1993); *Mountain States Tel. & Tel. v. Pueblo of Santa Ana*, 472 U.S. 237 (1985). Moreover, a specific provision should govern a general one, and not the reverse. *See Morales v. Trans World Airlines, Inc.*, 504 U.S. 374 (1992); *see also, Morton v. Mancari*, 417 U.S. 535 (1974).

In the case of an external market monitoring structure such as PJM's, the Commission carefully delineated (at P 375) the role that the market monitoring function should play:

It is only prospective mitigation that affects the operation of the market, and therefore it is only prospective mitigation that creates a potential conflict of interest for an MMU. Therefore, we direct that RTOs and ISOs may allow their MMUs, regardless of whether it uses a hybrid structure, to conduct retrospective mitigation. For these purposes, we consider prospective mitigation to include only mitigation that can affect market outcomes on a forward-going basis, such as altering the prices of offers or altering the physical parameters of offers (e.g., ramp rates and start-up times) at or before the time they are considered in a market solution. All other mitigation would be considered retrospective. *We also determine that the MMU may provide the inputs required by the RTO or ISO to conduct prospective mitigation, including determining reference levels, identifying system constraints, cost calculations and the like. This will enable the RTO or ISO to utilize the considerable expertise and software capabilities developed by their MMUs, and reduce wasteful duplication.* (Emphasis added.)

The Commission clarifies that the potential conflict of interest that concerns it with respect to the market monitoring function is the application of prospective mitigation in a manner that involves the market monitoring function in the RTO's market operations and concurrent system operations. The conflict would be between implementing prospective mitigation and critically reviewing the results of that mitigation. The Commission finds that its concerns do not apply to the development of the inputs to be used in prospective mitigation or to conducting retrospective mitigation.

The Commission expressly permits MMUs to assume a defined role in tariff administration on the basis of Order No. 719's summary of concerns raised in the NOPR

that succinctly explains how RTOs are institutionally conflicted in and unsuited for administering the aspects of a mitigation program relevant here (*see supra* Section I.B). Finding “many of the objections raised by commenters meritorious,” such as the conflicting “vested interest in keeping its market participants happy, especially the larger players who can threaten to leave the RTO or ISO if they chose” and the “useful buffer” between the RTO and market participants for “performing what is often viewed as a hostile act,” the Commission explained that it chose to “adopt a compromise approach, one that strikes the appropriate balance between allowing modified participation by the MMUs in mitigation, while protecting against the conflict of interest inherent in their unfettered participation.”⁴⁷ The Commission chose this compromise approach in place of the earlier discussion item that PJM relies upon as though it were policy.

Taken together, the passages discussed above, with a dose of common sense, provide a coherent guide to what compliance with Order No. 719’s determination on tariff administrations requires. The rule excludes the market monitoring function from involvement in the administration of provisions for clearing the markets, including prospective mitigation, provisions that apply to operating the system, and provisions that pertain to purely administrative matters. The rule specifically permits MMUs to

⁴⁷ Order No. 719 at 372–73.

administer provisions related to market monitoring and, for external MMUs, to conduct retrospective mitigation, provide the inputs to prospective mitigation and perform similar tasks approved in prior orders. Order No. 719 achieves a logical and coherent policy on how to allocate the administrative responsibility for these tariff functions. If the Commission acts to ensure that the PJM Tariff adheres to these principles and provides a firm regulatory foundation for what has been the status quo in PJM, the result will be a productive, complementary and sustainable arrangement.

4. Order No. 719 Does Not Require Joint Administration of Monitoring and Mitigation Provisions. In Fact, Order No. 719 Prohibits Joint Administration of Monitoring and Mitigation Provisions. PJM's Proposal Is Not Compliant with Order No. 719.

Although Order No. 719 endorses the substance of the 2007 PJM/MMU Settlement, it does provide that PJM must file to comply with certain aspects of the order.⁴⁸ A number of these matters are relatively minor and non-controversial, and PJM, the Market Monitor and stakeholders successfully dealt with them in the stakeholder process. Controversy has centered on what Order No. 719 requires for the codification of tariff-defined duties for the Market Monitor, particularly in administering defined parts of the monitoring and mitigation program in the PJM Tariff.

⁴⁸ Order No. 719 at P 330 n.411 (“In the event of any inconsistencies, the requirements imposed in this Final Rule, which have the force of regulation, would control. Indeed, the PJM/MMU Settlement Agreement itself so acknowledges, as the Commission noted in its order approving the settlement”).

PJM's adoption of an extreme stance on what compliance with Order No. 719 requires, insisting that nothing less than the complete removal of the market monitoring function from the administration or implementation of any tariff provision of any RTO, was for months the reason for the absence of substantive bilateral or multilateral discussions about how best to strengthen market monitoring in PJM in Task Force 719. PJM's initial position, maintained until weeks prior to the April 29th filing date, would have simply removed all references in the Tariff to the Market Monitor's role in developing the inputs provided to PJM by Market Participants for potential use in mitigation.⁴⁹ Pressure from stakeholders resulted in PJM modifying its position.

The April 29th Filing reflects PJM's extreme and sweeping position on compliance, but also reflects a modification of that position that is as inconsistent with its own interpretation as it is with Order No. 719 and the 2007 PJM/MMU Settlement. Although some of the key recommendations in the April 29th Filing take a critical step towards defining a role for the MMU in tariff administration, the defined role for the MMU is explicitly subordinate to that of PJM. This introduces a new inconsistency with Order No. 719. The April 29th Filing does not remove the MMU from tariff administration, as the Filing elsewhere insists that it must. The detailed Tariff language

⁴⁹ See, e.g., PJM's Proposed Revisions to Attachment DD for the February 5, 2009 meeting of Task Force 719, which can be found at the following link: <http://www.pjm.com/Media/committees-groups/task-forces/tf719/20090202-item-04bii-proposed-revisions-to-attach-dd.pdf>.

proposed in the April 29th Filing instead proposes a new form of joint tariff administration for the market monitoring and mitigation activities, a new and unprecedented role for PJM. Under the April 29th filing, PJM would participate with the MMU in administering tariff provisions that relate directly to the Market Monitor's core duty of monitoring and deterring Market Participants from exercising market power, including retrospective mitigation and the calculation of inputs to prospective mitigation. The April 29th Filing would subordinate the MMU to PJM by providing that PJM may overturn the Market Monitor's determinations.

In deciding whether MMUs should directly conduct mitigation, the Commission determined (at P 373) that to do so would create both a conflict of interest and a subordination to the RTO. The Commission designed the MMU role explicitly to avoid both the conflict of interest and the subordination to the RTO. Yet PJM has proposed a new form of subordination, which should be rejected by the Commission for the same reasons the Commission rejects subordination in Order No. 719.

The concerns referenced by the Commission (at PP 372–373) are equally relevant to the proposed Tariff modifications included in the April 29th Filing. These include: conflicts of interest for the RTO; wasteful duplication of costs and effort; and loss of the MMU's role as a buffer between the RTO and market participants. PJM's proposal to create a new role for itself in reviewing MMU findings is clearly outside the scope of Order No. 719. This role does not now exist in the PJM tariff. Order No. 719 does not

contemplate such an RTO role and it is very clear that the proposed new role for PJM is inconsistent with the fundamental logic of Order No. 719. PJM's proposal muddies rather than clarifies the division of labor between the MMU and PJM. PJM's proposal introduces a new form of subordination. PJM's proposal contradicts Order No. 719's explicit delegation of inputs for prospective mitigation to MMUs and of retrospective mitigation.

PJM management's efforts to reverse MMU positions on matters of inputs to prospective mitigation were one of the factors that led to questions about how to ensure the independence of market monitoring and ultimately to the PJM/MMU Settlement. More recently, there have been disagreements between PJM and the MMU over the administration of the Parameter Limited Schedules provisions of the Tariff and manuals. PJM created a business rule to mandate joint administration, rather than MMU administration, of the exception process, despite the MMU's objections. The Market Monitor's concerns about a weakened market monitoring and mitigation program are not hypothetical.

The creation of a new role for PJM in market monitoring would interfere with and weaken the Market Monitor's ability to effectively perform its duties.⁵⁰ Market Participants will lack access to a clear process and a single determination. With two

⁵⁰ *Id.*

potentially conflicting market monitoring determinations from which to choose, it will be harder to anticipate how the Commission will respond.⁵¹ The consequence will be unnecessary confusion, complexity and risk for Market Participants. Another consequence will be opportunities that Market Participants with higher risk tolerance can exploit. Neither outcome strengthens market monitoring. Neither outcome is consistent with the fundamental objectives of Order No. 719.

For PJM to have the capability to review, modify and/or overrule the Market Monitor's determinations regarding market power, manipulation and other market misconduct implies that PJM would have to develop the staff and analytical functions necessary to have a basis for its positions. This requires a wasteful duplication of efforts. PJM purports that it will exercise its ability to subordinate MMU determinations infrequently, but this merely exacerbates the waste inherent in the additional expenditures needed to support such determinations.

5. Order No. 719 Does Not Disturb the PJM/MMU Settlement Agreement Regarding Market Monitoring Issues

Order No. 719 directly discusses (at P 330) the impact of the rule on the 2007 PJM/MMU Settlement Agreement:

We decline to adopt as "best practices" the provisions of the recent settlement agreement entered into by PJM and a

⁵¹ See Order No. 719 at P 378. A number of Market Participants have emphasized this point in oral commentary in Task Force 719 meetings.

number of interested parties concerning the structure, function and independence of PJM's MMU (PJM/MMU Settlement Agreement). [Citation omitted] The provisions of that agreement were specific to one RTO, and represented a negotiated balancing of interests. It would be inappropriate to impose the specifics of that settlement on all other RTOs and ISOs, and especially to do so without notice and the opportunity to comment. However, *we observe that the PJM/MMU Settlement Agreement is in accord with our determinations in this Final Rule regarding the appropriate MMU structure and tools.* [n.411: In the event of any inconsistencies, the requirements imposed in this Final Rule, which have the force of regulation, would control. Indeed, the PJM/MMU Settlement Agreement itself so acknowledges, as the Commission noted in its order approving the settlement.] (Emphasis added.)

Nothing in Order No. 719 suggests that the Commission intended to disturb in any way the arrangement approved under the PJM/MMU Settlement Agreement. On the contrary, the Commission reaffirms (*Id.*) the "structure and tools" adopted in that context. Order No. 719 cannot be read to require as a matter of compliance PJM to significantly curtail the Market Monitor's existing role in developing the inputs to prospective mitigation and implementing provisions of the Tariff relating to retrospective mitigation and reassign those duties to its internal staff.

D. The April 29th Filing Fails to Comply with the Specific Requirements of Order No. 719

1. The April 29th Filing Subordinates the Market Monitor to PJM

Several specific directives in Order No. 719 promote the goal to "strengthen the independence of market monitoring," including the requirement to avoid subordination

by sharing RTO/MMU duties. “[B]y supporting RTOs and ISOs in tariff administration, MMUs become subordinate to the RTO or ISO, thus weakening their independence.”⁵²

The Commission’s primary reason for removing the market monitoring function from a role in prospective mitigation, Order No. 719 explains, is the concern that the participation of the MMU in that role necessarily subordinates it to the RTO and compromises its independence.

For example, the April 29th Filing revises Section 6.4(d) of Attachment DD of the OATT to provide:

In the event that a Capacity Market Seller and the Market Monitoring Unit cannot agree on the level of a Market Seller Offer Cap, the Office of the Interconnection shall make its own determination of the level of the Market Seller Offer Cap based on the requirements of the Tariff and the PJM Manuals. If the Capacity Market Seller submits a Sell Offer that the Office of the Interconnection determines would result in an increase of greater than five percent in any Zonal Capacity Price determined through such auction compared to the Office of the Interconnection’s determination of the level of the Market Seller Offer Cap, the Office of the Interconnection shall apply to FERC for an order, on an expedited basis, directing such Capacity Market Seller to submit a Sell Offer consistent with the Market Monitoring Unit’s determination, or for other appropriate relief, and PJM shall postpone clearing the auction pending FERC’s decision on the matter. Should the Market Monitoring Unit exercise its powers to inform Commission staff of its concerns and request a determination, on an expedited basis, directing a Capacity Market Seller to submit a Sell Offer consistent with the Market Monitoring Unit’s determination, or for other appropriate relief, pursuant to

⁵² Order No. 719 at P 371.

section II.E of Attachment M - Appendix, PJM may postpone clearing the auction pending FERC's decision on the matter.

This proposal retains the current process wherein the Market Monitor attempts to reach agreement with a Market Participant ex ante on a level of offer cap that does not incorporate market power. The proposal then adds a second process wherein the PJM and the Market Participant may discuss the market power issues raised by the Market Monitor and come to an agreement inconsistent with the earlier determination of the Market Monitor.

PJM does not even agree in advance (i.e., PJM uses "may" instead of "shall") to delay clearing the auction at the request of the Market Monitor based on concerns about the impact of market power on market prices, and in order to provide the Market Monitor time to obtain review from the Commission. This is the case even though the auction prices are applicable to a delivery year three years in the future.

Market Participants will have reduced incentive to agree with the Market Monitor to a level of Market Seller Offer Cap if they can believe that they can obtain PJM's approval of a higher cap. In the event that the Market Monitor seeks recourse from the Commission, it is no longer clear against whom the Market Monitor should seek recourse. Is it the Market Participant whose Market Seller Offer Cap has been approved by PJM, or is it PJM for approving it? PJM's involvement risks transforming a market power issue between the Market Monitor and the Market Participant that is ripe

for resolution at the Commission, into a market power issue between the independent Market Monitor and the independent RTO.

The Market Participant has all the facts about its costs and the legal and technical resources to make its case at the Commission. It does not need PJM to make its case. No useful purpose is served by subordinating the Market Monitor's role in the manner that the process in the proposed Section 6.4(d) would accomplish. The Commission should reject this approach, and the similar approaches adopted for other MMU determinations, because they are contrary to a fundamental purpose of Order No. 619, to strengthen the independence of market monitoring.

2. Order No. 719 Does Not Disturb the "Structure and Tools" Agreed Upon in the 2007 PJM/MMU Settlement.

The 2007 PJM/MMU Settlement included a statement in Attachment M providing: "Nothing in this Plan shall be deemed to supersede any authority the Market Monitoring Unit may have under the PJM Market Rules..."⁵³ The PJM/MMU Settlement defined many of the relevant MMU tools but left the referenced authority stated in various places throughout the tariff, manuals and business rules. In some cases, the relevant language did not expressly indicate that the Market Monitoring Unit

⁵³ OATT, Attachment M § IV.E.

was responsible for carrying out a particular responsibility, although the responsibility has been that of the MMU.

3. Order No. 719 Does Not Permit the Continued Failure in PJM's Tariff to State Clearly Which Tasks Are the Responsibility of PJM and Which Are the Responsibility of the Market Monitor.

Order No. 719 states: "We ... direct RTOs and ISOs to include in their tariffs and centralize in one section, all of their MMU provisions."⁵⁴ Order 719 also stated a second reason for such centralization. "This separation of functions will serve to eliminate RTO or ISO influence over the MMUs, and remove the concern that MMU assistance in mitigation makes it subordinate to the RTO or ISO."⁵⁵ "We ... direct that the tariffs of RTOs and ISOs clearly state which functions are to be performed by MMUs, and which by the RTO or ISO."⁵⁶

Order No. 719 provides (at P 378): "We ... direct that the tariffs of RTOs and ISOs clearly state which functions are to be performed by MMUs, and which by the RTO or ISO." For PJM, with its encyclopedia of rules, this is not an easy task. Moreover, there has been some confusion about whether clearly stating in the Tariff a function that

⁵⁴ *Id.* at P 392.

⁵⁵ *Id.* at P 378.

⁵⁶ *Id.*

the Market Monitor has performed, sometimes for years, is within the scope of compliance if not fully and clearly documented in the Tariff.

Part of the reason for clear delineation of MMU and RTO tasks is to reduce administrative waste. “[T]he MMU may provide the inputs required by the RTO or ISO to conduct prospective mitigation... This will enable the RTO or ISO to ... reduce wasteful duplication.”⁵⁷ Such clear delineation will also permit the RTO to employ MMU expertise. Allowing MMU to provide inputs “will enable the RTO or ISO to use the considerable expertise and software capabilities developed by their MMUs.”⁵⁸

By creating a new and duplicative role for itself in monitoring and monitoring-related mitigation rules, the April 29th Filing conflicts with the objective to reduce wasteful duplication of effort and make full use of the capabilities of the MMUs.

For example, the April 29th Filing proposes to administer the FTR Forfeiture Rule as follows:

If the Office of the Interconnection agrees with such calculation, then it shall impose the forfeiture of the Transmission Congestion Credit accordingly. If the Office of the Interconnection does not agree with the calculation, then it shall impose a forfeiture of Transmission Congestion Credit consistent with its determination. If the Market Monitoring Unit disagrees with the Office of the Interconnection’s determination, it may exercise its

⁵⁷ *Id.*

⁵⁸ *Id.* at P 375.

powers to inform the Commission staff of its concerns and may request an adjustment.

The Market Monitor has independently conducted this retrospective mitigation since its inclusion in the Tariff. The rule relates to monitoring and mitigation, and it is an example of the application of an objective test for removing the incentive to engage in virtual trading to benefit one's own position in Financial Trading Rights. The April 29th Filing would allow PJM to reverse a calculation by the Market Monitor, and provide for the Market Monitor to seek relief from the Commission.

If a Market Participant does not agree with a calculation under the FTR Forfeiture rule, it should raise the matter with the Market Monitor, and if it is unsatisfied with result, it should take the matter up with the Commission. The Market Participant possesses the facts and the capability to defend itself. PJM does not need to interpose itself in this process. PJM discharges its responsibilities with respect to monitoring and mitigation by having arranged to establish an MMU. Its involvement creates the subordination issue, which would not otherwise exist.

In evaluating the problem here, it should be understood that the FTR forfeiture rule does not cover all potential strategies for using virtual trading to inappropriately boost the value of an FTR, it does not remove all of benefit that such trading may generate, and does not punish the behavior even if it was an attempt to manipulate. Also, it requires knowledgeable and highly trained staff to detect violations and to calculate the consequences. This means that with each calculation, there is a concurrent

consideration about whether additional referral action is warranted under the circumstances.

The cost for PJM to retain shadow staff to perform these calculations is non-trivial. Moreover, PJM's involvement in reviewing and potentially rejecting the MMUs calculation injects an element of potential confusion and discord in a process that is only a part of the wider need to monitor virtual trading and its impact on FTRs.

PJM does not attempt to explain why an additional and expensive layer of market monitoring is needed in this example and with respect to similar provisions, nor does it explain why the expertise developed since the introduction of virtual trading by the Market Monitor does not suffice. In the absence of persuasive evidence, or any evidence, that this duplicative process will improve mitigation that warrants the potentially significant costs is good reason for the Commission to reject the creation of a duplicative market monitoring capability by PJM. Order No. 719 encourages a more efficient use of existing capabilities and the Commission should reject aspects of the April 29th Filing consistent with that objective.

E. The Market Monitor Proposes Tariff Revisions that Would Clarify and Make Less Discretionary Certain MMU Mitigation Activities

The April 29th Filing fails to include a number of provisions that would have improved the objectivity of the mitigation rules consistent with Order No. 719 (P 379).

For example, the Market Monitor proposes to include detailed and objective rules for developing unit specific exceptions to the Parameter Limited Schedule matrix. The refusal to include these rules in the April 29th Filing is inconsistent with PJM's willingness to include the Parameter Limited Schedule matrix for the first time. By including the associated rules as they have actually been applied by the Market Monitor for two rounds of review, the PJM can improve the objectivity of these rules consistent with Order No. 719 exhortation to do so.

F. The Market Monitor Proposes Provisions that Would Correct the Flaws in the April 29th Filing; Affirm the 2007 PJM/MMU and RPM Settlements; Preserve and Strengthen the Market Monitoring Function in PJM; and Remove Unnecessary Future Acrimony Over the Performance of the Market Monitor's Duties.

The Market Monitor agrees with the Commission's observation (at P 330) that the structure and tools of the market monitoring function established in the 2007 PJM/MMU Settlement are "in accord with [the Commission's] determinations" in Order No. 719. The Market Monitor has identified a number of revisions that are needed to bring the Tariff into compliance. A number of minor compliance issues were successfully resolved in Task Force 719 and are included in the April 29th Filing, but the April 29th Filing is deficient in many respects. The April 29th Filing both omits revisions necessary to comply with certain important aspects of Order No. 719 and includes some revisions that go beyond the scope of compliance with Order No. 719 and conflict with its objectives.

The Market Monitor has provided as Attachment C an explanation of its proposed additions and revisions and how they comply with the directives of Order No. 719. These revisions will strengthen the market monitoring function in PJM, consistent with Order No. 719, in the following ways:

- Complementary/Stable Allocation of Functions: Clearly defined roles and scopes of duties will improve cooperation and coordination of PJM and Market Monitor. For example, the proposed revised Section 6.4(f) of Attachment DD and Section II.E.2 of Attachment M–Appendix provides for the Market Monitor to evaluate whether proposed Market Seller Offer Caps are appropriate and, in the event it becomes necessary, for PJM to suspend posting final RPM auction prices until the Commission has had an opportunity to resolve disputes on an expedited basis.
- Consistent Implementation: Avoiding duplication of efforts will reduce the costs associated with participation in an RTO, but more importantly, it will ensure an effective and efficient market monitoring program by reducing opportunities for the confusion, indecision and inconsistency that comes with two drivers at the wheel. For example, the proposed relocation of the interrelated provisions for determining Offer Price Cost Caps in accordance with the Cost Development Guidelines, determining the status of Frequently Mitigated Units (FMUs), and developing unit-specific Offer Price Caps that account for the particular circumstances of a Market Seller are all consolidated in Section II.A of the Attachment M–Appendix.
- Transparency: Additional transparency regarding the Market Monitor’s role will provide confidence to stakeholders concerned to ensure an effective market monitoring program, avoid confusion about the scope of the Market Monitor’s authority (i.e., that the Commission and not the Market Monitor is ultimately responsible for enforcement) and provide clearly defined obligations and responsibilities to Market Participants in their interactions with the Market Monitor. For example, the proposed revisions to Section 6.7(c) of Attachment DD and Section II.H.1 of the Attachment M–Appendix provide that the Market Monitor will develop defaults in conjunction with input from Market Participants, PJM will file to incorporate the defaults in its tariff, and the Market Monitor will provide evidentiary support for the defaults.

- Objectivity: Consistent with the directive in Order No. 719 that compliance include any revisions to make Tariff provisions as non-discretionary as possible, the Market Monitor proposes to include in the section of its Tariff that it administers rules that are currently included only in a manual. For example, the proposed revisions incorporate at Section II.B.2 of the Attachment M–Appendix the objective criteria actually employed by the Market Monitor to process requests for exceptions to the Parameter Limited Schedule Matrix.
- Administrative Convenience/Effective Oversight: Centralization of the rules will facilitate Market Participant understanding of the role of the Market Monitor, will facilitate the Commission’s oversight and will reduce the administrative burden to the Market Monitor in administering its duties under the Tariff. For example, the formulas for developing Avoidable Cost Rates, calculating PJM Market Revenues and calculating Opportunity Costs are consolidated at Section II.5–7 of the Attachment M–Appendix, close to the provisions concerning their application.

The revisions proposed by the Market Monitor correct the deficiencies in the April 29th Filing and enable PJM to achieve the general objectives and specific directives in Order No. 719. Generally, the Market Monitor’s proposed revisions complete the task partially adopted in the April 29th Filing of clearly stating in one place, the Attachment M–Appendix, the various tasks that the Market Monitor has the responsibility to perform along with the criteria applied. By including the duties and criteria performed exclusively by the Market Monitor in the section of the Tariff that the Market Monitor exclusively administers, greater clarity is achieved about the duties that are the responsibility of the Market Monitor and those that are not, and vice versa. Failure to completely fulfill Order No. 719’s directive for consolidation serves no useful purpose and denies much of the benefit sought through such consolidation.

The Market Monitor's proposed revisions also go further to clarify the division of responsibility, authority and obligations among PJM, the Market Monitor and Market Participants. Clarity about who does what, when, and how will afford clarity to all involved in PJM's processes and serve to reduce or circumscribe future uncertainty and disputes. The Market Monitor's proposals constitute a just, reasonable and non-discriminatory approach to the division of duties between the Market Monitor and PJM that matches institutional purposes, competencies, capabilities and fitness to each task. The Market Monitor's approach avoids creating conflicts, confusion and potential subversion of independence and objectivity that result from overlapping responsibilities.

III. CONCLUSION

The Market Monitor respectfully requests that the Commission reject those aspects of the April 29th Filing identified above that exceed the scope of Order No. 719's directives and are in conflict with the fundamental objectives of that Order. The Market Monitor urges that the Commission accept in their place, the Market Monitor's proposals, which, building on what PJM has filed, will serve to strengthen the independence of the market monitoring function in PJM and allow the Market Monitor to continue practices that have served PJM and its stakeholder well for over ten years.

Respectfully submitted,



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Dated: May 27, 2009

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 27th day of May, 2009.



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LIST OF ATTACHMENTS

Attachment A	Market Monitor Proposed Tariff Revision (Clean)
Attachment B	Market Monitor Proposed Changes (Red-lined Against Changes Proposed by PJM)
Attachment C	Explanation of Proposed Changes
Attachment D	Flow Charts Explaining the Current Role of the Market Monitoring Unit and Process the Market Monitor’s Changes Seek to Codify

ATTACHMENT A

**MMU Proposed Tariff Revisions,
Clean Version**

Attachment M

Issued By: Craig Glazer
Vice President, Federal Government Policy

Effective: June 29, 2009

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Filed to comply with Order No. 719 of the Federal Energy Regulatory Commission, Docket Nos. RM07-19-00 and AD07-7-000, issued October 17, 2008, 125 FERC ¶ 61,071.

ATTACHMENT M

PJM MARKET MONITORING PLAN

I. OBJECTIVES

The objectives of this PJM Market Monitoring Plan are to maintain an independent Market Monitoring Unit that will objectively monitor, investigate, evaluate and report on the PJM Markets, including, but not limited to, structural, design or operational flaws in the PJM Markets or the exercise of market power or manipulation in the PJM Markets. The Market Monitoring Unit shall have responsibility for implementing the Plan. In the event of any conflict between a provision in the Plan and a provision of the PJM Market Rules, the provision of the Plan shall control.

II. DEFINITIONS

Unless the context otherwise requires, for purposes of this Plan, capitalized terms shall have the meanings given below or in Section I of the PJM Tariff.

- (a) “**Authorized Government Agency**” means a regulatory body or government agency, with jurisdiction over PJM, the PJM Market, or any entity doing business in the PJM Market, including, but not limited to, the Commission, State Commissions, and state and federal attorneys general.
- (b) “**Commission**” means the Federal Energy Regulatory Commission.
- (c) “**Corrective Action**” means an action set forth in section IV.I of this Plan.
- (c-1) “**Cost Development Guidelines**” means the manual that includes the detailed method for determining the components of Incremental Costs (see section II(d-2)) for operating capacity in accordance with Schedule 2 of the Operating Agreement.
- (d) “**FERC Market Rules**” mean the market behavior rules and the prohibition against electric energy market manipulation codified by the Commission in its Rules and Regulations at 18 CFR §§ 1c.2 and 35.37, respectively; the Commission-approved PJM Market Rules and any related proscriptions or any successor rules that the Commission from time to time may issue, approve or otherwise establish.

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(d-1) **“Incremental Cost”** means the operating costs determined in accordance with the Cost Development Guidelines that are intended to equal the short run marginal costs of a specific generating unit.

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- (t) **“PJM Reliability Assurance Agreement”** means the Reliability Assurance Agreement among Load Serving Entities in the PJM Region on file with the Commission.
- (u) **“PJM Tariff”** means the Open Access Transmission Tariff of PJM on file with the Commission.
- (v) **“PJM Transmission Owners Agreement”** means the PJM Consolidated Transmission Owners Agreement on file with the Commission.
- (w) **“Plan”** means the PJM market monitoring plan set forth in this Attachment M and the Attachment M–Appendix.
- (x) **“State”** means the District of Columbia and any state or commonwealth in the PJM Region.
- (y) **“State Commission”** means any state regulatory agency having jurisdiction over retail electricity sales in any State in the PJM Region.

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III. MARKET MONITORING UNIT

A. Establishment: PJM shall establish or retain a Market Monitoring Unit to perform exclusively the functions set forth in this Plan.

B. Composition: The Market Monitoring Unit shall be comprised of personnel having the experience and qualifications necessary to implement this Plan. In carrying out its responsibilities, the Market Monitoring Unit may retain such consultants, attorneys and experts as it deems necessary.

C. Independence: The Market Monitoring Unit shall be independent from, and not subject to, the direction or supervision of any person or entity, with the exception of the PJM Board as specified in Section III.D, and the Commission. No person or entity shall have the right to preview, screen, alter, delete, or otherwise exercise editorial control over or delay Market Monitoring Unit actions or investigations or the findings, conclusions, and recommendations developed by the Market Monitoring Unit that fall within the scope of market monitoring responsibilities contained in this Plan. Nothing in this section shall be interpreted to exempt the Market Monitoring Unit from any applicable provision of state or federal law.

D. Role of PJM Board:

1. The PJM Board shall have the authority and responsibility:
 - a. To review the budget of the Market Monitoring Unit, consistent with the budget processes and requirements set forth in Section III.E.
 - b. To propose to terminate, retain by contract renewal or replace the Market Monitoring Unit, consistent with the requirements of Section III.F.
2. The PJM Board and the Market Monitor shall meet and confer from time to time on matters relevant to the discharge of the PJM Board's and the Market Monitoring Unit's duties under this Plan.
3. Other than the matters set forth in Sections III.D.1 and D.2, the PJM Board shall have no responsibility for, or authority over, the Market Monitoring Unit.

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B. Monitored Activities: The Market Monitoring Unit shall be responsible for monitoring the following:

1. Compliance with the PJM Market Rules.
2. Actual or potential design flaws in the PJM Market Rules.
3. Structural problems in the PJM Markets that may inhibit a robust and competitive market.
4. The potential for a Market Participant to exercise market power or violate any of the PJM or FERC Market Rules or the actual exercise of market power or violation of the PJM or FERC Market Rules.
5. PJM's implementation of the PJM Market Rules or operation of the PJM Markets, as further set forth in Section IV.C.
6. Such matters as are necessary to prepare the reports set forth in Section VI.

C. Monitoring of PJM: The Market Monitoring Unit shall monitor PJM's implementation of the PJM Market Rules and operation of the PJM Markets. If the Market Monitoring Unit disagrees with the implementation of the PJM Market Rules or the operation of the PJM Markets, the Market Monitoring Unit may so advise PJM. Excepting matters governed by Section IV.I, if the disagreement cannot be resolved informally, the Market Monitoring Unit may inform the Commission, Authorized Government Agencies, or the PJM members. The Market Monitoring Unit shall have no authority to direct PJM to modify its operation of the PJM Markets or implementation of the PJM Market Rules.

C-1. Monitoring of ITCs: The Market Monitoring Unit shall monitor the services provided by the independent transmission companies (ITCs), and the ITC-PJM relationship, to detect any problems that may inhibit a robust and competitive market. Transactions utilizing the ITC Transmission Facilities shall be subject to the authority of the Market Monitoring Unit on the same basis as transactions involving any other Market Participant using other portions of the Transmission System. This provision is also found in Section 12.1 of Attachment U of the PJM Tariff.

D. Market Design: PJM is responsible for proposing for approval by the Commission, consistent with tariff procedures and applicable law, changes to the design of the PJM Markets. If the Market Monitoring Unit detects a design flaw or other problem with the PJM Markets, the Market Monitoring Unit may initiate and propose, through the appropriate stakeholder processes, changes to the design of such market. In support of this function, the Market Monitoring Unit may engage in discussions with stakeholders, State Commissions, PJM Management, or the PJM Board; participate in PJM stakeholder meetings or working groups

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regarding market design matters; publish proposals, reports or studies on such market design issues; and make filings with the Commission on market design issues.

E. Mitigation: The Market Monitoring Unit shall have exclusive authority to administer the provisions for retrospective mitigation and the development of inputs for use in prospective mitigation described in the Attachment M–Appendix. The Market Monitoring Unit may, consistent with the PJM Market Rules, recommend to PJM that it take specific mitigation action that PJM is authorized to take under the PJM Market Rules to address market behavior or conditions. The Market Monitoring Unit shall not, however, have authority to require modification of PJM operational decisions, including dispatch instructions. If PJM does not accept the Market Monitoring Unit’s

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J. Additional Market Monitoring Unit Authority: In addition to notifications and referrals under Sections IV.I.1 and IV.I.2, respectively, the Market Monitoring Unit shall have the additional authority described in this section, as follows:

1. Engage in discussions regarding issues relating to the PJM Market Rules or FERC Market Rules, in order to understand such issues and to attempt to resolve informally such issues or other issues.
2. Excepting matters governed by Section IV.I, file reports and make appropriate regulatory filings with Authorized Government Agencies to address design flaws, structural problems, compliance, market power, or other issues, and seek such appropriate action or make such recommendations as the Market Monitoring Unit shall deem appropriate. The Market Monitoring Unit shall make such filings or reports publicly available and provide simultaneous notice of the existence of reports to the PJM members and PJM, subject to protection of confidential information.
3. Consult with Authorized Government Agencies concerning the need for specific investigations or monitoring activities.
4. Consider and evaluate a broad range of additional enforcement mechanisms that may be necessary to assure compliance with the PJM Market Rules. As part of this evaluation process, the Market Monitoring Unit shall consult with Authorized Government Agencies and other interested parties.
5. Report directly to the Commission staff on any matter.

K. Confidentiality:

1. All discussions between the Market Monitoring Unit and Market Participants concerning the informal resolution of compliance issues initially shall remain confidential, subject to the provisions in subsection IV.K.3.
2. Except as provided in subsection IV.K.3, in exercising its authority to take Corrective Actions, the Market Monitoring Unit shall observe the confidentiality provisions of the PJM Operating Agreement and Attachment M - Appendix.
3. Notwithstanding anything to the contrary in this Plan or the PJM Operating Agreement and Attachment M - Appendix, the Market Monitoring Unit: (a) may disclose any information to the Commission in connection with the reporting required under Sections IV.I.1 and IV.I.2 of this Plan, provided that any written submission to

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the Commission that includes information that is confidential under the PJM Operating Agreement or Attachment M - Appendix shall be accompanied by a request that the information be maintained as confidential, and (b) may make reports or other regulatory filings pursuant to Section IV.J or V of this Plan if accompanied by a request that information that is confidential under the PJM Operating Agreement or Attachment M - Appendix be maintained as confidential.

V. INFORMATION AND DATA

A. Primary Information Sources: The Market Monitoring Unit shall rely primarily upon data and information that are customarily gathered in the normal course of business of PJM and such publicly available data and information that may be helpful to accomplish the objectives of the Plan, including, but not limited to, (1) information gathered or generated by PJM in connection with its scheduling and dispatch functions, its operation of the transmission grid in the PJM Region or its determination of Locational Marginal Prices, (2) information required to be provided to PJM in accordance with the PJM Market Rules and (3) any other information that is generated by, provided to, or in the possession of PJM. The foregoing information shall be provided to the Market Monitoring Unit as soon as practicable, including, but not limited to, real-time access to scheduling, dispatch and other operational data.

B. Other Information Requests: If other information is required from a Market Participant, the Market Monitoring Unit shall comply with the following procedures:

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1. **Request for Additional Data:** If the Market Monitoring Unit determines that additional information is required to accomplish the objectives of the Plan, the Market Monitoring Unit may make reasonable requests of the entities possessing such information to provide the information. Any such request for additional information will be accompanied by an explanation of the need for the information and the Market Monitoring Unit's inability to acquire the information from alternate sources.

2. **Failure to Comply with Request:** The information request recipient shall provide the Market Monitoring Unit with all information that is reasonably requested. If an information request recipient does not provide requested information within a reasonable time, the Market Monitoring Unit may initiate such regulatory or judicial proceedings to compel the production of such information as may be available and deemed appropriate by the Market Monitoring Unit, including petitioning the Commission for an order that the information is necessary and directing its production. An information request recipient shall have the right to respond to any such petitions and participate in the proceedings thereon.

3. **Information Concerning Possible Undue Preference:** Notwithstanding subsection V.B.1, if the Market Monitoring Unit requests information relating to possible undue preference between Transmission Owners and their affiliates, Transmission Owners and their affiliates must provide requested information to the Market Monitoring Unit within a reasonable time, as specified by the Market Monitoring Unit; provided, however, that an information request recipient may petition the Commission for an order limiting all or part of the information request, in which event the Commission's order on the petition shall determine the extent of the information request recipient's obligation to comply with the disputed portion of the information request.

4. **Confidentiality:** Except as provided in Section IV.K.3 of this Plan, the Market Monitoring Unit shall observe the confidentiality provisions of the PJM Operating Agreement and Attachment M - Appendix with respect to information provided under this section if an entity providing the information designates it as confidential.

C. **Complaints:** Any Market Participant or other interested entity may at any time submit information to the Market Monitoring Unit concerning any matter relevant to the Market Monitoring Unit's responsibilities under the Plan, or may request the Market Monitoring Unit to make inquiry or take any action contemplated by the Plan. Such submissions or requests may be made on a confidential basis. The Market Monitoring Unit may request further information from such Market Participant or other entity and make such inquiry as the Market Monitoring Unit considers appropriate. The Market Monitoring Unit shall not be required to act with respect to any specific complaint unless the Market Monitoring Unit determines action to be warranted.

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D. Collection and Availability of Information: The Market Monitoring Unit shall regularly collect and maintain under its sole control the information that it deems necessary for implementing the Plan. A Market Participant shall have sole responsibility to make available to the Market Monitoring Unit any information that the Market Monitoring Unit deems reasonably necessary to document, verify or investigate a claim or request by such Market Participant. All load reduction data are subject to audit by the Market Monitoring Unit. The Market Monitoring Unit shall make publicly available a detailed description of the categories of data collected by the Market Monitoring Unit. To the extent it deems appropriate and upon specific request, the Market Monitoring Unit may release other data to the public, consistent with the obligations of the Market Monitoring Unit and PJM to protect confidential, proprietary, or commercially sensitive information as provided in Attachment M - Appendix and the PJM Operating Agreement.

E. Access to Personnel and Facilities: The Market Monitoring Unit shall have access to PJM personnel and facilities as necessary to perform the functions set forth in this Plan. If the Market Monitoring Unit seeks data or other information from PJM personnel, it may contact the appropriate personnel that may be in possession of such data or information. If the Market Monitoring Unit seeks a formal opinion or position on a matter from PJM, it shall contact the PJM Liaison or appropriate senior management official to provide such opinion or position.

F. Market Monitoring Indices: The Market Monitoring Unit shall develop, and shall refine on the basis of experience, indices or other standards to evaluate the information that it collects and maintains. Prior to using any such index or standard, the Market Monitoring Unit shall provide PJM members, Authorized Government Agencies, and other interested parties an opportunity to comment on the appropriateness of such index or standard. Following such opportunity for comments, the decision to use any index or standard shall be solely that of the Market Monitoring Unit.

G. Evaluation of Information: The Market Monitoring Unit shall evaluate, and shall refine on the basis of experience, the information it collects and maintains, or that it receives from other sources, regarding the operation of the PJM Markets or other matters relevant to the Plan. As so evaluated, such information shall provide the basis for reports or other actions of the Market Monitoring Unit under this Plan.

VI. REPORTS

A. Reports: The Market Monitoring Unit shall prepare and submit contemporaneously to the Commission, the State Commissions, the PJM Board, PJM Management and to the PJM Members Committee, annual state-of-the-market reports on the state of competition within, and the efficiency of, the PJM Markets, and quarterly reports that update selected portions of the annual report and which may focus on certain topics of particular interest to the Market Monitoring Unit. The quarterly reports shall not be as extensive as the annual reports. In its annual, quarterly and other reports, the Market Monitoring Unit may make recommendations regarding any matter within its purview. The annual reports shall, and the quarterly reports may, address, among other things, the extent to which prices in the PJM Markets reflect competitive outcomes, the structural competitiveness of the PJM Markets, the

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effectiveness of bid mitigation rules, and the effectiveness of the PJM Markets in signaling infrastructure investment. These annual reports shall, and the quarterly reports may include recommendations as to whether changes to the Market Monitoring Unit or the Plan are required. In addition, the Market Monitoring Unit shall provide to the PJM Board, in a timely manner, copies of any reports submitted to Authorized Government Agencies pursuant to Section VI.B. The Market Monitoring Unit may from time-to-time prepare and submit additional reports to the Commission, the PJM Board and PJM Members Committee as the Market Monitoring Unit may deem appropriate in the discharge of its responsibilities under the Plan.

B. Reports to Authorized Government Agencies: The Market Monitoring Unit shall contemporaneously submit to the Authorized Government Agencies the reports provided to the PJM Board pursuant to Section VI.A. Subject to applicable law and regulation and any other applicable provisions of the PJM Operating Agreement or PJM Tariff, the Market Monitoring Unit shall, to the extent practicable, respond to reasonable requests by Authorized Government Agencies other than the Commission for reports, subject to protection of confidential, proprietary and commercially sensitive information, the protection of the confidentiality of ongoing inquiries and monitoring activities, and the availability of resources.

C. Public Reports: The Market Monitoring Unit shall prepare a detailed public annual report about the Market Monitoring Unit's activities, subject to protection of confidential, proprietary, and commercially sensitive information and the protection of the confidentiality of ongoing investigations and monitoring activities. The Market Monitoring Unit may, instead of filing a separate report, include the referenced material in a report filed pursuant to Section VI.A hereof.

VII. AUDIT

The Market Monitoring Unit shall annually (a) document, and advise PJM of, Market Monitoring Unit's actual expenses for the prior year by no later than March 15, and provide a copy of such documentation to the Finance Committee, and (b) provide audited financial statements of the Market Monitoring Unit of revenues and expenses related solely to the services provided to PJM, audited by a nationally recognized independent third party auditor selected by the Market Monitor, by no later than May 15. The audit report shall include, but not be limited to, a review of whether MMU expenditures were for purposes consistent with the functions set forth in this Plan and shall include documentation at a level of supporting detail consistent with that required in Section III.E above. The audit report shall be provided to the PJM Board, Finance Committee, Market Monitoring Unit, OPSI, OPSI Advisory Committee, PJM and PJM members subject to the protection of confidential information. The requirement that the Market Monitoring Unit annually document and advise PJM of its expenses for the prior year is also found in subsection (e) of Schedule 9-MMU.

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VIII. LIMITATION OF LIABILITY

Any liability of PJM arising under or in relation to this Plan shall be subject to this Section VIII. The PJM Entities shall not be liable to any Market Participant, any party to the PJM Operating Agreement, any customer under the PJM Tariff, or any other person subject to this Plan in respect of any matter described in or contemplated by this Plan, as the same may be amended or supplemented from time to time, including but not limited to liability for any financial loss, loss of economic advantage, opportunity cost, or actual or consequential damages of any kind resulting from or attributable to any act or omission of any of the PJM Entities under this Plan. Neither the OPSI Advisory Committee nor any State Commission (including commissioners and staff persons) shall be liable to any person under this Plan for any financial loss, loss of economic advantage, opportunity cost, or actual or consequential damages associated with performing any of its functions or duties under this Plan.

IX. ALTERNATIVE DISPUTE RESOLUTION

Notwithstanding any provision of the PJM Tariff or the PJM Operating Agreement, PJM and the Market Monitoring Unit shall not be required to use the dispute resolution procedures in the PJM Tariff or the PJM Operating Agreement in carrying out its duties and responsibilities under this Plan. However, nothing herein shall prevent PJM or any other person from requesting the use of the dispute resolution procedure set forth in the PJM Tariff or the PJM Operating Agreement, as applicable.

X. EFFECTIVE DATE

This Plan shall be effective as of August 1, 2008.

XI. CODE OF ETHICS

The Market Monitoring Unit and its employees, as applicable, shall adhere to the following Code of Ethics, which is reproduced from Section 17 of PJM Rate Schedule No. 46, Market Monitoring Services Agreement By And Between PJM Interconnection, L.L.C. And Monitoring Analytics, LLC entered into on December 18, 2007, and filed with the Commission to comply with order of the Federal Energy Regulatory Commission, Docket Nos. EL07-56 and EL07-58 *et al.*, issued March 21, 2008, 122 FERC ¶ 61,257.

A. Conflicts of Interest:

1. The Market Monitoring Unit will use its best efforts to assure that all of its employees comply with this Code of Ethics and shall take appropriate disciplinary actions against employees who violate the policy.
2. The Market Monitoring Unit and its employees assisting on market monitoring matters for PJM, and their spouses and dependent children, may

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not have a direct equity or other financial interest in a Market Participant or in a parent, subsidiary, or affiliate of a Market Participant. (The term “direct” is meant to exclude investments such as mutual funds in which a person has no direct control, with the exception of sector-specific mutual funds.)

3. The Market Monitoring Unit and its employees assisting on market monitoring matters for PJM, may not undertake a matter for a third party where such representation would require disclosure of market-sensitive or proprietary information of PJM.

B. Prohibited Engagements and Conduct by the Market Monitoring Unit:

1. Neither the Market Monitoring Unit nor its employees will be engaged to provide advice, or undertake a matter for or on behalf of, any entity on any entity’s participation in the PJM Markets, except as otherwise authorized under subparagraphs (iii) and (v).
2. Neither the Market Monitoring Unit nor its employees will be engaged by any entity in any litigation, open regulatory docket, alternative dispute resolution procedure, or arbitration with PJM, except as otherwise authorized under subparagraphs (iii) and (v).
3. Neither the Market Monitoring Unit nor its employees will be engaged to appear on behalf of or against any entity before a state regulatory commission within the PJM Region in any new engagement in the electricity business except as authorized under the PJM Tariff, as requested by a state regulatory commission, or as otherwise required by law.
4. Neither the Market Monitoring Unit nor its employees shall accept any engagement by any market participant outside of the PJM Region that would require the Market Monitoring Unit to take a position adverse to any PJM member or inconsistent with any position taken by the Market Monitoring Unit in the PJM Region.
5. Neither the Market Monitoring Unit nor its employees will be engaged to appear on behalf of or against any entity before the Commission on any matter within the PJM Region in any new engagement in the electricity business except as authorized under the PJM Tariff, as requested by the Commission, or as otherwise required by law.
6. Before the Market Monitoring Unit accepts any engagement on behalf of or against an Interested Party, it must inform the PJM General Counsel and the PJM Board of such potential engagement and provide the PJM Board with an

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opportunity to state its objection to such representation on the ground the engagement would present a conflict of interest or result in the material appearance of conflict. At the discretion of the Market Monitoring Unit, the Market Monitoring Unit may notify the PJM General Counsel that the proposed engagement is confidential and request that the General Counsel disclose the proposed engagement only to a PJM Board subcommittee in a manner which limits the disclosure of nonpublic information. Within seven (7) business days of being informed of the potential engagement by the Market Monitoring Unit, the PJM Board shall state any objection to such potential engagement. If the Market Monitoring Unit disagrees with the PJM Board's determination regarding the potential engagement by the Market Monitoring Unit, the Parties shall jointly engage the Commission's Dispute Resolution Service to determine whether the engagement would present a conflict of interest or result in the material appearance of a conflict. Unless the Commission's Dispute Resolution Service finds no conflict of interest the Market Monitoring Unit shall be precluded from accepting the challenged engagement. For these purposes, the term "Interested Party" means (x) a Market Participant; (v) a state regulatory commission within the PJM Region; or (z) a person or entity with a significant direct financial interest in the organization, governance or operation of PJM but shall not include PJM itself.

7. Employees of the Market Monitoring Unit shall not accept gifts, payments, favors, meals, transportation, entertainment, or services (individually, "Gift," and collectively, "Gifts"), of other than nominal value within a calendar year from PJM, Authorized Government Agencies, any market participant, contractor, supplier or vendor to the Market Monitoring Unit. Except that "Gifts" shall not include any of the foregoing that is generally provided to the attendees of business meetings (e.g. PJM stakeholder meetings). Gifts not exceeding One Hundred Fifty Dollars (\$150) shall be deemed to be of "nominal value." Similarly, neither the Market Monitoring Unit nor any employee of the Market Monitoring Unit shall offer any Gift to any public official or Market Participant unless such Gifts: are legal; not offered for specific gain or reciprocal action; follow generally accepted ethical standards; and are of nominal value.

- C. **Compliance with All Applicable Laws:** The Market Monitoring Unit will use its best efforts to assure the compliance of the Market Monitoring Unit and its employees with all applicable laws, including but not limited to those referenced in the PJM Code of Conduct.

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ATTACHMENT M – APPENDIX

I. CONFIDENTIALITY OF DATA AND INFORMATION

A. Party Access:

1. No Member shall have a right hereunder to receive or review any documents, data or other information of another Member, including documents, data or other information provided to the Market Monitoring Unit, to the extent such documents, data or information have been designated as confidential pursuant to the procedures adopted by the Market Monitoring Unit or to the extent that they have been designated as confidential by such other Member; provided, however, a Member may receive and review any composite documents, data and other information that may be developed based on such confidential documents, data or information if the composite does not disclose any individual Member's confidential data or information.

2. Except as may be provided in this Appendix, the Plan, the PJM Operating Agreement or in the PJM Tariff, the Market Monitoring Unit shall not disclose to its Members or to third parties, any documents, data, or other information of a Member or entity applying for Membership, to the extent such documents, data, or other information has been designated confidential pursuant to the procedures adopted by the Market Monitoring Unit or by such Member or entity applying for membership; provided that nothing contained herein shall prohibit the Market Monitoring Unit from providing any such confidential information to its agents, representatives, or contractors to the extent that such person or entity is bound by an obligation to maintain such confidentiality. The Market Monitoring Unit shall collect and use confidential information only in connection with its authority under this Appendix, the Plan, the PJM Operating Agreement or in the PJM Tariff and the retention of such information shall be in accordance with PJM's data retention policies.

3. Nothing contained herein shall prevent the Market Monitoring Unit from releasing a Member's confidential data or information to a third party provided that the Member has delivered to the Market Monitoring Unit specific, written authorization for such release setting forth the data or information to be released, to whom such release is authorized, and the period of time for which such release shall be authorized. The Market Monitoring Unit shall limit the release of a Member's confidential data or information to that specific authorization received from the Member. Nothing herein shall prohibit a Member from withdrawing such authorization upon written notice to the Market Monitoring Unit, who shall cease such release as soon as practicable after receipt of such withdrawal notice.

4. Reciprocal provisions to this Section I hereof, delineating the confidentiality requirements of the Office of the Interconnection and PJM members, are set forth in Section 18.17 of the PJM Operating Agreement.

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B. Required Disclosure:

1. Notwithstanding anything in the foregoing section to the contrary, and subject to the provisions of Section I.C below, if the Market Monitoring Unit is required by applicable law, or in the course of administrative or judicial proceedings, to disclose to third parties, information that is otherwise required to be maintained in confidence pursuant to the PJM Tariff, PJM Operating Agreement, Attachment M or this Appendix, the Market Monitoring Unit may make disclosure of such information; provided, however, that as soon as the Market Monitoring Unit learns of the disclosure requirement and prior to making disclosure, the Market Monitoring Unit shall notify the affected Member or Members of the requirement and the terms thereof and the affected Member or Members may direct, at their sole discretion and cost, any challenge to or defense against the disclosure requirement. The Market Monitoring Unit shall cooperate with such affected Members to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law. The Market Monitoring Unit shall cooperate with the affected Members to obtain proprietary or confidential treatment of such information by the person to whom such information is disclosed prior to any such disclosure.

2. Nothing in this Section I shall prohibit or otherwise limit the Market Monitoring Unit's use of information covered herein if such information was: (i) previously known to the Market Monitoring Unit without an obligation of confidentiality; (ii) independently developed by or for the Office of the Interconnection and/or the PJM Market Monitor using non-confidential information; (iii) acquired by the Office of the Interconnection and/or the PJM Market Monitor from a third party which is not, to the Office of the Market Monitoring Unit's knowledge, under an obligation of confidence with respect to such information; (iv) which is or becomes publicly available other than through a manner inconsistent with this Section I.

3. The Market Monitoring Unit shall impose on any contractors retained to provide technical support or otherwise to assist with the implementation of the Plan or this Appendix a contractual duty of confidentiality consistent with the Plan or this Appendix. A Member shall not be obligated to provide confidential or proprietary information to any contractor that does not assume such a duty of confidentiality, and the Market Monitoring Unit shall not provide any such information to any such contractor without the express written permission of the Member providing the information.

C. Disclosure to FERC:

1. Notwithstanding anything in this Section I to the contrary, if the FERC or its staff, during the course of an investigation or otherwise, requests information from the Market Monitoring Unit that is otherwise required to be maintained in confidence pursuant to the PJM Tariff, the PJM Operating Agreement, the Plan or this Appendix, the Market Monitoring Unit shall provide the requested information to the FERC or its staff, within the time provided for in the request for information. In providing the information to the FERC or its staff, the Market Monitoring Unit may, consistent with 18 C.F.R. § 388.112, request that the information be treated as confidential and non-public by the FERC and its staff and that the information be withheld from public

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disclosure. The Market Monitoring Unit shall notify any affected Member(s) when it is notified by FERC or its staff, that a request for disclosure of, or decision to disclose, confidential information has been received, at which time the Office of the Interconnection, the Market Monitoring Unit, and/or the affected Member may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

2. The foregoing Section I.C.1 shall not apply to requests for production of information under Subpart D of the FERC's Rules of Practice and Procedure (18 CFR Part 385) in proceedings before FERC and its administrative law judges. In all such proceedings, PJM and/or the Market Monitoring Unit shall follow the procedures in Section 18.17.2.

D. Disclosure to Authorized Commissions:

1. Notwithstanding anything in this Section I to the contrary, the Market Monitoring Unit shall disclose confidential information, otherwise required to be maintained in confidence pursuant to the PJM Tariff, the PJM Operating Agreement, the Plan or this Appendix, to an Authorized Commission under the following conditions:

- (i) The Authorized Commission has provided the FERC with a properly executed Certification in the form attached hereto as Schedule 10A. Upon receipt of the Authorized Commission's Certification, the FERC shall provide public notice of the Authorized Commission's filing pursuant to 18 C.F.R. § 385.2009. If any interested party disputes the accuracy and adequacy of the representations contained in the Authorized Commission's Certification, that party may file a protest with the FERC within 14 days of the date of such notice, pursuant to 18 C.F.R. § 385.211. The Authorized Commission may file a response to any such protest within seven days. Each party shall bear its own costs in connection with such a protest proceeding. If there are material changes in law that affect the accuracy and adequacy of the representations in the Certification filed with the FERC, the Authorized Commission shall, within thirty (30) days, submit an amended Certification identifying such changes. Any such amended Certification shall be subject to the same procedures for comment and review by the FERC as set forth above in this paragraph.
- (ii) Neither the Office of the Interconnection nor the Market Monitoring Unit may disclose data to an Authorized Commission during the FERC's consideration of the Certification and any filed protests. If the FERC does not act upon an Authorized Commission's Certification within 90 days of the date of filing, the Certification shall be deemed approved and the Authorized Commission shall be permitted to receive confidential information pursuant to this Section I. In the event that an interested party protests the Authorized Commission's Certification and the FERC

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approves the Certification, that party may not challenge any Information Request made by the Authorized Commission on the grounds that the Authorized Commission is unable to protect the confidentiality of the information requested, in the absence of a showing of changed circumstances.

- (iii) Any confidential information provided to an Authorized Commission pursuant to this Section I shall not be further disclosed by the recipient Authorized Commission except by order of the FERC.
- (iv) The Market Monitoring Unit shall be expressly entitled to rely upon such Authorized Commission Certifications in providing confidential information to the Authorized Commission, and shall in no event be liable, or subject to damages or claims of any kind or nature hereunder, due to the ineffectiveness or inaccuracy of such Authorized Commission Certifications.
- (v) The Authorized Commission may provide confidential information obtained from the Market Monitoring Unit to such of its employees, attorneys and contractors as needed to examine or handle that information in the course and scope of their work on behalf of the Authorized Commission, provided that (a) the Authorized Commission has internal procedures in place, pursuant to the Certification, to ensure that each person receiving such information agrees to protect the confidentiality of such information (such employees, attorneys or contractors to be defined hereinafter as “Authorized Persons”); (b) the Authorized Commission provides, pursuant to the Certification, a list of such Authorized Persons to the Office of the Interconnection and the Market Monitoring Unit and updates such list, as necessary, every ninety (90) days; and (c) any third-party contractors provided access to confidential information sign a nondisclosure agreement in the form attached hereto as Schedule 10 before being provided access to any such confidential information.

2. The Market Monitoring Unit may, in the course of discussions with an Authorized Person, orally disclose information otherwise required to be maintained in confidence, without the need for a prior Information Request. Such oral disclosures shall provide enough information to enable the Authorized Person or the Authorized Commission with which that Authorized Person is associated to determine whether additional Information Requests are appropriate. The Market Monitoring Unit will not make any written or electronic disclosures of confidential information to the Authorized Person pursuant to this Section I.D.2. In any such discussions, the Market Monitoring Unit shall ensure that the individual or individuals receiving such confidential information are Authorized Persons as defined herein, orally designate confidential information that is disclosed, and refrain from identifying any specific Affected Member whose information is disclosed. The Market Monitoring Unit shall also be authorized to assist

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Authorized Persons in interpreting confidential information that is disclosed. The Market Monitoring Unit shall provide any Affected Member with oral notice of any oral disclosure immediately, but not later than one (1) business day after the oral disclosure. Such oral notice to the Affected Member shall include the substance of the oral disclosure, but shall not reveal any confidential information of any other Member and must be received by the Affected Member before the name of the Affected Member is released to the Authorized Person; provided however, disclosure of the identity of the Affected Party must be made to the Authorized Commission with which the Authorized Person is associated within two (2) business days of the initial oral disclosure.

3. As regards Information Requests:

- (i) Information Requests to the Office of the Interconnection and/or Market Monitoring Unit by an Authorized Commission shall be in writing, which shall include electronic communications, addressed to the Market Monitoring Unit, and shall: (a) describe the information sought in sufficient detail to allow a response to the Information Request; (b) provide a general description of the purpose of the Information Request; (c) state the time period for which confidential information is requested; and (d) re-affirm that only Authorized Persons shall have access to the confidential information requested. The Market Monitoring Unit shall provide an Affected Member with written notice, which shall include electronic communication, of an Information Request by an Authorized Commission as soon as possible, but not later than two (2) business days after the receipt of the Information Request.
- (ii) Subject to the provisions of Section I.D.3(iii) below, the Market Monitoring Unit shall supply confidential information to the Authorized Commission in response to any Information Request within five (5) business days of the receipt of the Information Request, to the extent that the requested confidential information can be made available within such period; provided however, that in no event shall confidential information be released prior to the end of the fourth (4th) business day without the express consent of the Affected Member. To the extent that the Market Monitoring Unit cannot reasonably prepare and deliver the requested confidential information within such five (5) day period, it shall, within such period, provide the Authorized Commission with a written schedule for the provision of such remaining confidential information. Upon providing confidential information to the Authorized Commission, the Market Monitoring Unit shall either provide a copy of the confidential information to the Affected Member(s), or provide a listing of the confidential information disclosed; provided, however, that the Market Monitoring Unit shall not reveal any Member's confidential information to any other Member.

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- (iii) Notwithstanding Section I.D.3(ii), above, should the Office of the Interconnection, the Market Monitoring Unit or an Affected Member object to an Information Request or any portion thereof, any of them may, within four (4) business days following the Market Monitoring Unit's receipt of the Information Request, request, in writing, a conference with the Authorized Commission to resolve differences concerning the scope or timing of the Information Request; provided, however, nothing herein shall require the Authorized Commission to participate in any conference. Any party to the conference may seek assistance from FERC staff in resolution of the dispute or terminate the conference process at any time. Should such conference be refused or terminated by any participant or should such conference not resolve the dispute, then the Office of the Interconnection, Market Monitoring Unit, or the Affected Member may file a complaint with the FERC pursuant to Rule 206 objecting to the Information Request within ten (10) business days following receipt of written notice from any conference participant terminating such conference. Any complaints filed at the FERC objecting to a particular Information Request shall be designated by the party as a "fast track" complaint and each party shall bear its own costs in connection with such FERC proceeding. The grounds for such a complaint shall be limited to the following: (a) the Authorized Commission is no longer able to preserve the confidentiality of the requested information due to changed circumstances relating to the Authorized Commission's ability to protect confidential information arising since the filing of or rejection of a protest directed to the Authorized Commission's Certification; (b) complying with the Information Request would be unduly burdensome to the complainant, and the complainant has made a good faith effort to negotiate limitations in the scope of the requested information; or (c) other exceptional circumstances exist such that complying with the Information Request would result in harm to the complainant. There shall be a presumption that "exceptional circumstances," as used in the prior sentence, does not include circumstances in which an Authorized Commission has requested wholesale market data (or Market Monitoring Unit workpapers that support or explain conclusions or analyses) generated in the ordinary course and scope of the operations of the Market Monitoring Unit. There shall be a presumption that circumstances in which an Authorized Commission has requested personnel files, internal emails and internal company memos, analyses and related work product constitute "exceptional circumstances" as used in the prior sentence. If no complaint challenging the Information Request is filed within the ten (10) day period defined above, the Office of the Interconnection and/or Market Monitoring Unit shall utilize its best efforts to respond to the Information

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Request promptly. If a complaint is filed, and the Commission does not act on that complaint within ninety (90) days, the complaint shall be deemed denied and the Market Monitoring Unit shall use its best efforts to respond to the Information Request promptly.

- (iv) Any Authorized Commission may initiate appropriate legal action at the FERC within ten (10) business days following receipt of information designated as “Confidential,” challenging such designation. Any complaints filed at FERC objecting to the designation of information as “Confidential” shall be designated by the party as a “fast track” complaint and each party shall bear its own costs in connection with such FERC proceeding. The party filing such a complaint shall be required to prove that the material disclosed does not merit “Confidential” status because it is publicly available from other sources or contains no trade secret or other sensitive commercial information (with “publicly available” not being deemed to include unauthorized disclosures of otherwise confidential data).

4. In the event of any breach of confidentiality of information disclosed pursuant to an Information Request by an Authorized Commission or Authorized Person:

- (i) The Authorized Commission or Authorized Person shall promptly notify the Market Monitoring Unit, who shall, in turn, promptly notify any Affected Member of any inadvertent or intentional release, or possible release, of confidential information provided pursuant to this Section I.
- (ii) The Office Market Monitoring Unit shall terminate the right of such Authorized Commission to receive confidential information under this Section I upon written notice to such Authorized Commission unless: (i) there was no harm or damage suffered by the Affected Member; or (ii) similar good cause is shown. Any appeal of the Market Monitoring Unit’s actions under this Section I shall be to Commission. An Authorized Commission shall be entitled to reestablish its certification as set forth in Section I.D.1 by submitting a filing with the Commission showing that it has taken appropriate corrective action. If the Commission does not act upon an Authorized Commission’s recertification filing with sixty (60) days of the date of the filing, the recertification shall be deemed approved and the Authorized Commission shall be permitted to receive confidential information pursuant to this section.
- (iii) The Office of the Interconnection, the Market Monitoring Unit, and/or the Affected Member shall have the right to seek and obtain at least the following types of relief: (a) an order from the FERC requiring any breach

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to cease and preventing any future breaches; (b) temporary, preliminary, and/or permanent injunctive relief with respect to any breach; and (c) the immediate return of all confidential information to the Market Monitoring Unit.

- (iv) No Authorized Person or Authorized Commission shall have responsibility or liability whatsoever under this section for any and all liabilities, losses, damages, demands, fines, monetary judgments, penalties, costs and expenses caused by, resulting from, or arising out of or in connection with the release of confidential information to persons not authorized to receive it, provided that such Authorized Person is an agent, servant, employee or member of an Authorized Commission at the time of such unauthorized release. Nothing in this Section I.D.4(iv) is intended to limit the liability of any person who is not an agent, servant, employee or member of an Authorized Commission at the time of such unauthorized release for any and all economic losses, damages, demands, fines, monetary judgments, penalties, costs and expenses caused by, resulting from, or arising out of or in connection with such unauthorized release.
- (v) Any dispute or conflict requesting the relief in Section I.D.4(ii) or I.D.4(iii)(a) above, shall be submitted to the FERC for hearing and resolution. Any dispute or conflict requesting the relief in Section I.D.4(iii)(c) above may be submitted to FERC or any court of competent jurisdiction for hearing and resolution.

E. Market Monitoring:

1. Subject to the requirements of Section E.2, the Market Monitoring Unit may release confidential information of Public Service Electric & Gas Company (“PSE&G”), Consolidated Edison Company of New York (“ConEd”), and their affiliates, and the confidential information of any Member regarding generation and/or transmission facilities located within the PSE&G Zone to the New York Independent System Operator, Inc. (“New York ISO”), the market monitoring unit of New York ISO and the New York ISO Market Advisor to the limited extent that PJM or the Market Monitoring Unit determines necessary to carry out the responsibilities of PJM, New York ISO or the market monitoring units of PJM and the New York ISO under FERC Opinion No. 476 (see Consolidated Edison Company v. Public Service Electric and Gas Company, et al., 108 FERC ¶ 61,120, at P 215 (2004)) to conduct joint investigations to ensure that gaming, abuse of market power, or similar activities do not take place with regard to power transfers under the contracts that are the subject of FERC Opinion No. 476.

2. The Market Monitoring Unit may release a Member’s confidential information pursuant to Section I.E.1 to the New York ISO, the market monitoring unit of the New York ISO and the New York ISO Market Advisor only if the New York ISO, the market

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monitoring unit of the New York ISO and the New York ISO Market Advisor are subject to obligations limiting the disclosure of such information that are equivalent to or greater than the limitations on disclosure specified in this Section I.E. Information received from the New York ISO, the market monitoring unit of the New York ISO, or the New York ISO Market Advisor under Section I.E.1 that is designated as confidential shall be protected from disclosure in accordance with this Section I.E.

II. DEVELOPMENT OF INPUTS FOR PROSPECTIVE MITIGATION

A. Offer Price Caps:

1. The Market Monitor or his designee shall serve as the Chair to PJM's Cost Development Task Force and shall have responsibility to ensure that the cost references, methods and rules included in the Cost Development Guidelines are accurate and appropriate.

2. A Market Seller shall determine for each generating unit that is offers in to the PJM Interchange Energy Market an offer price cap in accordance with one of the procedures, at the Market Seller elections, provided below:

- (i) The weighted average Locational Marginal Price at the generation bus at which energy from the capped resource was delivered during a specified number of hours during which the resource was dispatched for energy in economic merit order, the specified number of hours to be determined by the Market Monitoring Unit to be a number of hours sufficient to result in an offer price cap that reflects reasonably contemporaneous competitive market conditions for that unit.
- (ii) The Incremental Cost of the generation resource plus 10% of such costs, or, for those units determined to be Frequently Mitigated Units (FMUs) as pursuant to Section II.A.4 below, one of the following, as applicable:
 - (a) For units that are offer capped for 60% or more of their run hours, but less than 70% of their run hours, the offer price cap will be either (i) incremental cost plus 10% or (ii) incremental cost plus \$20 per megawatt-hour;
 - (b) For units that are offer capped for 70% or more of their run hours, but less than 80% of their run hours, the offer price cap will be either (i) incremental cost plus 15%, not to exceed incremental cost plus \$40 per megawatt-hour, or (ii) incremental cost plus \$30 per megawatt-hour;
 - (c) For units that are offer capped for 80% or more of their run hours, the offer price cap will be (i) incremental costs plus 10%; (ii) incremental cost plus \$40 per megawatt-hour; or (iii) the agreed unit-specific going forward costs of the affected unit as

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reflected in an agreement entered pursuant to subparagraph (iv), below; or

- (iii) An amount determined by agreement between the Market Monitoring Unit and the Market Seller determined in accordance with the process provided at section II.A.3 below.

3. The Market Monitoring Unit shall review upon request of a Market Seller, and may review upon its own initiative at any time, the Incremental Costs included in the Offer Price Cap of a generating unit in order to ensure that the Market Seller has correctly applied the Cost Development Guidelines and that the level of the Offer Price Cap is otherwise appropriate. The Market Seller and the Market Monitor shall attempt to agree to an appropriate Offer Price Cap to the extent that the formula for calculating Incremental Costs as included in the Cost Development Guidelines does not sufficiently address a unit's particular circumstances. In the event that the Market Monitoring Unit and the Market Participant can agree on an appropriate Offer Price Cap, the Market Participant shall commit to offer no higher than such Offer Price Cap. In the event that the Market Monitoring Unit and the Market Seller cannot reach agreement after 60 days from the commencement of negotiations, the Market Seller may submit the value that it chooses, subject to section 6.4.2(b) of the Operating Agreement, provided that within 30 days it shall submit the rates, terms and conditions of its proposed Offer Price Cap to the Commission for approval.

4. The Market Monitoring Unit shall issue a written notice to a unit indicating that it is a "Frequently Mitigated Unit" or "FMU," or an "Associated Unit," when the Market Monitoring Unit determines that the unit meets the following criteria:

- (i) The unit has the identical electric impact on the transmission system as the FMU;
- (ii) The unit (i) belongs to the same design class (where a design class includes generation that is the same size and utilizes the same technology, without regard to manufacturer) and uses the identical primary fuel as the FMU or (ii) is regularly dispatched by PJM as a substitute for the FMU based on differences in cost that result from the currently applicable FMU adder;
- (iii) The unit (i) has an average daily cost-based offer, as measured over the preceding 12-month period, that is less than or equal to the FMU's average daily cost-based offer adjusted to include the currently applicable FMU adder or (ii) is regularly dispatched by PJM as a substitute for the FMU based on differences in cost that result from the currently applicable FMU adder.

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The Offer Price Cap for an associated unit shall be equal to the Incremental Cost of such unit plus the applicable percentage adder or dollar per megawatt-hour adder as specified in Section 6.4.2(a)(iii)(a), (b), or (c) of Schedule 1 of the Operating Agreement for the unit with which it is associated.

For purposes of subsection (iii) above, the unit-specific going forward costs determined by agreement between the Market Seller and the Market Monitoring Unit shall include only the costs included in the Deactivation Avoidable Cost Rate, excluding costs associated with the Avoidable Project Investment Recovery Rate (APIR), set forth in section 115 of the PJM Tariff. Any costs that would be capitalized according to generally accepted accounting principles, associated carrying costs, or other fixed costs shall not be included. The agreement shall further provide that (i) in order for such costs to qualify for inclusion in the amounts determined by the agreement, the Market Seller must agree to provide to the Market Monitoring Unit relevant cost data concerning fuel, operating and maintenance, and other avoidable costs, (ii) the maintenance practices and incurrence of expense at the unit shall be subject to audit by the Office of the Interconnection, and (iii) the unit owner agrees to operate the unit in accordance with Good Utility Practice.

B. Minimum Generator Operating Parameters:

1. The Market Monitoring Unit shall provide to the Office of the Interconnection a table of default unit class specific parameter limits to be known as the “Parameter Limited Schedule Matrix” to be included in Section 6.6(c) of Schedule 1 of the Operating Agreement. The Parameter Limited Schedule Matrix shall include default values on a unit-type basis as specified in Section 6.6(c). The Market Monitoring Unit shall review the Parameter Limited Schedule Matrix twice yearly, and, in the event it determines that revision is appropriate, shall provide a revised matrix to the Office of the Interconnection by no later than December 31 and June 30, respectively, prior to the bi-annual enrollment periods for the submission of start-up and no-load costs on April 1 and October 1. Upon filing of such revised values by PJM, the Market Monitor shall file comments supporting such values. 2. The Market Monitoring Unit shall notify Generation Capacity Resources no later than March 15 and September 15 each year of its determination regarding each request for an exception to a value specified in the Parameter Limited Schedule Matrix or the parameters defined in (i) through (vii) below, , provided that the Market Monitoring Unit receives such request by no later than February 28 or

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August 31, respectively. The Market Monitoring Unit's determination for an exception shall continue for a period of no less than six months, and, if requested, for such longer period as the Market Monitoring Unit may determine is supported by the data. The Market Monitoring Unit shall first determine whether any of the provisions below apply, and, if so, then determine whether and to what extent historical operating data relevant to such provisions exist in support of an exception under the applicable criteria. The Market Monitoring Unit shall agree to permit the least flexible exception that it determines to be supported by the historical operating data.

- (i) With the sole exception of combustion turbine units (which shall have an assumed turn down ratio value equal to 1.0), the Market Monitoring Unit shall calculate on the basis of historical offer data the minimum acceptable turn down ratio parameter as the greater of (A) the ratio calculated on the basis of the minimum of the economic minima and the maximum of the economic maxima submitted by such unit over the prior 24 months or (B) 90 percent of the unit class turn down ratio from the Parameter Limited Schedule Matrix.
- (ii) The submitted minimum run time may not exceed the level defined in the Parameter Limited Schedule Matrix.
- (iii) For all units, the Market Monitoring Unit shall calculate on the basis of historical offer data the minimum down time parameter as the minimum of the minimum down times submitted over the prior 24 months up to a maximum value equal to 110 percent of the value specified in the Parameter Limited Schedule Matrix.
- (iv) The maximum starts per week may not be less than the level defined in the Parameter Limited Schedule Matrix.
- (v) The maximum starts per day may not be less than the level defined in the Parameter Limited Schedule Matrix.
- (vi) For steam units only, the Market Monitoring Unit shall calculate parameters that may be used in place of values from the parameter limited schedule matrix on the basis of market-based offers from units making market based offers and on the basis of cost-based offers for units which made only cost-based offers using the 2006 historical offer average parameters.
- (vii) For combined cycle units only, if the Market Monitoring Unit calculates that the unit's 2006 average historical market-based offer parameters are within the limits in the parameter matrix, the unit will be limited to that 2006 historical average. If the unit is not limited on the foregoing basis, then the Market Monitoring Unit shall determine whether the unit was

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offered with market-based offer parameters for ten percent or more of the days (36 days minimum) at a level at or more flexible than the values in the parameter limited schedule matrix, and, if so, the unit will be limited at that level. If the unit is not limited on the foregoing basis, then the Market Monitoring Unit shall determine whether the 2006 average historical market based offer parameters exceed the limits in the matrix (less flexible than the parameters in the matrix), and, if so, the unit shall be limited to the level at which the market-based parameter was bid to the most flexible level for ten percent or of the days (36 days minimum) at that level.

3. In the event that a generation unit believes that a physical operational limitation prevents such unit from meeting the minimum parameters or the parameters defined in (i) through (vii) above, the Market Monitoring Unit shall, upon request, analyze the historical operating data of such unit and shall agree to a value that is no less flexible than a value that it determines is supported on the basis of the actual historical operating data of the unit (inclusive of any data provided on a timely basis by the generating unit). A “physical operational limitation” shall include, but not be limited to, metallurgical restrictions due to age and long term degradation, physical design modifications performed as part of a life extension program, or environmental permit limitations under non-emergency conditions. The Market Monitoring Unit shall not consider a value supported for the foregoing determination if the historical operating data show that the generating unit can operate as or more flexibly than the value included in the Parameter Limited Schedule Matrix for ten percent or more of its run time. If the historical operating data show that the unit operated at or less flexibly than that defined in the matrix ten percent or less of its run time, but more flexibly than the requested exception, then the Market Monitoring Unit shall consider the exception request as supported at a level equal to the most flexible level at which such unit has operated for at least ten percent of its run time. The Market Monitoring Unit shall not agree to value any value less flexible than the level supported by the historical operating data unless section II.B.5 below applies. The Market Monitoring Unit shall notify the Office of the Interconnection of any exception to which it and the Generation Resource agree or its determination if agreement is not obtained. If a Generation Resource submits a Parameter Limited Schedule value inconsistent with its agreement or inconsistent with the Market Monitoring Unit’s determination regarding such value, the Market Monitoring Unit may petition the Commission for an order that would require the Generation Resource to submit an appropriate value.

4. Generation Resources that are expecting to undergo major operating configuration changes may submit requests for exceptions pursuant to Section II.B.3 above based upon those changes. The Generation Resource shall submit all relevant technical information supporting such operational limitations and an explanation of the derivation of the resulting Parameter Limited Schedule values. The Market Monitoring Unit shall review such requests based on historical data after at least 12 months of operating history becomes available. 5. When a Generation Capacity Resource notifies the Market Monitoring Unit of a material change to the facts relied upon by the Market Monitoring Unit to support a parameter limited schedule

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exception pursuant to Section 6.7 of Schedule 1 of the Operating Agreement (or the Commission in support of its approval), the Market Monitoring Unit shall either agree to continue the existing exception, agree to a revised exception or find that no exception is supported by the data, in which case the values specified in the parameter limited schedule matrix shall apply.

6. A nuclear generation resource seeking to establish eligibility to receive Operating Reserve payments by developing a risk premium pursuant to section 1.7.17(c) of the Operating Agreement shall attempt to obtain agreement on an appropriate level, if any, for such risk premium. The Market Monitoring Unit shall notify the Office of the Interconnection of any risk premium to which it and a nuclear generation resource agree or its determination if agreement is not obtained. In the event that a nuclear generation resource and the Market Monitoring Unit cannot agree to a risk premium, then the nuclear generation owner shall have recourse to the Commission to establish an appropriate level, if any, of such risk premium.

C. RPM Must Offer Obligation:

1. The Market Monitoring Unit shall maintain, post on its website, provide to the Office of the Interconnection and file with the Commission for informational purposes (updated, as necessary, on at least a quarterly basis), a list of existing Generation Capacity Resources located in the PJM Region that are subject to the “must offer” obligation set forth in Section 6.6 of Attachment DD.

2. Pursuant to Section 5.6.6(d) of Attachment DD, the Market Monitoring Unit shall evaluate requests submitted by Capacity Market Sellers to delist a Generation Capacity Resource from PJM Capacity Resource and make a determination as to whether the resource meets the applicable criteria to delist or explain why the resource does not meet such criteria and so inform both the Capacity Market Seller and the Office of the Interconnection of such determination. The applicable criteria shall be met by evidence of any of the following: (i) a unit specific bilateral transaction for service to load located outside the PJM Region, (ii) a demonstration that such resource is identified on a unit specific basis as a network resource under the transmission tariff for the control area applicable to such external load, or (iii) an equivalent demonstration of a financially and physically firm commitment to an external sale. The resource additionally shall identify the megawatt amount, export zone, and time period (in days) of the export. If a potential Capacity Resource owner notifies the Market Monitoring Unit that a material change with respect to any of the foregoing criteria has occurred, the Market Monitoring Unit shall re-evaluate the status of the Generation Capacity Resource.

3. The Market Monitoring Unit shall evaluate the data and documentation provided to it by a potential Capacity Market Seller to establish the EFORD to be included in a Sell Offer applicable to each resource pursuant to Section 6.6 of Attachment DD, then it shall notify the Office of the Interconnection of any EFORD to which it and the Generation Capacity Resource agree or its determination of the EFORD if agreement is not obtained. If the Capacity Market Seller submits an EFORD inconsistent with the determination of the Market Monitoring Unit, the Market Monitoring may file a petition with FERC seeking on an expedited basis a determination

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of whether the EFORd complies with the FERC Market Rules. If such submittal would result in an increase in Zonal Capacity Prices determined at auction and the Market Monitoring Unit determines to petition the FERC for appropriate relief, it shall notify the Office of Interconnection.

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4. The Market Monitoring Unit shall consider the documentation provided to it by a potential Capacity Market Seller pursuant to Section 6.6 of Attachment DD, in determining whether that such resource (i) is reasonably expected to be physically unable to participate in the relevant auction; (ii) has a financially and physically firm commitment to an external sale of its capacity; or (iii) was interconnected to the Transmission System as an Energy Resource and not subsequently converted to a Capacity Resource. If the Market Monitoring Unit determines that a Capacity Market Seller's failure to offer part or all of one or more existing generation resources into an auction has not been supported on the basis of the foregoing criteria, the Market Monitoring Unit may apply to FERC for an order, on an expedited basis, directing such Capacity Market Seller to participate in the auction, or for other appropriate relief. If such failure would result in an increase in Zonal Capacity Prices determined at auction, and the Market Monitoring Unit determines to petition the FERC for appropriate relief, it shall notify the Office of Interconnection.

5. If a Generation Capacity Resource submits, and the Office of Interconnection accepts, a Market Seller Offer Cap inconsistent with its agreement with the Market Monitoring Unit or inconsistent with the Market Monitoring Unit's determination regarding such Market Seller Offer Cap, the Market Monitoring Unit may petition the Commission, on an expedited basis, that would require the Generation Capacity Resource to submit an appropriate Market Seller Offer Cap.

D. Preliminary Market Structure Screen:

1. In sufficient time to permit the posting required by Section 6.2(a) of Attachment DD, the Market Monitoring Unit shall apply the Preliminary Market Structure Screen to identify the LDAs in which Capacity Market Sellers must provide the data specified in Section 6.7(b) of Attachment DD for any auction conducted with respect to such Delivery Year and whether Capacity Market Sellers must provide this data for the entire PJM Region. For each LDA and for the PJM Region, the Preliminary Market Structure Screen will be based on: (1) the Unforced Capacity available for such Delivery Year from Generation Capacity Resources located in such area; and (2) the Locational Deliverability Area Reliability Requirement and the PJM Reliability Requirement. For purposes of this screen, any LDA for which a separate Variable Resource Requirement Curve has not been established under Section 5.10 of Attachment DD shall be combined with all other such LDAs that form an electrically contiguous area ("Unconstrained LDA Group"), and the screen shall be applied to such area in the aggregate, rather than to each such LDA individually. Any such Unconstrained LDA Groups shall be identified in the posting required by Section 6.2(a) of Attachment DD.

2. An LDA, Unconstrained LDA Group, or the entire PJM Region shall fail the Preliminary Market Structure Screen, and Capacity Market Sellers owning or controlling any Generation Capacity Resource located in such LDA, Unconstrained LDA Group, or region shall be required to provide the information specified in Section 6.7 of Attachment DD, if any one of the following three conditions is met: (1) the market share of any Capacity Market Seller exceeds

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twenty percent; (2) the HHI for all such sellers is 1800 or higher; or (3) there are not more than three jointly pivotal suppliers.

3. By no later than 90 days prior to the conduct of the Base Residual Auction and each Incremental Auction for such Delivery Year, the Market Monitoring Unit shall provide to the Office of Interconnection and post or continue posting on its website for each LDA, Unconstrained LDA Group (if applicable) and to the entire PJM Region, the result of its Preliminary Market Structure Screen.

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4. In applying the Preliminary Market Structure Screen, the Market Monitoring Unit shall consider all incremental supply up to and including all such supply available at an effective cost less than or equal to 150% of the cost-based clearing price calculated using the incremental megawatts of supply available to solve the constraint and the need for megawatts to solve the constraint giving rise to a Locational Price Adder.

5. The Preliminary Market Structure Screen shall reflect the delisting of resources approved as provide under Section II.C.2 above no less than 30 days prior to the posting deadline.

E. Market Seller Offer Caps:

1. Based on the data and calculations submitted by the Capacity Market Sellers for each existing Generation Capacity Resource and the formulas specified in Section 6.7(d) of Attachment DD, the Market Monitoring Unit shall calculate the Market Seller Offer Cap for each such resource, and notify the Capacity Market Seller one month prior to the auction of its determination. In performing such calculations for each Generation Capacity Resource, the Market Monitoring Unit shall, at the election of the Market Seller, apply the applicable default values specified in Section 6.7 of Attachment DD or determine a unit-specific Market Seller Offer Cap on the basis of the provisions for determining a unit-specific Avoidable Cost Rate (Section II.E.5), PJM Market Revenues (Section II.E.6), or, if requested, Opportunity Cost (Section II.E.7), below.

2. The Market Monitoring Unit, must attempt to reach agreement with the Generation Market Seller on the level of the Market Seller Offer Cap. If such agreement cannot be reached because a Capacity Market Seller fails to submit data adequate to support the Market Seller Offer Cap requested, then the Market Monitoring Unit shall so inform the Office of the Interconnection. In the event that a Capacity Market Seller and the Market Monitoring Unit cannot come to agreement on the level of a Market Seller Offer Cap, then the Market Monitoring Unit shall inform the Capacity Market Seller and the Office of the Interconnection of its determination. If, pursuant to Section 6.4 of the Attachment DD, a Capacity Market Seller submits a Market Seller Offer Cap inconsistent with the Market Monitor's determination or a Sell Offer inconsistent with a requirement under such section to offer as Self-Supply, the Market Monitoring Unit may petition the Commission for an order, on an expedited basis, for appropriate relief. If such failure would result in an increase in Zonal Capacity Prices determined at auction, and the Market Monitoring Unit determines to petition the FERC for appropriate relief, it shall notify the Office of Interconnection.

3. Nothing herein shall preclude any Capacity Market Seller and the Market Monitoring Unit from agreeing to, nor require either such entity to agree to, an alternative market seller offer cap determined on a mutually agreeable basis. Any such alternative offer cap shall be filed with the Commission for its approval. This provision is duplicated in Section 6.4(a) of Attachment DD.

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4. Notwithstanding the number of jointly pivotal suppliers in any hour, if the Market Monitoring Unit determines that a reasonable level of competition will not exist based on an evaluation of all facts and circumstances, it may propose to the Commission the removal of offer-capping suspensions otherwise authorized by Section 6.4 of the Operating Agreement. Such proposals shall take effect upon Commission acceptance of the Market Monitoring Unit's filing.

5. The Market Monitoring Unit shall calculate the Avoidable Cost Rate (or may calculate, in the case of the tardy receipt of data) and provide a unit-specific value to Capacity Market Sellers requesting such calculation within the time specified in section 6.7(d) of Attachment DD. In performing this calculation, avoidable expenses (i) shall include only incremental expenses directly required to operate a Generation Capacity Resource that a Generation Owner would not incur if such generating unit did not operate in the Delivery Year or meet availability criteria during Peak-Hour Periods during the Delivery Year and (ii) shall exclude variable costs recoverable under cost-based offers to sell energy from operating capacity on the PJM Interchange Energy Market under the Operating Agreement.

The Avoidable Cost Rate for a Generation Capacity Resource that is the subject of a Sell Offer shall be determined using the following formula, expressed in dollars per megawatt-year:

$$\text{Avoidable Cost Rate} = [\text{Adjustment Factor} * (\text{AOML} + \text{AAE} + \text{AME} + \text{AVE} + \text{ATFI} + \text{ACC} + \text{ACLE}) + \text{ARPIR} + \text{APIR}]$$

Where:

- **Adjustment Factor** equals 1.10 (to provide a margin of error for understatement of costs) plus an additional adjustment referencing the 10-year average Handy-Whitman Index in order to account for expected inflation from the time interval between the submission of the Sell Offer and the commencement of the Delivery Year.
- **AOML (Avoidable Operations and Maintenance Labor)** consists of the avoidable labor expenses related directly to operations and maintenance of the generating unit for the twelve months preceding the month in which the data must be provided. The categories of expenses included in AOML are those incurred for: (a) on-site based labor engaged in operations and maintenance activities; (b) off-site based labor engaged in on-site operations and maintenance activities directly related to the generating unit; and (c) off-site based labor engaged in off-site operations and maintenance activities directly related to generating unit equipment removed from the generating unit site.
- **AAE (Avoidable Administrative Expenses)** consists of the avoidable administrative expenses related directly to employees at the generating unit for twelve months preceding the month in which the data must be provided.

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The categories of expenses included in AAE are those incurred for: (a) employee expenses (except employee expenses included in AOML); (b) environmental fees; (c) safety and operator training; (d) office supplies; (e) communications; and (f) annual plant test, inspection and analysis.

- **AME (Avoidable Maintenance Expenses)** consists of avoidable maintenance expenses (other than expenses included in AOML) related directly to the generating unit for the twelve months preceding the month in which the data must be provided. The categories of expenses included in AME are those incurred for: (a) chemical and materials consumed during maintenance of the generating unit; and (b) rented maintenance equipment used to maintain the generating unit.
- **AVE (Avoidable Variable Expenses)** consists of avoidable variable expenses related directly to the generating unit incurred in the twelve months preceding the month in which the data must be provided. The categories of expenses included in AVE are those incurred for: (a) water treatment chemicals and lubricants; (b) water, gas, and electric service (not for power generation); and (c) waste water treatment.
- **ATFI (Avoidable Taxes, Fees and Insurance)** consists of avoidable expenses related directly to the generating unit incurred in the twelve months preceding the month in which the data must be provided. The categories of expenses included in AFTI are those incurred for: (a) insurance, (b) permits and licensing fees, (c) site security and utilities for maintaining security at the site; and (d) property taxes.
- **ACC (Avoidable Carrying Charges)** consists of avoidable short-term carrying charges related directly to the generating unit in the twelve months preceding the month in which the data must be provided. Avoidable short-term carrying charges shall include short term carrying charges for maintaining reasonable levels of inventories of fuel and spare parts that result from short-term operational unit decisions as measured by industry best practice standards. For the purpose of determining ACC, short term is the time period in which a reasonable replacement of inventory for normal, expected operations can occur.
- **ACLE (Avoidable Corporate Level Expenses)** consists of avoidable corporate level expenses directly related to the generating unit incurred in the twelve months preceding the month in which the data must be provided. Avoidable corporate level expenses shall include only such expenses that are directly linked to providing tangible services required for the operation of the generating unit proposed for Deactivation. The categories of avoidable

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expenses included in ACLE are those incurred for: (a) legal services, (b) environmental reporting; and (c) procurement expenses.

- **APIR (Avoidable Project Investment Recovery Rate) = PI * CRF**

Where:

- **PI** is the amount of project investment completed prior to June 1 of the Delivery Year, except for Mandatory Capital Expenditures (“CapEx”) for which the project investment must be completed during the Delivery Year, that is reasonably required to enable a Generation Capacity Resource that is the subject of a Sell Offer to continue operating or improve availability during Peak-Hour Periods during the Delivery Year.
- **CRF** is the annual capital recovery factor from the following table, applied in accordance with the terms specified below.

Age of Existing Unit (Years)	Remaining Life of Plant (Years)	Levelized CRF
1 to 5	20	0.125
6 to 10	15	0.146
11 to 15	10	0.198
16 Plus	5	0.363
Mandatory CapEx	4	0.450
40 Plus Alternative	1	1.100

Unless otherwise stated, Age of Existing Unit shall be equal to the number of years since the Unit commenced commercial operation, up to and through the relevant Delivery Year.

Remaining Life of Plant defines the amortization schedule (*i.e.*, the maximum number of years over which the Project Investment may be included in the Avoidable Cost Rate.)

Capital Expenditures and Project Investment

For any given Project Investment, a Capacity Market Seller may make a one-time election to recover such investment using: (i) the highest CRF

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and associated recovery schedule to which it is entitled; or (ii) the next highest CRF and associated recovery schedule. For these purposes, the CRF and recovery schedule for the 16 Plus category is the next highest CRF and recovery schedule for both the Mandatory CapEx and the 40 Plus Alternative categories. The Capacity Market Seller using the above table must provide the Market Monitoring Unit with information, identifying and supporting such election, including but not limited to the age of the unit, the amount of the Project Investment, the purpose of the investment, evidence of corporate commitment (e.g., an SEC filing, a press release, or a letter from a duly authorized corporate officer indicating intent to make such investment), and detailed information concerning the governmental requirement (if applicable). Absent other written notification, such election shall be deemed based on the CRF such Seller employs for the first Sell Offer reflecting recovery of any portion of such Project Investment. A Sell Offer submitted in the Base Residual Auction for either or both of the 2007-2008 and 2008-2009 Delivery Years for which the “16 Plus” CRF and recovery schedule is selected may not exceed an offer price equal to the then-current Net CONE (on an unforced-equivalent basis).

For any resource using the CRF and associated recovery schedule from the CRF table that set the Capacity Resource Clearing Price in any Delivery Year, such Capacity Market Seller must also provide to the Market Monitoring Unit, for informational purposes only, evidence of the actual expenditure of the Project Investment, when such information becomes available.

If the project associated with a Project Investment that was included in a Sell Offer using a CRF and associated recovery schedule from the above table has not entered into commercial operation prior to the end of the relevant Delivery Year, and the resource’s Sell Offer sets the clearing price for the relevant LDA, the Capacity Market Seller shall be required to elect to either (i) pay a charge that is equal to the difference between the Capacity Resource Clearing Price for such LDA for the relevant Delivery Year and what the clearing price would have been absent the APIR component of the Avoidable Cost Rate, this difference to be multiplied by the cleared megawatt volume from such Resource (“rebate payment”); (ii) hold such rebate payment in escrow, to be released to the Capacity Market Seller in the event that the project enters into commercial operation during the subsequent Delivery Year or rebated to LSEs in the relevant LDA if the project has not entered into commercial operation during the subsequent Delivery Year; or (iii) make a reasonable investment in the amount of the PI in other existing Generation Capacity Resources owned

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or controlled by the Capacity Market Seller or its Affiliates in the relevant LDA. The revenue from such rebate payments shall be allocated pro rata to LSEs in the relevant LDA(s) that were charged a Locational Reliability Charge for such Delivery Year, based on their Daily Unforced Capacity Obligation in the relevant LDA(s). If the Sell Offer from the Generation Capacity Resource did not set the Capacity Resource Clearing Price in the relevant LDA, no alternative investment or rebate payment is required. If the difference between the Capacity Resource Clearing Price for such LDA for the relevant Delivery Year and what the clearing price would have been absent the APIR amount does not exceed the greater of \$10 per megawatt-day or a 10 percent increase in the clearing price, no alternative investment or rebate payment is required.

Mandatory CapEx Option

The Mandatory CapEx CRF and recovery schedule is an option available, beginning in the third Base Residual Auction (Delivery Year 2009-10), to a resource that must make a Project Investment to comply with a governmental requirement that would otherwise materially impact operating levels during the Delivery Year, where: (i) such resource is a coal, oil or gas-fired resource that began commercial operation no fewer than fifteen years prior to the start of the first Delivery Year for which such recovery is sought, and such Project Investment is equal to or exceeds \$200/kW of capitalized project cost; or (ii) such resource is a coal-fired resource located in an LDA for which a separate VRR Curve has been established for the relevant Delivery Years, and began commercial operation at least 50 years prior to the conduct of the relevant Base Residual Auction.

A Capacity Market Seller that wishes to elect the Mandatory CapEx option for a Project Investment must do so beginning with the Base Residual Auction for the Delivery Year in which such project is expected to enter commercial operation. A Sell Offer submitted in any Base Residual Auction for which the Mandatory CapEx option is selected may not exceed an offer price equivalent to 0.90 times the then-current Net CONE (on an unforced-equivalent basis).

40 Year Plus Alternative Option

The 40 Plus Alternative CRF and recovery schedule is an option available, beginning in the third Base Residual Auction (Delivery Year 2009-10), for a resource that is a gas- or oil-fired resource that began commercial operation no less than 40 years prior to the conduct of the relevant Base Residual Auction (excluding, however, any resource in any Delivery Year

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for which the resource is receiving a payment under Part V of the PJM Tariff. Generation Capacity Resources electing this 40 Plus Alternative CRF shall be treated as At Risk Generation for purposes of the sensitivity runs in the RTEP process). Resources electing the 40 Year Plus Option will be modeled in the RTEP process as “at-risk” at the end of the one-year amortization period.

A Capacity Market Seller that wishes to elect the 40 Plus Alternative option for a Project Investment must provide written notice of such election to the Office of the Interconnection no later than 180 days prior to the Base Residual Auction for which such election is sought; provided however that shorter notice may be provided if unforeseen circumstances give rise to the need to make such election and such seller gives notice as soon as practicable.

The Office of the Interconnection shall give market participants reasonable notice of such election, subject to satisfaction of requirements under the PJM Operating Agreement for protection of confidential and commercially sensitive information. A Sell Offer submitted in any Base Residual Auction for which the 40 Plus Alternative option is selected may not exceed an offer price equivalent to the then-current Net CONE (on an unforced-equivalent basis).

- **ARPIR** (Avoidable Refunds of Project Investment Reimbursements) consists of avoidable refund amounts of Project Investment Reimbursements payable by a Generation Owner to PJM under Part V, Section 118 of this Tariff or avoidable refund amounts of project investment reimbursements payable by a Generation Owner to PJM under a Cost of Service Recovery Rate filed under Part V, Section 119 of the Tariff and approved by the Commission.

6. The Market Monitoring Unit shall calculate the Projected PJM Market Revenues for any Generation Capacity Resource to which the Avoidable Cost Rate is applied and shall include all actual unit-specific revenues from PJM energy markets, ancillary services, and unit-specific bilateral contracts from such Generation Capacity Resource, net of marginal costs for providing such energy (i.e., costs allowed under cost-based offers pursuant to Section 6.4 of Schedule 1 of the Operating Agreement) and ancillary services from such resource. The calculation of Projected PJM Market Revenues shall be equal to the rolling simple average of such net revenues as described above from the three most recent whole calendar years prior to the year in which the Base Residual Auction is conducted. If a Generation Capacity Resource did not receive PJM market revenues during the entire relevant time period because the Generation Capacity Resource was not integrated into PJM during the full period, then the Projected PJM Market Revenues shall be calculated using only those whole calendar years within the full period in which such Resource received PJM market revenues. If a Generation Capacity Resource did not receive PJM market revenues during the entire relevant time period because it was not in

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commercial operation during the entire period, or if data is not available to the Capacity Market Seller for the entire period, despite the good faith efforts of such seller to obtain such data, then the Projected PJM Market Revenues shall be calculated based upon net revenues received over the entire period by comparable units, as agreed upon by the MMU and the Capacity Market Seller.

7. The Market Monitoring Unit shall review and verify the documentation of prices available to existing generation resources in markets external to PJM and proposed for inclusion in Opportunity Costs by a Generation Capacity Resource pursuant to section 6.7(d)(ii) of Attachment DD to the PJM Tariff. The Market Monitoring Unit shall notify such Generation Capacity Resource and the Office of the Interconnection if it is dissatisfied with the documentation provided and whether it objects to the inclusion of such Opportunity Costs in a Market Seller Offer. If such Generation Capacity Resource submits a Market Seller Offer that includes Opportunity Costs that have not been documented and verified to the Market Monitoring Unit's satisfaction, then the Market Monitoring Unit may petition the Commission for an order that would require the Generation Resource to remove them.

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F. Mitigation of Offers from Planned Generation Capacity Resources

Pursuant to Section 6.5 of Attachment DD, the Market Monitoring Unit shall evaluate Sell Offers received from Planned Generation Capacity Resources and determined whether such Sell Offers are “excessive.” A Sell Offer shall be excessive if such Sell Offer exceeds 140 percent of: (x) the average of location-adjusted Sell Offers for Planned Generation Capacity Resources from the same asset class as such Sell Offer, submitted (and not rejected) (“Asset-Class New Plant Offers”) for such Delivery Year; or (y) if there are no Asset-Class New Plant Offers for such Delivery Year, the average of Asset-Class New Plant Offers for all prior Delivery Years; or (z) if there are no Asset-Class New Plant Offers for any prior Delivery Year, the Net CONE applicable for such Delivery Year in the LDA for which such offer was submitted. For purposes of this paragraph, asset classes shall be as stated in section 6.7(c) of Attachment DD to the PJM Tariff as effective for such Delivery Year, and Asset-Class New Plant Offers shall be location-adjusted by the ratio between the Net CONE effective for such Delivery Year for the LDA in which the Sell Offer subject to this paragraph was submitted and the average, weighted by installed capacity, of the Net CONEs for all LDAs in which the units underlying such Asset Class New Plant Offers are located. If the Market Monitoring Unit identifies an excessive offer, it shall promptly notify the Capacity Market Seller and the Office of the Interconnection, and, if requested by an affected Capacity Market Seller, work to develop a Sell Offer that complies with the foregoing criteria.

G. Data Submission: The Market Monitoring Unit may request additional information (in addition to that required pursuant to section 6.7 of Attachment DD) from any potential auction participant, including, without limitation, additional cost data on resources in a class that is not otherwise expected to include the marginal price setting resource; and compliance with such request shall be a condition for submitting an Offer Price Cap greater than the default level applicable to such resource as specified in 6.7(c) of Attachment DD. All data submitted to the Office of the Interconnection or the Market Monitoring Unit by a Market Participant is subject to verification by the Market Monitoring Unit.

H. Determination of Default Avoidable Cost Rates:

1. The Market Monitoring Unit shall annually review the table of default Avoidable Cost Rates included in Section 6.7(c) of Attachment DD and calculated on the bases set forth therein, and determine whether the values included therein need to be updated. If so, the Market Monitoring Unit shall provide to Office of the Interconnection updated values or notice of its determination that updated values are not needed. Upon filing of such revised values by PJM, the Market Monitor shall file comments supporting such values.2. The Market Monitoring Unit shall indicate in its posted reports on RPM performance the number of Generation Capacity Resources and megawatts per LDA that use the retirement Avoidable Cost Rates.

3. If a Capacity Market Seller does not elect to use a default Avoidable Cost Rate and has timely provided to the Market Monitoring Unit the data described in Section 6.7 of Attachment DD, the Market Monitoring Unit shall calculate (or may calculate, in the case of the

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tardy receipt of data) a Market Seller Offer Price Cap as provided in Section II.E above and provide a unit-specific value to the Capacity Market Seller.

4. If a Capacity Market Seller submits a retirement Avoidable Cost Rate that is higher than the applicable default Avoidable Cost Rate included in the table in Section 6.7 of Attachment DD, and the Capacity Market Seller and the Market Monitoring Unit do not agree that the proposed retirement Avoidable Cost Rate that has been submitted is appropriate, and the Office of the Interconnection accepts the proposed retirement Avoidable Cost Rate submitted by the Capacity Market Seller, the Market Monitoring Unit may exercise its powers to inform Commission staff of its concerns and request a determination that would require the Capacity Market Seller to utilize the retirement Avoidable Cost Rate determined by the Market Monitoring Unit or such other retirement Avoidable Cost Rate as determined by the Commission.

III. BLACKSTART SERVICE

A. Upon the submission by a Black Start Service generator owner of a request for changes to the Black Start Service revenue requirements for the generator, the Black Start Service generator owner and the Market Monitoring Unit shall attempt to agree to appropriate values.

B. Pursuant to the terms of Schedule 6A of the PJM Tariff and the PJM Manuals, the Market Monitoring Unit will analyze any requested generator black start cost changes on an annual basis and shall notify the Office of the Interconnection of any costs to which it and the Black Start Service generator owner have agreed or the Market Monitoring Unit's determination regarding any cost components to which agreement has not been obtained. If a Black Start Service generator owner includes a cost component inconsistent with its agreement or inconsistent with the Market Monitoring Unit's determination, the Market Monitoring Unit may petition the Commission for an order that would require the Generation Resource to include an appropriate cost component.

IV. DEACTIVATION RATES

1. Upon receipt of a notice to deactivate a generating unit under Part V of the PJM Tariff from the Office of the Interconnection forwarded pursuant to Section 113.1 of the PJM Tariff, the Market Monitoring Unit shall analyze the effects of the proposed deactivation with regard to potential market power issues and shall notify the Office of the Interconnection and the generator owner (of, if applicable, its designated agent) within 30 days of the deactivation request if a market power issue has been identified. Such notice shall include the specific market power impact resulting from the proposed deactivation of the generating unit, as well as an initial assessment of any steps that could be taken to mitigate the market power impact.

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2. The Market Monitoring Unit and the generating unit owner shall attempt to come to agreement on the level of each component included in the Deactivation Avoidable Cost Credit. In the case of cost of service filing submitted to the Commission in alternative to the Deactivation Cost Credit, the Market Monitoring Unit shall indicate to the generating unit owner in advance of filing its views regarding the proposed method or cost components of recovery. The Market Monitoring Unit shall notify the Office of the Interconnection of any costs to which it and the generating unit owner have agreed or the Market Monitoring Unit's determination regarding any cost components to which agreement has not been obtained. If a generating unit owner includes a cost component inconsistent with its agreement or inconsistent with the Market Monitoring Unit's determination regarding such cost components, the Market Monitoring Unit shall notify the Office of the Interconnection of any costs to which it and the generation owner have agreed or the Market Monitoring Unit's determination regarding any cost components to which agreement has not been obtained. If a generation owner includes a cost component inconsistent with its agreement or inconsistent with the Market Monitoring Unit's determination regarding such cost components, the Market Monitoring Unit may petition the Commission for an order that would require the Generation Resource to include an appropriate cost component..

V. OPPORTUNITY COST CALCULATION: The Market Monitoring Unit shall review requests for opportunity cost compensation under Sections 3.2.3(f-3) (Operating Reserves) and 3.2.3B(h) (Reactive Services) and work with Market Participants to develop an appropriate level, if any, for such compensation. The Market Monitoring Unit shall notify the Office of the Interconnection of any risk premium to which it and a Market Participant agree or its determination of an appropriate level or mechanism for compensation, if any, if agreement is not obtained. In the event that a Market Participant and the Market Monitoring Unit cannot agree to a risk premium, then the Market Participant shall have recourse to the Commission to establish an appropriate level, if any, for opportunity cost compensation.

VI. FTR FORFEITURE RULE:

1. The Market Monitoring Unit shall calculate Transmission Congestion Credits as required under sections VI.2 below, including the determination of the identity of the holder of FTRs and an evaluation of the overall benefits accrued by an entity or affiliated entities trading in FTRs and virtual trading in the Day-ahead Energy Market, and provide such calculations to the Office of the Interconnection. Nothing in this section shall preclude the Market Monitoring Unit from action to recover inappropriate benefits from the subject activity if the amount forfeited is less than the benefit derived by the FTR holder. If the Office of the Interconnection imposes a forfeiture of the Transmission Congestion Credit in an amount that the Market Monitoring Unit disagrees with, then it may exercise its powers to inform Commission staff of its concerns and request an adjustment.

2. If a holder of a Financial Transmission Right between specified delivery and receipt buses acquired the Financial Transmission Right in a Financial Transmission Rights Auction (the procedures for which are set forth in Part 7 of this Schedule 1) and (i) had an Increment Bid and/or Decrement Bid that was accepted by the Office of the Interconnection for

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an applicable hour in the Day-ahead Energy Market for delivery or receipt at or near delivery or receipt buses of the Financial Transmission Right; and (ii) the result of the acceptance of such Increment Bid or Decrement Bid is that the difference in locational marginal prices in the Day-ahead Energy Market between such delivery and receipt buses is greater than the difference in locational marginal prices between such delivery and receipt buses in the Real-time Energy Market, then the Market Participant shall not receive any Transmission Congestion Credit, associated with such Financial Transmission Right in such hour, in excess of one divided by the number of hours in the applicable month multiplied by the amount that the Market Participant paid for the Financial Transmission Right in the Financial Transmission Rights Auction.

3. For purposes of section VI.2 above, a bus shall be considered at or near the Financial Transmission Right delivery or receipt bus if seventy-five percent or more of the energy injected or withdrawn at that bus and which is withdrawn or injected at any other bus is reflected in the constrained path between the subject Financial Transmission Right delivery and receipt buses that were acquired in the Financial Transmission Rights Auction.

VII. FORCED OUTAGE RULE

1. The Market Monitoring Unit shall observe offers submitted in the Day-ahead Energy Market to determine whether all or part of a generating unit's capacity (MW) is designated as Maximum Emergency and (i) such offer in the Real-time Energy Market designates a smaller amount of capacity from that unit as Maximum Emergency for the same time period, and (ii) there is no physical reason to designate a larger amount of capacity as Maximum Emergency in the offer in the Day-ahead Energy Market than in the Real-time Energy Market, the Market Monitoring Unit shall notify the owner of the generation unit (who must record an outage in PJM systems) and the Office of Interconnection.

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2. If the Market Monitoring Unit observes that (i) an offer submitted in the Day-ahead Energy market designates all or part of capacity (MW) of a Generating unit as economic maximum that is less than the economic maximum designated in the offer in the Real-time Energy Market, and (ii) there is no physical reason to designate a lower economic maximum in the offer in the Day-ahead Energy Market than in the offer in the Real-time Energy Market, the Market Monitoring Unit shall notify the owner of the generation unit (who must record an outage in PJM systems) and the Office of Interconnection, which shall give an outage ticket in accordance with the PJM manuals.

VIII. DATA COLLECTION AND VERIFICATION: The Market Monitoring Unit shall gather and keep confidential detailed data on the procurement and usage of fuel to produce electric power transmitted in the PJM Region in order to assist the performance of its duties under Attachment M. To achieve this objective, the Market Monitoring Unit shall maintain on its website a mechanism that allows Members to conveniently and confidentially submit such data and develop a manual in consultation with stakeholders that describes the nature of and procedure for collecting data. Members of PJM owning a Generating unit that is located in the PJM Region (including dynamically scheduled units), or is included in a PJM Black Start Service plan, committed as a Generation Capacity Resource for the current or future Delivery Year, or otherwise subject to a commitment to provide service to PJM, shall provide data to the Market Monitoring Unit in the manner prescribed in the PJM Manuals.

IX. NOTIFICATION OF ELIGIBILITY FOR POST-CONTINGENCY CONGESTION MANAGEMENT PROGRAM: In the event that a Transmission Owner requests, pursuant to the PJM manuals, that PJM change constraints in the Post-Contingency Congestion Management Program, during the applicable period, the Market Monitoring Unit may perform market studies to determine whether the transmission constraint is eligible for acceptance in the program and so advise the Transmission Owner.

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**MMU Proposed Tariff Revisions,
Redlined Against Provisions in the April 29th Filing**

Attachment DD

ATTACHMENT DD

Reliability Pricing Model

1. INTRODUCTION

This Attachment sets forth the terms and conditions governing the Reliability Pricing Model for the PJM Region. In the event of a conflict between this Attachment DD and Attachment M and its Appendix with respect to the responsibilities of the Market Monitoring Unit, the provisions of Attachment M and its Appendix shall control. As more fully set forth in this Attachment and the PJM Manuals, and in conjunction with the Reliability Assurance Agreement, the Reliability Pricing Model provides:

- (a) support for LSEs in satisfying Daily Unforced Capacity Obligations for future Delivery Years through Self Supply of Capacity Resources;
- (b) a competitive auction mechanism to secure the forward commitment of additional Capacity Resources and Qualifying Transmission Upgrades as necessary to satisfy the portion of LSEs' Unforced Capacity Obligations not satisfied through Self-Supply, in order to ensure the reliability of the PJM Region for future Delivery Years;
- (c) long-term pricing signals for the development of Capacity Resources, including demand resources and planned generation resources, to ensure the reliability of the PJM Region;
- (d) recognition for the locational benefits of Capacity Resources;
- (e) deficiency charges to ensure progress toward, and fulfillment of, forward commitments by demand and generation resources to satisfy capacity requirements;
- (f) measures to identify and mitigate capacity market structure deficiencies; and
- (g) a Reliability Backstop mechanism to ensure that sufficient generation, transmission and demand response solutions will be available to preserve system reliability.

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2. DEFINITIONS

Definitions specific to this Attachment are set forth below. In addition, any capitalized terms used in this Attachment not defined herein shall have the meaning given to such terms elsewhere in this Tariff or in the RAA. References to section numbers in this Attachment DD refer to sections of this attachment, unless otherwise specified.

2.1 Annual Revenue Rate

“Annual Revenue Rate” shall mean the rate employed to assess a compliance penalty charge on a Demand Resource Provider or ILR Provider under section 11.

2.2 Avoidable Cost Rate

“Avoidable Cost Rate” shall mean a component of the Market Seller Offer Cap calculated in accordance with section 6 and section II.E of Attachment M–Appendix.

2.3 Base Load Generation Resource

“Base Load Generation Resource” shall mean a Generation Capacity Resource that operates at least 90 percent of the hours that it is available to operate, as determined by the Office of the Interconnection in accordance with the PJM Manuals.

2.4 Base Offer Segment

“Base Offer Segment” shall mean a component of a Sell Offer based on an existing Generation Capacity Resource, equal to the Unforced Capacity of such resource, as determined in accordance with the PJM Manuals. If the Sell Offers of multiple Market Sellers are based on a single existing Generation Capacity Resource, the Base Offer Segments of such Market Sellers shall be determined pro rata based on their entitlements to Unforced Capacity from such resource.

2.5 Base Residual Auction

“Base Residual Auction” shall mean the auction conducted three years prior to the start of the Delivery Year to secure commitments from Capacity Resources as necessary to satisfy any portion of the Unforced Capacity Obligation of the PJM Region not satisfied through Self-Supply.

2.6 Buy Bid

“Buy Bid” shall mean a bid to buy Capacity Resources in any Incremental Auction.

2.7 Capacity Credit

“Capacity Credit” shall have the meaning specified in Schedule 11 of the Operating Agreement, including Capacity Credits obtained prior to the termination of such Schedule applicable to periods after the termination of such Schedule.

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2.37 Load Serving Entity (LSE)

“Load Serving Entity” or “LSE” shall have the meaning specified in the Reliability Assurance Agreement.

2.38 Locational Deliverability Area (LDA)

“Locational Deliverability Area” or “LDA” shall mean a geographic area within the PJM Region that has limited transmission capability to import capacity to satisfy such area’s reliability requirement, as determined by the Office of the Interconnection in connection with preparation of the Regional Transmission Expansion Plan, and as specified in Schedule 10.1 of the Reliability Assurance Agreement.

2.39 Locational Deliverability Area Reliability Requirement

“Locational Deliverability Area Reliability Requirement” shall mean the projected internal capacity in the Locational Deliverability Area plus the Capacity Emergency Transfer Objective for the Delivery Year, as determined by the Office of the Interconnection in connection with preparation of the Regional Transmission Expansion Plan, less the minimum internal resources required for all FRR Entities in such Locational Deliverability Area.

2.40 Locational Price Adder

“Locational Price Adder” shall mean an addition to the marginal value of Unforced Capacity within an LDA as necessary to reflect the price of Capacity Resources required to relieve applicable binding locational constraints.

2.41 Locational Reliability Charge

“Locational Reliability Charge” shall have the meaning specified in the Reliability Assurance Agreement.

2.41A Locational UCAP

“Locational UCAP” shall mean unforced capacity that a Member with available uncommitted capacity sells in a bilateral transaction to a Member that previously committed capacity through an RPM Auction but now requires replacement capacity to fulfill its RPM Auction commitment. The Locational UCAP Seller retains responsibility for performance of the resource providing such replacement capacity.

2.41B Locational UCAP Seller

“Locational UCAP Seller” shall mean a Member that sells Locational UCAP.

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2.41C Market Seller Offer Cap

“Market Seller Offer Cap” shall mean a maximum offer price applicable to certain Market Sellers under certain conditions, as determined in accordance with section 6 of Attachment DD and section II.E of Attachment M - Appendix.

2.42 Net Cost of New Entry

“Net Cost of New Entry” shall mean the Cost of New Entry minus the Net Energy and Ancillary Service Revenue Offset, as defined in Section 5.

2.43 Nominated Demand Resource Value

“Nominated Demand Resource Value” shall mean the amount of load reduction that a Demand Resource commits to provide either through direct load control, firm service level or guaranteed load drop programs. For existing Demand Resources, the maximum Nominated Demand Resource Value is limited, in accordance with the PJM Manuals, to the value appropriate for the method by which the load reduction would be accomplished, at the time the Base Residual Auction or Incremental Auction is being conducted.

2.43A Nominated Energy Efficiency Value

“Nominated Energy Efficiency Value” shall mean the amount of load reduction that an Energy Efficiency Resource commits to provide through installation of more efficient devices or equipment or implementation of more efficient processes or systems.

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2.44 Nominated ILR Value

“Nominated ILR Value” shall mean the amount of load reduction that an ILR resource commits to provide either through direct load control, firm service level or guaranteed load drop programs. For ILR, the maximum Nominated ILR Capacity Value is limited, in accordance with the PJM Manuals, to the value appropriate for the method by which the load reduction would be accomplished, at the time the ILR is certified.

2.45 Opportunity Cost

“Opportunity Cost” shall mean a component of the Market Seller Offer Cap calculated in accordance with section 6 and section II.E of Attachment M–Appendix.

2.46 Peak-Hour Dispatch

“Peak-Hour Dispatch” shall mean, for purposes of calculating the Energy and Ancillary Services Revenue Offset under section 5 of this Attachment, an assumption, as more fully set forth in the PJM Manuals, that the Reference Resource is dispatched in four distinct blocks of four hours of continuous output for each block from the peak-hour period beginning with the hour ending 0800 EPT through to the hour ending 2300 EPT for any day when the average real-time LMP for the area for which the Net Cost of New Entry is being determined is greater than, or equal to, the cost to generate (including the cost for a complete start and shutdown cycle) for at least two hours during each four-hour block, where such blocks shall be assumed to be dispatched independently; provided that, if there are not at least two economic hours in any given four-hour block, then the Reference Resource shall be assumed not to be dispatched for such block.

2.47 Peak Season

“Peak Season” shall mean the weeks containing the 24th through 36th Wednesdays of the calendar year. Each such week shall begin on a Monday and end on the following Sunday, except for the week containing the 36th Wednesday, which shall end on the following Friday.

2.48 Percentage Internal Resources Required

“Percentage Internal Resources Required” shall have the meaning specified in the Reliability Assurance Agreement.

2.49 Planned Demand Resource

“Planned Demand Resource” shall have the meaning specified in the Reliability Assurance Agreement.

2.50 Planned External Generation Capacity Resource

“Planned External Generation Capacity Resource” shall have the meaning specified in the Reliability Assurance Agreement.

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2.50A Planned Generation Capacity Resource

“Planned Generation Capacity Resource” shall have the meaning specified in the Reliability Assurance Agreement.

2.51 Planning Period

“Planning Period” shall have the meaning specified in the Reliability Assurance Agreement.

2.52 PJM Region

“PJM Region” shall have the meaning specified in the Reliability Assurance Agreement.

2.53 PJM Region Installed Reserve Margin

“PJM Region Installed Reserve Margin” shall have the meaning specified in the Reliability Assurance Agreement.

2.54 PJM Region Peak Load Forecast

“PJM Region Peak Load Forecast” shall mean the peak load forecast used by the Office of the Interconnection in determining the PJM Region Reliability Requirement, and shall be determined on both a preliminary and final basis as set forth in section 5.

2.55 PJM Region Reliability Requirement

“PJM Region Reliability Requirement” shall mean, for purposes of the Base Residual Auction, the Forecast Pool Requirement multiplied by the Preliminary PJM Region Peak Load Forecast, less the sum of all Preliminary Unforced Capacity Obligations of FRR Entities in the PJM Region; and, for purposes of the Incremental Auctions, the Forecast Pool Requirement multiplied by the updated PJM Region Peak Load Forecast, less the sum of all updated Unforced Capacity Obligations of FRR Entities in the PJM Region.

2.56 Projected PJM Market Revenues

“Projected PJM Market Revenues” shall mean a component of the Market Seller Offer Cap calculated in accordance with section 6 and section II.E of Attachment M–Appendix.

2.57 Qualifying Transmission Upgrade

“Qualifying Transmission Upgrade” shall mean a proposed enhancement or addition to the Transmission System that: (a) will increase the Capacity Emergency Transfer Limit into an LDA by a megawatt quantity certified by the Office of the Interconnection; (b) the Office of the Interconnection has determined will be in service on or before the commencement of the first Delivery Year for which such upgrade is the subject of a Sell Offer in the Base Residual Auction; (c) is the subject of a Facilities Study Agreement executed before the conduct of the Base Residual Auction for such Delivery Year and (d) a New Service Customer is obligated to fund through a rate or charge specific to such facility or upgrade.

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2.58 Reference Resource

“Reference Resource” shall mean a combustion turbine generating station, configured with two General Electric Frame 7FA turbines with inlet air cooling to 50 degrees, Selective Catalytic Reduction technology, dual fuel capability, and a heat rate of 10,500 Mmbtu/MWh.

2.59 Reliability Assurance Agreement

“Reliability Assurance Agreement” shall mean that certain “Reliability Assurance Agreement Among Load-Serving Entities in the PJM Region,” on file with FERC as PJM Interconnection, L.L.C. Rate Schedule FERC No.44.

2.60 Reliability Pricing Model Auction

“Reliability Pricing Model Auction” shall mean the Base Residual Auction or any Incremental Auction.

2.61 Resource Substitution Charge

“Resource Substitution Charge” shall mean a charge assessed on Capacity Market Buyers in a First Incremental Auction or Third Incremental Auction to recover the cost of replacement Capacity Resources.

2.62 Second Incremental Auction

“Second Incremental Auction” shall mean an auction conducted pursuant to Section 5, to secure the commitment of Capacity Resources as necessary to satisfy an increase in the PJM Region Peak Load Forecast above that reflected in the Base Residual Auction.

2.63 Sell Offer

“Sell Offer” shall mean an offer to sell Capacity Resources in a Base Residual Auction, Incremental Auction, or Reliability Backstop Auction.

2.64 [Reserved for Future Use]

2.65 Self-Supply

“Self-Supply” shall mean Capacity Resources secured by a Load-Serving Entity, by ownership or contract, outside a Reliability Pricing Model Auction, and used to meet obligations under this Attachment or the Reliability Assurance Agreement through submission in a Base Residual Auction of a Sell Offer indicating such Market Seller’s intent that such Capacity Resource be committed regardless of clearing price. An LSE may submit a Sell Offer with a price bid for an owned or contracted Capacity Resource, but such Sell Offer shall not be deemed “Self-Supply,” solely as such term is used in this Attachment.

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4. GENERAL PROVISIONS

4.1 Capacity Market Sellers

Only Capacity Market Sellers shall be eligible to submit Sell Offers into the Base Residual Auction and Incremental Auctions. Capacity Market Sellers shall comply with the terms and conditions of all Sell Offers, as established by the Office of the Interconnection in accordance with this Attachment, Attachment M, Attachment M - Appendix and the Operating Agreement.

4.2 Capacity Market Buyers

Only Capacity Market Buyers shall be eligible to submit Buy Bids into an Incremental Auction. Capacity Market Buyers shall comply with the terms and conditions of all Buy Bids, as established by the Office of the Interconnection in accordance with this Attachment, Attachment M, Attachment M - Appendix and the Operating Agreement.

4.3 Agents

A Capacity Market Seller may participate in a Base Residual Auction or Incremental Auction through an Agent, provided that the Capacity Market Seller informs the Office of the Interconnection in advance in writing of the appointment and authority of such Agent. A Capacity Market Buyer may participate in an Incremental Auction through an Agent, provided that the Capacity Market Buyer informs the Office of the Interconnection in advance in writing of the appointment and authority of such Agent. A Capacity Market Buyer or Capacity Market Seller participating in such an auction through an Agent shall be bound by all of the acts or representations of such Agent with respect to transactions in such auction. Any written instrument establishing the authority of such Agent shall provide that any such Agent shall comply with the requirements of this Attachment and the Operating Agreement.

4.4 General Obligations of Capacity Market Buyers and Capacity Market Sellers

Each Capacity Market Buyer and Capacity Market Seller shall comply with all laws and regulations applicable to the operation of the Base Residual and Incremental Auctions and the use of these auctions shall comply with all applicable provisions of this Attachment, Attachment M, Attachment M - Appendix, the Operating Agreement, and the Reliability Assurance Agreement, and all procedures and requirements for the conduct of the Base Residual and Incremental Auctions and the PJM Region established by the Office of the Interconnection in accordance with the foregoing.

4.5 Confidentiality

The following information submitted to the Office of the Interconnection in connection with any Base Residual Auction, Incremental Auction, or Reliability Backstop Auction shall be deemed confidential information for purposes of Section 18.17 of the Operating Agreement, Attachment M and Attachment M - Appendix: (i) the terms and conditions of the Sell Offers and Buy Bids; and (ii) the terms and conditions of any bilateral transactions for Capacity Resources.

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5.6.6 Availability of Capacity Resources for Sale

(a) The Office of the Interconnection shall determine the maximum quantity of megawatts of Unforced Capacity each Market Seller may offer in any Base Residual Auction or Incremental Auction, through verification of the availability of megawatts of Unforced Capacity from: (i) Capacity Resources owned by or under contract to the Market Seller, including Capacity Resources obtained through bilateral contract; (ii) the results of prior Reliability Pricing Model Auctions, if any, for such Delivery Year; and (iii) such other information as may be available to the Office of the Interconnection. The Office of the Interconnection shall reject Sell Offers or portions of Sell Offers for Capacity Resources determined by it not to be available for sale.

(b) The Office of the Interconnection shall determine the maximum amount of Capacity Resources available for sale in a Base Residual Auction or Incremental Auction as of the beginning of the period during which Buy Bids and Sell Offers are accepted for each market, as applicable, in accordance with the time schedule set forth in the PJM Manuals. To enable the Office of the Interconnection to make this determination, no bilateral transactions for Capacity Resources applicable to the period covered by an auction will be processed from the beginning of the period for submission of Sell Offers and Buy Bids, as appropriate, for that auction until completion of the clearing determination for that market. Processing of such bilateral transactions will reconvene once clearing for that auction is completed.

(c) In order for a bilateral transaction for the purchase and sale of a Capacity Resource to be processed by the Office of the Interconnection, both parties to the transaction must notify the Office of the Interconnection of the transfer of the Capacity Resource from the seller to the buyer in accordance with procedures established by the Office of the Interconnection and set forth in the PJM Manuals.

(d) A Generation Capacity Resource located in the PJM Region shall not be removed (delisted) from PJM Capacity Resource status to the extent the resource is committed to service of PJM loads as a result of an RPM Auction, FRR Capacity Plan, or by designation as a replacement resource under this Attachment DD. To the extent not so committed, a Generation Capacity Resource (including any portion thereof not so committed or for any time period not so committed) located in the PJM Region may be removed from PJM Capacity Resource status if the Market Seller obtains a determination from the Market Monitoring Unit that the resource has a financially and physically firm commitment to an external sale of its capacity in accordance with the procedure and criteria set forth in section II.C of Attachment M - Appendix. Nothing herein shall require a Market Seller to offer its resource into an RPM auction prior to delisting, subject to the foregoing.

Delisting of a resource shall not be reflected in the determination of available capacity pursuant to subsection (b) above unless the associated unit-specific bilateral transaction is approved, the designation of such resource (or portion thereof) as a network resource for the external load is demonstrated to the Office of the Interconnection, or equivalent evidence of a firm external sale is provided prior to the deadline established by that subsection. If a material change with respect to any of the prerequisites for the application of section 5.6.6(d) to the

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Generation Capacity Resource occurs, the potential Capacity Resource Owner shall immediately notify the Market Monitoring Unit.

5.7 Buy Bids

Buy Bids may be submitted in any Incremental Auction. Buy Bids shall specify, as appropriate:

- a) The quantity of Unforced Capacity desired, in increments of 0.1 megawatt;
- b) The maximum price, in dollars and cents per megawatt per day, that will be paid by the buyer for the megawatt quantity of Unforced Capacity desired; and

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c) The desired LDA for a replacement Capacity Resource. In the event of delay or cancellation of a Qualifying Transmission Upgrade, the Buy Bid shall specify Capacity Resources in the LDA for which such Qualifying Transmission Upgrade was to increase CETL.

5.8 Submission of Sell Offers and Buy Bids

Submission of Sell Offers and Buy Bids shall be subject to the following requirements:

a) A Sell Offer or Buy Bid that fails to specify a positive megawatt quantity shall be rejected by the Office of the Interconnection.

b) A Buy Bid that fails to specify price shall be rejected by the Office of the Interconnection. A Sell Offer that fails to either designate such offer as self-scheduled or to specify an offer price shall be rejected by the Office of the Interconnection

c) All Sell Offers and Buy Bids must be received by the Office of the Interconnection during a specified period, as determined by the Office of the Interconnection, in accordance with the PJM Manuals. A Sell Offer or Buy Bid may be withdrawn by a notification of withdrawal received by the Office of the Interconnection at any time during the foregoing period, but may not be withdrawn after such period.

d) Sell Offers or Buy Bids shall be submitted or withdrawn via the Internet site designated by the Office of the Interconnection; provided, however, that if the Internet site cannot be accessed at any time during the period specified for the applicable auction, a Sell Offer or Buy Bid may be submitted or withdrawn by electronic mail transmitted to the e-mail address, or faxed to the fax number, specified by the Office of the Interconnection in the PJM Manuals.

e) Sell Offers must be based on the Capacity Market Seller's Capacity Resource position at the opening of the auction's bidding window.

f) The Office of the Interconnection shall accept a Sell Offer only up to the megawatt amount of installed capacity of Capacity Resources owned or controlled by such Capacity Market Seller that has not previously been committed for the applicable Delivery Year.

g) No Sell Offer shall be accepted from an FRR Entity unless it meets the requirements applicable to such offers under Schedule 8.1 of the Reliability Assurance Agreement.

h) The Office of the Interconnection shall have final authority to determine whether to accept a Sell Offer in accordance with the above specified criteria.

i) Market Sellers shall have sole responsibility to submit Sell Offers, and, in particular, Market Seller Offer Caps, that are accurate and compliant with the FERC Market Rules. Market Sellers shall have sole liability for the consequences of Sell Offers that are inaccurate or non-compliant with the FERC Market Rules. PJM may contact Market Sellers to verify that a Sell Offer was intended, but may not reject a Sell Offer solely because either the Office of the Interconnection or the Market Monitoring Unit dispute the accuracy or compliance status of Sell Offer that a Market Seller submits and otherwise meets the above specified criteria. At the request of a Market Seller or the Market Monitoring Unit, PJM shall suspend clearing an

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auction for up to 90 days in order to afford the Commission an opportunity to rule on a petition for review of a Sell Offer submitted by either a Market Seller that could not obtain the agreement of the Market Monitoring Unit under Section II.{____} of Attachment M–Appendix or by the Market Monitoring Unit pursuant to Section II.{____} of Attachment M–Appendix.

5.9 Time Standard

All deadlines for the submission or withdrawal of Sell Offers or Buy Bids, or for other purposes specified in this Attachment, shall be determined by the prevailing time observed in the Eastern Time zone.

5.10 Auction Clearing Requirements

The Office of the Interconnection shall clear each Base Residual Auction and Incremental Auction for a Delivery Year in accordance with the following:

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(3) The Office of the Interconnection shall perform a sensitivity analysis on any Base Residual Auction that included Sell Offers meeting the criteria of Section 5.14(h)(2), for which the Capacity Market Seller has not obtained a prior favorable determination from FERC as described in subsection (2) hereof. Such analysis shall re-calculate the clearing price for the Base Residual Auction employing in place of each actual Sell Offer meeting the criteria a substitute Sell Offer equal to 90 percent of the applicable estimated cost determined in accordance with Section 5.14(h)(1) above, or, if there is no applicable estimated cost, equal to 80 percent of the then-applicable Net CONE. If the resulting difference in price between the new clearing price and the initial clearing price differs by an amount greater than the greater of 20 percent or 25 dollars per megawatt-day for a total LDA Reliability Requirement greater than 15,000 megawatts; or the greater of 25 percent or 25 dollars per megawatt-day for a total LDA Reliability Requirement greater than 5,000 and less than 15,000 megawatts; or the greater of 30 percent or 25 dollars per megawatt-day for a total LDA Reliability Requirement of less than 5,000 megawatts; then the Office of the interconnection shall discard the results of the Base Residual Auction and determine a replacement clearing price and the identity of the accepted Capacity Resources using the procedure set forth in section 5.14(h)(5) below.

(4) Including all of the Sell Offers in a single Base Residual Auction that meet the criteria of 5.14(h)(3) above, PJM shall first calculate the replacement clearing price and the total quantity of Capacity Resources needed for the LDA. PJM shall then accept Sell Offers to provide Capacity Resources in accordance with the following priority and criteria for allocation: (i) first, all Sell Offers in their entirety designated as self-supply; (ii) then, all Sell Offers of zero, prorating to the extent necessary, and (iii) then all remaining Sell Offers in order of the lowest price, subject to the optimization principles set forth in Section 5.14.

(5) Notwithstanding the foregoing, this provision shall terminate when there exists a positive net demand for new resources, as defined in Section 5.10(a)(iv)(B) of this Attachment, calculated over a period of consecutive Delivery Years beginning with the first Delivery Year for which this Attachment is effective and concluding with the last Delivery Year preceding such calculation, in an area comprised of the Unconstrained LDA Group (as defined in section 6.3) in existence during such first Delivery Year. Notwithstanding the foregoing, the Office of the Interconnection shall reinstate the provisions of this section, solely under conditions in which a

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LDA remaining for determination of further credits will be reduced by the allocation of credits attributable to Capacity Imported into the larger LDA.

(d) Capacity Transfer Rights shall be transferable. A purchaser of Capacity Transfer Rights from the original party allocated such rights shall receive any payments due under this section or section 5.16, provided the seller and purchaser of such rights timely notify the Office of the Interconnection of such purchase, in accordance with procedures specified in the PJM manuals.

5.16 Incremental Capacity Transfer Rights

(a) The Office of the Interconnection shall allocate Incremental Capacity Transfer Rights to a New Service Customer (or, for facilities or upgrades in a PJM queue prior to March 1, 2007, to an Interconnection Customer) obligated to fund a transmission facility or upgrade through a rate or charge specific to such facility or upgrade, to the extent such upgrade or facility increases the Import Capability into a Locational Deliverability Area, with respect to any such transmission facility or upgrade interconnected to the Transmission System pursuant to Part IV of this Tariff, including transmission facilities or upgrades interconnected to the Transmission System pursuant to Part IV prior to the effective date of this Attachment. Incremental Capacity Transfer Rights shall be available for a facility or upgrade for a Delivery Year only if the Office of the Interconnection certifies the quantity of Import Capability provided by such facility or upgrade at least 45 days prior to the Base Residual Auction for such Delivery Year. The megawatt quantity of Incremental Capacity Transfer Rights allocated to such a New Service Customer (or Interconnection Customer) shall equal the megawatt quantity of the increase in Import Capability across a locational constraint resulting from such upgrade or facility, provided that the total Incremental Capacity Transfer Rights awarded as to an LDA (including those allocated pursuant to Schedule 12A of the Tariff) may not exceed the total Capacity Transfer Rights determined as to such LDA. A Capacity Market Seller that offers and clears a Qualifying Transmission Upgrade in the Base Residual Auction for a Delivery Year shall not receive Incremental Capacity Transfer Rights with respect to such upgrade for such Delivery Year. Terms and conditions for the allocation of Incremental Capacity Transfer Rights to New Service Customers shall be as further set forth in Part VI of this Tariff, and those for the allocation of Incremental Capacity Transfer Rights to Responsible Customers shall be as further set forth in Schedule 12A of this Tariff.

(b) For any Base Residual or Incremental Auction that results in a positive Locational Price Adder for such LDA, the holder of an Incremental Capacity Transfer Right shall receive a payment equal to the Locational Price Adder for the LDA into which the associated facility or upgrade increased Import Capability minus the Locational Price Adder for the LDA from which the Import Capability increase was measured, multiplied by the megawatt quantity of the Incremental Capacity Transfer Right allocated to such Interconnection Customer.

6. MARKET POWER MITIGATION

6.1 Applicability

The provisions of the Market Monitoring Plan (Attachment M and Attachment M - Appendix to this Tariff) apply to the Reliability Pricing Model Auctions. In addition, PJM shall apply market power mitigation

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measures, as set forth in this section 6, to any Base Residual Auction or Incremental Auction for any Locational Deliverability Area that fails the Market Structure Test, but only in the event the Sell Offers that were accepted by such algorithm to resolve any locational constraint giving rise to the Locational Price Adder (and that would not have been accepted absent such constraint), and all Sell Offers that would resolve such constraint remaining available but unaccepted by such algorithm, collectively fail the Market Structure Test set forth in this section 6. PJM shall also apply market power mitigation measures, as set forth in this section 6, to any Base Residual Auction or Incremental Auction for the entire PJM Region. This section also specifies an offer requirement applicable to all Capacity Resources, regardless of Locational Deliverability Area.

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6.2 Process

(a) By no later than 90 days (or such other time period as established for purposes of the Transition Period) prior to the conduct of the Base Residual Auction and each Incremental Auction for such Delivery Year, the Office of the Interconnection shall post or continue to post the results of the Market Monitoring Unit's application of the Preliminary Market Structure Screen determined pursuant to section II.D of Attachment M - Appendix.

(b) In accordance with the schedule specified in the PJM Manuals, following PJM's conduct of a Base Residual Auction or Incremental Auction pursuant to section 5.12, but prior to the Office of the Interconnection's final determination of clearing prices and charges pursuant to section 5.14, the Office of the Interconnection shall: (i) apply the Market Structure Test to any LDA having a Locational Price Adder greater than zero and to the entire PJM region; (ii) apply Market Seller Offer Caps, if required under this section 6; and (iii) recompute the optimization algorithm to clear the auction with the Market Seller Offer Caps in place.

(c) Within seven days after the deadline for submission of Sell Offers in a Base Residual Auction or Incremental Auction, the Office of the Interconnection shall file with FERC a report of any determination made pursuant to sections 5.14(h), 6.5(a)(ii), or 6.7(c) identified in such sections as subject to the procedures of this section. Such report shall list each such determination, the information considered in making each such determination, and an explanation of each such determination. Any entity that objects to any such determination may file a written objection with FERC no later than seven days after the filing of the report. Any such objection must not merely allege that the determination was in error, and must provide support for the objection, demonstrating that the determination overlooked or failed to consider relevant evidence. In the event that no objection is filed, the determination shall be final. In the event that an objection is filed, FERC shall issue any decision modifying the determination no later than 60 days after the filing of such report; otherwise, the determination shall be final. Final auction results shall reflect any decision made by FERC regarding the report.

6.3 Market Structure Tests

(a) Preliminary Market Structure Screen.

The Market Monitoring Unit shall apply the Preliminary Market Structure Screen pursuant to section II.D of Attachment M - Appendix. Potential Capacity Market Sellers owning or controlling any potential existing Generation Capacity Resources in the PJM Region shall be required to provide to the Market Monitoring Unit the additional information specified in section II.D of Attachment M - Appendix if such Generation Capacity is located in an LDA, "Unconstrained LDA Group" (as defined in Attachment M - Appendix), or the entire PJM Region that fails the Preliminary Market Structure Screen, as applied pursuant to section II.D below.

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(b) Market Structure Test.

(i) In accordance with the schedule set under section 6.2, the Office of the Interconnection shall apply the Market Structure Test to an LDA or the PJM Region if the conditions specified in section 6.5 are met as to such LDA. The Office of the Interconnection shall confirm the results of the Market Structure Test with the Market Monitoring Unit.

(ii) An LDA, Unconstrained LDA Group, or the PJM Region shall fail the market structure test, and mitigation shall be applied to all jointly pivotal suppliers (including all Affiliates of such suppliers, and all third-party supply in the relevant LDA or Unconstrained LDA Group controlled by such suppliers by contract), if, as to the Sell Offers described in section 6.1, there are not more than three jointly pivotal suppliers.

(c) Determination of Incremental Supply

In applying the market structure test, the Office of the Interconnection shall consider all incremental supply up to and including all such supply available at an effective cost less than or equal to 150% of the cost-based clearing price calculated using the incremental megawatts of supply available to solve the constraint and the need for megawatts to solve the constraint giving rise to a Locational Price Adder.

6.4 Market Seller Offer Caps

(a) The Market Seller Offer Cap, stated in dollars per MW-year of installed capacity, applicable to price-quantity offers within the Base Offer Segment for an existing Generation Capacity Resource shall be the Avoidable Cost Rate for such resource, less the Projected PJM Market Revenues for such resource, stated in dollars per MW of unforced capacity, as determined in accordance with section 6.7. During the first three Delivery Years of the Transition Period, the Market Seller Offer Cap shall be increased for Sell Offers submitted by eligible Capacity Market Sellers in any Unconstrained LDA Group by the Transition Adder set forth in section 17.5 of this Attachment. The Market Seller Offer Cap for an existing Generation Capacity Resource shall be the Opportunity Cost for such resource, if applicable, as determined in accordance with section 6.7. Nothing herein shall preclude any Capacity Market Seller and the Market Monitoring Unit from agreeing to, nor require either such entity to agree to, an alternative market seller offer cap determined on a mutually agreeable basis. Any such alternative offer cap shall be filed with the Commission for its approval. This provision is duplicated in section II.E.3 of Attachment M - Appendix.

(b) For each existing Generation Capacity Resource, a potential Capacity Market Seller must timely provide to the Market Monitoring Unit data and documentation required under section 6.6 to establish the level of the Market Seller Offer Cap applicable to each resource. The Generation Market Seller must promptly address any concerns identified by the Market Monitoring Unit regarding the data and documentation provided, review the proposed Market Seller Offer Cap, and attempt to reach agreement with the Market Monitoring Unit on the level of the Market Seller Offer Cap.

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(c) If the Market Monitoring Unit informs the Office of the Interconnection that a Capacity Market Seller has failed to submit costs consistent with section 6.7, it shall be required to submit any Sell Offer in the applicable auction as Self-Supply. If such Capacity Market Seller submits a Sell Offer that is not Self-Supply, the Market Monitoring Unit may seek relief from the Commission pursuant to section II.E.2 of Attachment M–Appendix.

(d) A Capacity Market Seller may submit the Market Seller Offer Cap that it chooses, provided that (i) it has participated in good faith with the process described in this section 6 and in section II.E of Attachment M - Appendix, (ii) the offer is no higher than the level defined in any agreement reached by the Capacity Market Seller and the Market Monitoring Unit that resulted from the foregoing process, and (iii) the offer is accepted by the Office of the Interconnection subject to the criteria set forth in section 5.8 above. If the Market Monitoring Unit notifies the Office of the Interconnection that a Market Seller Offer Cap is the subject of a referral or petition to the Commission under Section II.E of the Attachment M-Appendix, the Office of the Interconnection shall suspend clearing the auction for up to 90 days in order to allow the Commission time to act on such referral or petition. The Office of the Interconnection then shall clear the auction with any such revised or Commission-approved Sell Offer in place.

(e) For any Third Incremental Auction, the Market Seller Offer Cap for an existing Generation Capacity Resource shall be determined pursuant to paragraph (a) of this Section 6.4, or if elected by the Capacity Market Seller, shall be equal to 1.1 times the Capacity Resource Clearing Price in the Base Residual Auction for the relevant LDA and Delivery Year.

6.5 Mitigation

The Office of the Interconnection shall apply market power mitigation measures to any Base Residual Auction or Incremental Auction for any LDA, Unconstrained LDA Group, or the PJM Region that, without mitigation, would have a Locational Price Adder greater than zero, but only in the event the cost-based Sell Offers that would be accepted by the optimization algorithm

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to resolve any locational constraint giving rise to the Locational Price Adder (and that would not have been accepted absent such constraint), and all cost-based Sell Offers made at a price less than or equal to 150 percent of the clearing price determined by the optimization algorithm that would help resolve such constraint remaining available but unaccepted by such algorithm, collectively fail the Market Structure Test.

- (a) Mitigation for Generation Capacity Resources.
 - i) Existing Generation Resource

Mitigation will be applied on a unit-specific basis and only if the Sell Offer of Unforced Capacity from a Generation Capacity Resource: (1) is greater than the Market Seller Offer Cap applicable to such resource; and (2) would, absent mitigation, increase the Capacity Resource Clearing Price in the relevant auction. If such conditions are met, such Sell Offer shall be set equal to the Market Seller Offer Cap.

- ii) Planned Generation Capacity Resources

(A) Sell Offers based on Planned Generation Capacity Resources (including External Planned Generation Capacity Resources) shall be presumed to be competitive and shall not be subject to market power mitigation in the Base Residual Auction or Incremental Auction for adjustment of committed capacity for the first Delivery Year for which such resource qualifies as a Planned Generation Capacity Resource, but the Office of the Interconnection shall suspend clearing the auction for up to 90 days if it receives notice from the Market Monitoring Unit that such a Sell Offer is excessive under the criteria set forth in section II.F of Attachment M–Appendix and allow the Capacity Market Seller an opportunity to submit an alternative offer that the Market Monitoring Unit agrees meets the criteria set forth in section II.F or to obtain approval of its offer from the Commission on an expedited basis. The Office of the Interconnection then shall clear the auction with any such revised or Commission-approved Sell Offer in place or without such offer, if unrevised. Planned Generation Capacity Resources shall be treated as Existing Generation Capacity Resources in the auctions for any subsequent Delivery Year; provided, however, that such resources may receive certain price assurances for the two Delivery Years immediately following the first Delivery Year of service under certain conditions as set forth in section 5.14 of this Attachment.

(B) Sell Offers based on Planned Generation Capacity Resources (including External Planned Generation Capacity Resources) submitted for the first year in which such resources qualify as Planned Generation Capacity Resources shall be deemed competitive and not be subject to mitigation if: (1) collectively all such Sell Offers provide Unforced Capacity in an amount equal to or greater than two times the incremental quantity of new entry required to meet the LDA Reliability Requirement; and (2) at least two unaffiliated suppliers have submitted Sell Offers for Planned Generation Capacity Resources in such LDA. Notwithstanding the foregoing, any Capacity Market Seller, together with Affiliates, whose Sell Offers based on Planned Generation Capacity Resources in that LDA are pivotal, shall be subject to mitigation.

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(b) Mitigation for Demand Resources

The Market Seller Offer Cap shall not be applied to Sell Offers of Planned Demand Resources or Energy Efficiency Resources. When the Market Structure Test is failed, any Sell Offers of existing Demand Resources or Energy Efficiency Resources shall not be considered in determining the Capacity Resource Clearing Price in any auction for the market for which such test was failed.

6.6 Offer Requirement for Capacity Resources

(a) To avoid application of subsection (d), all Unforced Capacity of all existing Generation Capacity Resources located in the PJM Region shall be offered (which may include submission as Self-Supply) in the Base Residual Auction for each Delivery Year, where Unforced Capacity is determined using an EFORD less than or equal to the greater of (i) the annual average EFORD for the five consecutive years ending on the September 30 that last precedes the submission of such offers or (ii) the EFORD for the 12 months ending on the September 30 that last precedes the submission of such offers.

(b) For each existing Generation Capacity Resource, a potential Capacity Market Seller must timely provide to the Market Monitoring Unit data and documentation required under section 6.6 to establish the EFORD applicable to each resource. The Generation Market Seller must promptly address any concerns identified by the Market Monitoring Unit regarding the data and documentation provided, review the proposed EFORD, and attempt to reach agreement with the Market Monitoring Unit on the level of the EFORD under the process provided in Section II.C of Attachment M–Appendix.

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(c) If the Market Monitoring Unit informs the Office of the Interconnection that a Capacity Market Seller has failed to submit data and documentation of costs consistent with section 6.7, such Capacity Market Seller shall be required to submit any Sell Offer in the applicable auction as Self-Supply. (d) If the Capacity Market Seller submits an EFORD that the Market Monitoring Unit determines would increase Zonal Capacity Price determined through such auction compared to the Market Monitoring Unit determination pursuant to section II.C of Attachment M–Appendix of the level of the EFORD, the Market Monitoring Unit may apply to FERC for an order pursuant to section II.C of Attachment M-Appendix, in which case PJM shall postpone clearing the auction for up to 90 days pending FERC’s decision on the matter.

(e) Nothing in this section precludes the Capacity Market Seller from filing a petition with FERC seeking a determination of whether the EFORD complies with the requirements of the Tariff.

(f) A Capacity Market Seller may submit an EFORD that it chooses, provided that (i) it has participated in good faith with the process described in this section 6 and in section II.C of Attachment M - Appendix, (ii) the offer is no higher than the level defined in any agreement reached by the Capacity Market Seller and the Market Monitoring Unit that resulted from the foregoing process, and (iii) the offer is accepted by the Office of the Interconnection subject to the criteria set forth in section 5.8 above.

(g) Existing generation resources in the PJM Region capable of qualifying as a Generation Capacity Resource may not avoid the rule in subsection (a) by failing to qualify as a Generation Capacity Resource, or by attempting to remove a unit previously qualified as a Generation Capacity Resource from classification as a Capacity Resource, excepting only generation resources that, as shown by appropriate documentation: (i) are reasonably expected to be physically unable to participate in the relevant Delivery Year; (ii) have a financially and physically firm commitment to an external sale of its capacity, or (iii) were interconnected to the Transmission System as Energy Resources and not subsequently converted to a Capacity Resource. A Generation Capacity Resource that does not qualify for submission into an RPM Auction because it is not owned or controlled by the Capacity Market Seller for a full Delivery Year is not subject to the offer requirement hereunder; provided, however, that a Capacity Market Seller planning to transfer ownership or control of a Generation Capacity Resource during a Delivery Year pursuant to a sale or transfer agreement entered into after March 26, 2009 shall be required to satisfy the offer

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requirement hereunder for the entirety of such Delivery Year and may satisfy such requirement by providing for the assumption of this requirement by the transferee of ownership or control under such agreement.

(h) Any existing generation resource located in the PJM Region that is not offered into the Base Residual Auction for a Delivery Year, and that does not meet any of the

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exceptions stated in the prior subsection (g): (i) may not participate in any subsequent auctions conducted for such Delivery Year; (ii) shall not receive any payments under section 5.14 for such Delivery Year; and (iii) shall not be permitted to satisfy any LSE's Unforced Capacity Obligation, or any entity's obligation to obtain the commitment of Capacity Resources, for such Delivery Year.

(i) To avoid application of subsection (j), any existing Generation Capacity Resource located in the PJM Region that is offered into the Base Residual Auction for a Delivery Year, but that does not clear in such auction, shall be offered in the First, Second, and Third Incremental Auctions (and any Conditional Incremental Auction) for such Delivery Year, unless such Generation Capacity Resource, as shown by appropriate documentation, (i) is reasonably expected to be physically unable to participate in the relevant auction; (ii) has a financially and physically firm commitment to an external sale of its capacity; or (iii) was interconnected to the Transmission System as an Energy Resource and not subsequently converted to a Capacity Resource.

(j) Any existing Generation Capacity Resource located in the PJM Region that is offered into the Base Residual Auction for a particular Delivery Year, does not clear in such auction, is not offered into the First, Second, Third, and Conditional Incremental Auctions for such Delivery Year, and does not meet any of the exceptions stated in subsection (g): (i) may not participate in any subsequent auctions conducted for such Delivery Year; (ii) shall not receive any payments under section 5.14 for such Delivery Year; (iii) shall not be permitted to satisfy any LSE's Unforced Capacity Obligation, or any entity's obligation to obtain the commitment of Capacity Resources, for such Delivery Year, and (iv) may be subject to further action by the Market Monitoring Unit under Attachment M and Attachment M - Appendix.

(k) In addition to the remedies set forth in subsections (g), (h), (i), and (j), if the Market Monitoring Unit determines that one or more Capacity Market Sellers' failure to offer part or all of one or more existing generation resources into an auction would increase Zonal Capacity Prices determined through such auction, the Market Monitoring Unit may apply to FERC for an order, on an expedited basis, directing such Capacity Market Seller to participate in the auction, or for other appropriate relief, and PJM shall postpone clearing the auction for up to 90 days pending FERC's decision on the matter.

6.7 Data Submission

(a) Potential participants in any PJM Reliability Pricing Model Auction shall submit, together with supporting documentation for each item, to the Market Monitoring Unit no later than four months prior to the posted date for the conduct of such auction, a list of owned or controlled generation resources by PJM transmission zone for the specified Delivery Year, including the amount of gross capacity, the EFORd and the net (unforced) capacity.

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(b) Except as provided in subsection (c) below, potential participants in any PJM Reliability Pricing Model Auction in any LDA or Unconstrained LDA Group that fails the Preliminary Market Structure Screen (or, if such region fails the screen, potential auction participants in the entire PJM Region) shall, in addition, submit the following data, together with supporting documentation for each item, to the Market Monitoring Unit no later than two months prior to the conduct of such auction:

i. If the Capacity Market Seller intends to submit a non-zero price in its Sell Offer in any such auction, the Capacity Market Seller shall submit a calculation of the Avoidable Cost Rate and Projected PJM Market Revenues, as defined in subsection (d) below, together with detailed supporting documentation.

ii. If the Capacity Market Seller intends to submit a Sell Offer based on opportunity cost, the Capacity Market Seller shall also submit a calculation of Opportunity Cost, as defined in subsection (d), with detailed supporting documentation.

(c) Potential auction participants identified in subsection (b) above need not submit the data specified in that subsection for any Generation Capacity Resource:

i. that is in an Unconstrained LDA Group or, if this is the relevant market, the entire PJM Region, and is in a resource class identified in the table below as not likely to include the marginal price-setting resources in such auction; or

ii. for which the potential participant commits that any Sell Offer it submits as to such resource shall not include any price above: (1) the level identified in the table below for the relevant resource class, less (2) the Projected PJM Market Revenues for such resource, as determined in accordance with this Tariff.

Nothing herein precludes the Market Monitoring Unit from requesting additional information from any potential auction participant as deemed necessary by the Market Monitoring Unit, including, without limitation, additional cost data on resources in a class that is not otherwise expected to include the marginal price setting resource; and compliance with such request shall be a condition of participation in any auction. Any Sell Offer submitted in any auction that is inconsistent with any commitment made pursuant to this subsection shall be rejected, and the Capacity Market Seller shall be required promptly to resubmit a Sell Offer that complies with such commitments. If the Capacity Market Seller does not timely resubmit its Sell Offer, it shall be deemed to have submitted a Sell Offer that complies with the commitments made under this subsection, with a default price equal to the maximum price for the class of resource

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determined under section (c)(ii) above. The obligation imposed under section 6.6(a) shall not be satisfied unless and until the Capacity Market Seller submits (or is deemed to have submitted) a Sell Offer that conforms to its commitments made pursuant to this subsection or subject to the procedures set forth in section 6.4 and section II.H of Attachment M - Appendix. The default Avoidable Cost Rates referenced in section (c)(ii) above are as set forth in the tables below. Capacity Market Sellers shall use the one-year mothball Avoidable Cost Rate shown below, unless such Capacity Market Seller satisfies the criteria set forth in section 6.7(e), in which case the Capacity Market Seller may use the retirement Avoidable Cost Rate. PJM shall also publish on its Web site the number of Generation Capacity Resources and megawatts per LDA that use the retirement Avoidable Cost Rates.

Technology Classes Not Likely to be the Marginal Price Setting Resource		
Technology	Mothball Avoidable Cost Rate (\$/MW-Day)	Retirement Avoidable Cost Rate (\$/MW-Day)
Nuclear	N/a	N/a
Pumped Storage	\$22.71	\$31.89
Hydro	\$77.62	\$101.52
Sub-Critical Coal	\$186.35	\$206.57
Super Critical Coal	\$192.53	\$210.59
Waste Coal - Small	\$245.75	\$297.65
Waste Coal – Large	\$90.89	\$109.80
Wind	N/a	N/a

Maximum Avoidable Cost Rates by Technology Class		
Technology	Mothball Avoidable Cost Rate (\$/MW-Day)	Retirement Avoidable Cost Rate (\$/MW-Day)
CC- Two on One Frame F Technology	\$33.80	\$47.95
CC- Three on One Frame E/Siemens Technology	\$37.52	\$50.81
CC - Three or More on One or More Frame F Technology	\$29.26	\$40.62
CC - NUG Cogeneration Frame B or E Technology	\$125.62	\$168.80
CT - First & Second Generation Aero (P&W FT 4)	\$26.86	\$35.73
CT - First & Second Generation Frame B	\$26.54	\$35.42
CT - Second Generation Frame E	\$25.23	\$33.76
CT - Third Generation Aero (GE LM 6000)	\$61.07	\$90.02
CT - Third Generation Aero (P&W FT- 8 TwinPak)	\$32.03	\$47.23
CT - Third Generation Frame F	\$25.90	\$37.30
Diesel	\$28.74	\$36.49
Oil and Gas Steam	\$71.28	\$86.78

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After the Market Monitoring Unit conducts its annual review of the table of default Avoided Cost Rates included in section 6.7(c) above in accordance with the procedure specified in section II.H of Attachment M – Appendix, it will provide updated values, if needed, to the Office of the Interconnection, which shall file such updated values with the Commission. The Office of the Interconnection may defer to the Market Monitoring Unit to support such values in a separate attachment or pleading.

(d) In order for costs to qualify for inclusion in the Market Seller Offer Cap, the Capacity Market Seller must provide to the Market Monitoring Unit relevant cost data concerning each data item specified as set forth in section II.D of Attachment M–Appendix.

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FERC Electric Tariff
Sixth Revised Volume No. 1

Second Revised Sheet No. 616A
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7. GENERATION RESOURCE RATING TEST FAILURE CHARGE

7.1 Generation Resource Rating Test Failure Charges

A Generation Resource Rating Test Failure Charge shall be assessed on any Market Seller that commits a Generation Capacity Resource for a Delivery Year, and on any Locational UCAP Seller that sells Locational UCAP for a Delivery Year based on a Generation Capacity Resource, if such resource fails a generation resource capacity test, as provided herein.

a) Generation Resource Fails Capacity Test in Delivery Year

Each Generation Capacity Resource committed for a Delivery Year shall be obligated to complete a generation resource capacity test, as described in the PJM Manuals, for both the Summer and Winter Seasons. The Market Seller that committed the resource, or Locational UCAP Seller that sold the resource, may perform an unlimited number of tests during each such period. If none of the tests during a testing period certify full delivery of the megawatt amount of installed capacity the Market Seller committed, or Locational UCAP Seller sold, for such Delivery Year, the Market Seller or Locational UCAP Seller shall be assessed a daily Generation Resource Rating Test Failure Charge for each day from the first day of the Summer or Winter Season in which such resource failed the rating test through the last day of such Delivery Year, provided, however, that such a seller that fails or is expected to fail a rating test may obtain and commit Unforced Capacity from a replacement Capacity Resource meeting the same locational requirements. Such Unforced Capacity may include uncommitted or uncleared Sell Offer blocks from Generation Capacity Resources that were otherwise committed. Any such commitment of replacement capacity shall be effective upon no less than one day's notice to the Office of the Interconnection, and shall reduce the amount of installed capacity committed from the Generation Capacity Resource, that failed or was expected to fail such rating test, in accordance with the determination prescribed by subsection (b) below.

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**MMU Proposed Tariff Revisions,
Clean Version**

Attachment K

in the PJM Manuals. Reserve levels are probabilistically determined based on the season's historical load forecasting error and forced outage rates.

(c) Nuclear generation resources shall not be eligible for Operating Reserve payments unless: 1) the Office of the Interconnection directs such resources to reduce output, in which case, such units shall be compensated in accordance with section 3.2.3(f) of this Schedule; or 2) the resource submits a request for a risk premium developed in accordance with the procedures specified in Section II.B of Attachment M - Appendix..

1.7.18 Regulation.

(a) Regulation to meet the Regulation objective of each Regulation Zone shall be supplied from generation resources and/or Demand Resources located within the metered electrical boundaries of such Regulation Zone. Generating Market Buyers, and Market Sellers offering Regulation, shall comply with applicable standards and requirements for Regulation capability and dispatch specified in the PJM Manuals.

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Except as provided in Section 3.2.3(m), if the total offered price exceeds the total value, the difference less any credit as determined pursuant to Section 3.2.3(b) plus the resources opportunity cost plus the resource's opportunity cost and less any amounts credited for Reactive Services as specified in Section 3.2.3.B, and less any amounts for Day-ahead Scheduling Reserve in excess of the Day-ahead Scheduling Reserve offer plus the resource's opportunity cost, shall be credited to the Market Seller.

Regulation, Synchronized Reserve and Day-ahead Scheduling Reserve credits applied against Operating Reserve credits pursuant to this section shall be netted against the Operating Reserve credits earned in the corresponding hour(s) in which the Regulation, Synchronized Reserve, and Day-ahead Scheduling Reserve credits accrued, provided that for condensing combustion turbines, Synchronized Reserve credits will be netted against the total Operating Reserve credits accrued during each period the unit operates in condensing and generation mode for one or more contiguous hours.

(f) A Market Seller's steam-electric generating unit or combined cycle unit operating in combined cycle mode that is pool-scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), the output of which is reduced or suspended at the request of the Office of the Interconnection due to a transmission constraint or other reliability issue, and for which the hourly integrated, real-time LMP at the unit's bus is higher than the unit's offer corresponding to the level of output requested by the Office of the Interconnection (as indicated either by the desired MWs of output from the unit determined by PJM's unit dispatch system or as directed by the PJM dispatcher through a manual override), shall be credited hourly in an amount equal to $\{(LMPD_{MW} - AG) \times (URTLMP - UB)\}$, where:

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LMPDMW equals the level of output for the unit determined according to the point on the scheduled offer curve on which the unit was operating corresponding to the hourly integrated real time LMP;

AG equals the actual hourly integrated output of the unit;

URLMPP equals the real time LMP at the unit's bus;

UB equals the unit offer for that unit for which output is reduced or suspended, determined according to the real-time scheduled offer curve on which the unit was operating, unless such schedule was a price-based schedule and the offer associated with that price schedule is less than the cost-based offer provided for the unit, in which case the offer for the unit will be determined from the cost-based schedule; and

where $URLMPP - UB$ shall not be negative.

(f-1) A Market Seller's combustion turbine unit or combined cycle unit operating in simple cycle mode that is pool-scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), operated as requested by the Office of the Interconnection, shall be compensated for lost opportunity cost if either of the following conditions occur:

(i) if the unit output is reduced at the direction of the Office of the Interconnection and the real time LMP at the unit's bus is higher than the unit's offer corresponding to the level of output requested by the Office of the Interconnection (as directed by the PJM dispatcher), then the Market Seller shall be credited in a manner consistent with that described above for a steam unit or combined cycle unit operating in combined cycle mode.

(ii) if the unit is scheduled to produce energy in the day-ahead market, but the unit is not called on by PJM and does not operate in real time, then the Market Seller shall be credited hourly in an amount equal to the higher of (i) $\{(URLMPP - UDALMPP) \times DAG\}$, or (ii) $\{(URLMPP - UB) \times DAG\}$ where:

URLMPP equals the real time LMP at the unit's bus;

UDALMPP equals the day-ahead LMP at the unit's bus;

DAG equals the day-ahead scheduled unit output for the hour;

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UB equals the offer price for the unit, determined according to the schedule on which the unit was committed day-ahead, unless such schedule was a price-based schedule and the offer associated with that price schedule is less than the cost-based offer provided for the unit, in which case the offer for the unit will be determined from the cost-based schedule; and

where $URTLMP - UDALMP$ and $URTLMP - UB$ shall not be negative.

(f-2) A Market Seller's hydroelectric resource that is pool-scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), the output of which is altered at the request of the Office of the Interconnection from the schedule submitted by the owner, due to a transmission constraint or other reliability issue, shall be compensated for lost opportunity cost in the same manner as provided in sections 3.2.2A(d) and 3.2.3A(f) and further detailed in the PJM Manuals.

(f-3) If a Market Seller believes that, due to specific pre-existing binding commitments to which it is a party, and that properly should be recognized for purposes of this section, the above calculations do not accurately compensate the Market Seller for opportunity cost associated with following PJM dispatch instructions and reducing or suspending a unit's output due to a transmission constraint or other reliability issue, then it may attempt to modify the amount of opportunity cost compensation in accordance with section V of the Attachment M-Appendix.

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(g) The sum of the foregoing credits, plus any cancellation fees paid in accordance with Section 1.10.2(d) such cancellation fees to be applied to the Operating Day for which the unit was scheduled, plus any shortfalls paid pursuant to the Market Settlement provision of the Real-time Economic Load Response Program, less any payments received from another Control Area for Operating Reserves, plus any redispatch costs incurred in accordance with section 10(a) of this Schedule, shall be the cost of Operating Reserves for the Real-time Energy Market in each Operating Day.

(h) The cost of Operating Reserves for the Real-time Energy Market for each Operating Day shall be allocated and charged to each Market Participant in proportion to the sum of the absolute values of its (i) load deviations (net of operating Behind The Meter Generation) from the Day-ahead Energy Market in megawatt-hours during that Operating Day, except as noted below and in the PJM Manuals; (ii) generation deviations (not including deviations in Behind The Meter Generation) from the Day-ahead Energy Market for non-dispatchable generation resources, including External Resources, in megawatt-hours during the Operating Day; (iii) deviations from the Day-ahead Energy Market for bilateral transactions from outside the PJM Region for delivery within such region in megawatt-hours during the Operating Day; and (iv) deviations of energy sales from the Day-ahead Energy Market from within the PJM Region to load outside such region in megawatt-hours during that Operating Day, but not including its bilateral transactions that are dynamically scheduled to load outside such area pursuant to Section 1.12.

Deviations that occur within a single Zone shall be associated with the Eastern or Western Regions, as defined in Section 3.2.3(q) of this Schedule, and shall be subject to the regional balancing Operating Reserve rate determined in accordance with Section 3.2.3(q). Deviations at interfaces and hubs shall be associated with the Eastern or Western Region if all the busses that define all interfaces or all hubs are located in the region. If deviations at interfaces and hubs are associated with the Eastern or Western region, they shall be subject to the regional balancing Operating Reserve rate. Demand and supply deviations shall be based on total activity in a Zone, including all aggregates and hubs defined by busses that are wholly contained within the same Zone.

The foregoing notwithstanding, netting deviations shall be allowed in accordance with the following provisions:

(i) Generation resources with multiple units located at a single bus shall be able to offset deviations in accordance with the PJM Manuals to determine the net deviation MW at the relevant bus.

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- (ii) Demand deviations will be assessed by comparing all day-ahead demand transactions at a single transmission zone, hub, or interface against the real-time demand transactions at that same transmission zone, hub, or interface; except that the positive values of demand deviations, as set forth in the PJM Manuals, will not be assessed Operating Reserve charges in the event of an Operating Reserve shortage in real-time or where PJM initiates the request for load reductions in real-time in order to avoid an Operating Reserve shortage as described in this Schedule, Section 6A, Scarcity Pricing.
- (iii) Supply deviations will be assessed by comparing all day-ahead transactions at a single transmission zone, hub, or interface against the real-time transactions at that same transmission zone, hub, or interface.

(i) At the end of each Operating Day, Market Sellers shall be credited on the basis of their offered prices for synchronous condensing for purposes other than providing Synchronized Reserve or Reactive Services, as well as the credits calculated as specified in Section 3.2.3(b) for those generators committed solely for the purpose of providing synchronous condensing for purposes other than providing Synchronized Reserve or Reactive Services, at the request of the Office of the Interconnection.

(j) The sum of the foregoing credits as specified in Section 3.2.3(i) shall be the cost of Operating Reserves for synchronous condensing for the PJM Region for purposes other than providing Synchronized Reserve or Reactive Services, or in association with post-contingency operation for the Operating Day and shall be separately determined for each Control Zone of the PJM Region based on the Control Zone to which the resource was synchronized to provide synchronous condensing for purposes other than providing Synchronized Reserve or Reactive Services, or in association with post-contingency operation.

(k) The cost of Operating Reserves for synchronous condensing for purposes other than providing Synchronized Reserve or Reactive Services, or in association with post-contingency operation for each Operating Day shall be allocated and charged to each Market Participant in proportion to the sum of its (i) deliveries of energy to load (net of operating Behind The Meter Generation, but not to be less than zero) in the PJM Region, served under Network Transmission Service, in megawatt-hours during that

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(b) At the end of each Operating Day, where the active energy output of a Market Seller's resource is reduced or suspended at the request of the Office of the Interconnection for the purpose of maintaining reactive reliability within the PJM Region, the Market Seller shall be credited according to Sections 3.2.3B(c) & 3.2.3B(d).

(c) A Market Seller providing Reactive Services from either a steam-electric generating unit or combined cycle unit operating in combined cycle mode, where such unit is pool-scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), and where the hourly integrated, real time LMP at the unit's bus is higher than the price offered by the Market Seller for energy from the unit at the level of output requested by the Office of the Interconnection (as indicated either by the desired MWs of output from the unit determined by PJM's unit dispatch system or as directed by the PJM dispatcher through a manual override) shall be compensated for lost opportunity cost by receiving a credit hourly in an amount equal to $\{(LMP_{DMW} - AG) \times (URTLMP - UB)\}$

where:

LMP_{DMW} equals the level of output for the unit determined according to the point on the scheduled offer curve on which the unit was operating corresponding to the hourly integrated real time LMP;

AG equals the actual hourly integrated output of the unit;

URTLMP equals the real time LMP at the unit's bus;

UB equals the unit offer for that unit for which output is reduced or suspended determined according to the real time scheduled offer curve on which the unit was operating, unless such schedule was a price-based schedule and the offer associated with that price-based schedule is less than the cost-based offer for the unit, in which case the offer for the unit will be determined based on the cost-based schedule; and

where $URTLMP - UB$ shall not be negative.

(d) A Market Seller providing Reactive Services from either a combustion turbine unit or combined cycle unit operating in simple cycle mode that is pool scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), operated as requested by the Office of the Interconnection, shall be compensated for lost opportunity cost if either of the following conditions occur:

(i) if the unit output is reduced at the direction of the Office of the Interconnection and the real time LMP at the unit's bus is higher than the price offered by the Market Seller for energy from the unit at the level of output requested by the Office of the Interconnection as directed by the PJM dispatcher, then the Market Seller shall be credited in a manner consistent with that described above in Section 3.2.3B(c) for a steam unit or a combined cycle unit operating in combined cycle mode.

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(ii) if the unit is scheduled to produce energy in the day-ahead market, but the unit is not called on by PJM and does not operate in real time, then the Market Seller shall be credited hourly in an amount equal to the higher of (i) $\{(URTLMP - UDALMP) \times DAG\}$, or (ii) $\{(URTLMP - UB) \times DAG\}$ where:

URTLMP equals the real time LMP at the unit's bus;

UDALMP equals the day-ahead LMP at the unit's bus;

DAG equals the day-ahead scheduled unit output for the hour;

UB equals the offer price for the unit determined according to the schedule on which the unit was committed day-ahead, unless such schedule was a price-based schedule and the offer associated with that price-based schedule is less than the cost-based offer for the unit, in which case the offer for the unit will be determined based on the cost-based schedule; and

where $URTLMP - UDALMP$ and $URTLMP - UB$ shall not be negative.

(e) At the end of each Operating Day, where the active energy output of a Market Seller's unit is increased at the request of the Office of the Interconnection for the purpose of maintaining reactive reliability within the PJM Region and the offered price of the energy is above the real-time LMP at the unit's bus, the Market Seller shall be credited according to Section 3.2.3B(f).

(f) A Market Seller providing Reactive Services from either a steam-electric generating unit, combined cycle unit or combustion turbine unit, where such unit is pool scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), and where the hourly integrated, real time LMP at the unit's bus is lower than the price offered by the Market Seller for energy from the unit at the level of output requested by the Office of the Interconnection (as indicated either by the desired MWs of output from the unit determined by PJM's unit dispatch system or as directed by the PJM dispatcher through a manual override), shall receive a credit hourly in an amount equal to $\{(AG - LMPDMW) \times (UB - URTLMP)\}$ where:

AG equals the actual hourly integrated output of the unit;

LMPDMW equals the level of output for the unit determined according to the point on the scheduled offer curve on which the unit was operating corresponding to the hourly integrated real time LMP;

UB equals the unit offer for that unit for which output is increased, determined according to the real time scheduled offer curve on which the unit was operating;

URTLMP equals the real time LMP at the unit's bus; and

where $UB - URTLMP$ shall not be negative.

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(g) A Market Seller providing Reactive Services from a hydroelectric resource where such resource is pool scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), and where the output of such resource is altered from the schedule submitted by the Market Seller for the purpose of maintaining reactive reliability at the request of the Office of the Interconnection, shall be compensated for lost opportunity cost in the same manner as provided in sections 3.2.2A(d) and 3.2.3A(f) and further detailed in the PJM Manuals.

(h) If a Market Seller believes that, due to specific pre-existing binding commitments to which it is a party, and that properly should be recognized for purposes of this section, the above calculations do not accurately compensate the Market Seller for lost opportunity cost associated with following the Office of the Interconnection's dispatch instructions to reduce or suspend a unit's output for the purpose of maintaining reactive reliability, then the Office of the Interconnection, it may attempt to modify the amount of opportunity cost compensation in accordance with section V of the Attachment M–Appendix.

(i) The amount of Synchronized Reserve provided by generating units maintaining reactive reliability shall be counted as Synchronized reserve satisfying the overall PJM Synchronized Reserve requirements. Operators of these generation units shall be notified of such provision, and to the extent a generation unit's operator indicates that the generation unit is capable of providing Synchronized Reserve, shall be subject to the same requirements contained in Section 3.2.3A regarding provision of Tier 2 Synchronized Reserve. At the end of each Operating Day, to the extent a condenser operated to provide Reactive Services also provided Synchronized Reserve, a Market Seller shall be credited for providing synchronous condensing for the purpose of maintaining reactive reliability at the request of the Office of the Interconnection, in an amount equal to the higher of (i) the hourly Synchronized Reserve Market Clearing Price for each hour a generation unit provided synchronous condensing multiplied by the amount of Synchronized reserve provided by the synchronous condenser or (ii) the sum of (A) the generation unit's hourly cost to provide synchronous condensing, calculated in accordance with the PJM Manuals, (B) the hourly product of MW energy usage for providing synchronous condensing multiplied by the real time LMP at the generation unit's bus, (C) the generation unit's startup-cost of providing synchronous condensing, and (D) the unit-specific lost opportunity cost of the generation resource supplying the increment of Synchronized Reserve as determined by the Office of the Interconnection in accordance with procedures specified in the PJM Manuals. To the extent a condenser operated to provide Reactive Services was not also providing Synchronized Reserve, the Market Seller shall be credited only for the generation unit's cost to condense, as described in (ii) above. The total Synchronized Reserve Obligations of all Load Serving Entities under section 3.2.3A(a) in the zone where these condensers are located shall be reduced by the amount counted as satisfying the PJM Synchronized Reserve requirements. The Synchronized Reserve Obligation of each Load Serving Entity in the zone under section 3.2.3A(a) shall be reduced to the same extent that the costs of such condensers counted as Synchronized Reserve are allocated to such Load Serving Entity pursuant to paragraph (l) below.

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5.2 Transmission Congestion Credit Calculation.

5.2.1 Eligibility.

(a) Except as provided in Section 5.2.1(b) below and Section VI of the Attachment M–Appendix, each holder of a Financial Transmission Right shall receive as a Transmission Congestion Credit a proportional share of the total Transmission Congestion Charges collected for each constrained hour.

(b) The Market Monitoring Unit shall calculate Transmission Congestion Credits pursuant to this section and section VI of Attachment M – Appendix and PJM shall bill Market Participants accordingly. An FTR holder objecting to the application of this rule shall have recourse to the Commission for review of the application of the FTR forfeiture rule to its trading activity, in which case the Office of the Interconnection may elect to defer to the Market Monitoring Unit to support such determination before the Commission.

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5.2.2 Financial Transmission Rights.

(a) Transmission Congestion Credits will be calculated based upon the Financial Transmission Rights held at the time of the constrained hour. Except as provided in paragraph (e) below, Financial Transmission Rights shall be auctioned as set forth in Section 7.

(b) The hourly economic value of a Financial Transmission Right Obligation is based on the Financial Transmission Right MW reservation and the difference between the Day-ahead Congestion Price at the point of delivery and the point of receipt of the Financial Transmission Right. The hourly economic value of a Financial Transmission Right Obligation is positive (a benefit to the Financial Transmission Right holder) when the Day-ahead Congestion Price at the point of delivery is higher than the Day-ahead Congestion Price at the point of receipt. The hourly economic value of a Financial Transmission Right Obligation

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subsection (a) that are jointly pivotal with respect to such transmission limit(s), and (2) the generation resource's owner, when combined with the two largest other generation suppliers, is not pivotal ("three pivotal supplier test").

(f) For the purposes of conducting the three pivotal supplier test in subsection (e), the following applies:

(i) All megawatts of available incremental supply for which the power distribution factor ("dfax") has an absolute value equal to or greater than the dfax used by the Office of the Interconnection's system operators when evaluating the impact of generation with respect to the constraint ("effective megawatts") will be included in the available supply analysis at costs equal to the cost-based offers of the available incremental supply adjusted for dfax ("effective costs"). The Office of the Interconnection will post on the PJM website the dfax value used by operators with respect to a constraint when it varies from three percent.

(ii) The three pivotal supplier test will include in the definition of the relevant market incremental supply up to and including all such supply available at an effective cost equal to 150% of the cost-based clearing price calculated using effective costs and effective megawatts and the need for megawatts to solve the constraint.

(iii) Offer price caps will apply on a generation supplier basis (i.e. not a generating unit by generating unit basis) and only the generation suppliers that fail the three pivotal supplier test will have their units that are dispatched with respect to the constraint offer capped. A generation supplier for the purposes of this section includes corporate affiliates. Supply controlled by a generation supplier or its affiliates by contract with unaffiliated third parties or otherwise will be included as supply of that generation supplier; supply owned by a generation supplier but controlled by an unaffiliated third party by contract or otherwise will be included as supply of that third party. A generation supplier's units are offer capped if, when combined with the two largest other generation suppliers, the generation supplier is pivotal.

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6.4.2 Level.

(a) The offer price cap shall be an amount determined in accordance with the procedures set forth in Section II.A of Attachment M–Appendix and shall be provided by the Market Seller as a cost-based offer submitted in conjunction with any market offers.

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(b) Market Participants shall have exclusive responsibility for preparing and submitting their offers on the basis of accurate information and in compliance with the FERC Market Rules, inclusive of the level of any applicable offer cap, and in no event shall PJM be held liable for the consequences of or make any retroactive adjustment to any clearing price on the basis of any offer submitted on the basis of inaccurate or non-compliant information.

6.5 [Reserved for Future Use]

6.6 Minimum Generator Operating Parameters – Parameter Limited Schedules

(a) Generation resources shall submit and be subject to pre-determined limits on non-price offer parameters (“parameter limited schedules”) under the following circumstances:

- (i) The Operating Reserve markets fail the three pivotal supplier test. When this subsection applies, the parameter limited schedule shall be the less limiting of the defined parameter limited schedules or the submitted offer parameters.
- (ii) The Office of the Interconnection: (i) declares a Maximum Generation Emergency; (ii) issues an alert that a Maximum Generation Emergency may be declared (“Maximum Generation Emergency Alert”); or (iii) schedules units based on the anticipation of a Maximum Generation Emergency or a Maximum Generation Emergency Alert for all, or any part, of an Operating Day.

(b) Parameter limited schedules shall be defined for the following parameters:

- (i) Turn Down Ratio;
- (ii) Minimum Down Time;
- (iii) Minimum Run Time;
- (iv) Maximum Daily Starts;
- (v) Maximum Weekly Starts.

(c) The following table specifies default parameter limited schedule values, by technology type, for generation resources:

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Parameter Limited Schedule Matrix

Parameter	Minimum Down Time (Hrs)	Minimum Run Time (Hrs)	Maximum Daily Starts	Maximum Weekly Starts	Turn Down Ratio = Economic Maximum MW / Economic Minimum MW
Small Frame CT and Aero CT Units - Up to 29 MW ICAP	2.0 or Less	2.0 or Less	2 or More	14 or More	1.0 or More
Medium Frame CT and Aero CT Units - 30 MW to 65 MW ICAP	2.0 or Less	3.0 or Less	2 or More	14 or More	1.0 or More
Medium-Large Frame CT Units - 65 MW to 125 MW ICAP	3.0 or Less	5.0 or Less	2 or More	14 or More	1.0 or More
Large Frame CT Units - 135 MW to 180 MW ICAP	4.0 or Less	5.0 or Less	2 or More	14 or More	1.0 or More
Combined Cycle Units	4.0 or Less	6.0 or Less	2 or More	11 or More	1.5 or More
Petroleum and Natural Gas Steam Units - Pre-1985	7.0 or Less	8.0 or Less	1 or More	7 or More	3.0 or More
Petroleum and Natural Gas Steam Units - Post-1985	3.5 or Less	5.5 or Less	2 or More	11 or More	2.0 or More
Sub-Critical Coal Units	9.0 or Less	15.0 or Less	1 or More	5 or More	2.0 or More
Super-Critical Coal Units	84.0	24.0 or Less	1 or More	2 or ore	1.5 or More

(d) Upon receipt of proposed revised parameter limited schedule values from the Market Monitoring Unit, prepared in accordance with the procedures for periodic review included in section II.B.1 of Attachment M - Appendix, the Office of the Interconnection shall file to revise the parameter limited schedule matrix in section 6.6(c) above accordingly. The Office of the Interconnection may defer to the Market Monitoring Unit to support such values in a separate attachment or pleading.

(e) The Market Monitoring Unit shall calculate and provide generation resources unit-specific default values in accordance with section II.B of Attachment M - Appendix. In addition, a generation resource may obtain an exception from the unit-specific values for the period defined in section II.B of Attachment M - Appendix by submitting a request to the Market Monitoring Unit. The Market Monitor shall evaluate such request in accordance with the process set forth in Section II.B of Attachment M - Appendix. A generation resource (i) must submit a

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parameter limited schedule value consistent with its agreement under such process, or, (ii) if it has not agreed with the Market Monitoring Unit on an appropriate parameter limited schedule value, may submit its own determination of an appropriate value to the Office of the Interconnection.

(f) On a daily basis each generation resource may submit notification to the Office of the Interconnection of changed operational limitations at such generation resources that require a temporary exception to the otherwise applicable parameter limited schedule value. Each generation resource must supply the required data necessary to support the exception consistent with the requirements set forth in the PJM Manuals. Such exceptions may not continue past the next period (as described in section II.B of Attachment M - Appendix). Temporary exception requests shall be subject to acceptance by the Office of the Interconnection upon submission by a generation resource, and shall be subject to further subsequent review by the Market Monitoring Unit. Based on the further review and determination by the Market Monitoring Unit, the generation resource may (i) continue to submit a parameter limited schedule value consistent with the Market Monitoring Unit's determination or, (ii) if dissatisfied with the Market Monitoring Unit's determination, continue to submit a parameter limited schedule value to the Office of Interconnection inconsistent with the Market Monitoring Unit's determination. If physical conditions at the generation resource change, such that the exception is no longer required, the generation resource is required to so inform the Office of the Interconnection and the exception shall be terminated.

If during the period that an exception agreed to by the Market Monitoring Unit applies (or is approved by the Commission), there is a material change to the facts relied upon by the Market Monitoring Unit to support such exception (or the Commission in support of its approval), the generation resource shall bring the change to the attention of the Market Monitoring Unit (or the Commission) for a determination as to whether the exception continues to be appropriate.

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VERIFICATION

PJM requires that the load reduction meter data be submitted to PJM within 60 days of the event. If the data are not received within 60 days, no payment for participation is provided. Meter data must be provided for the hour prior to the event, as well as every hour during the event.

These data files are to be communicated to PJM either via the Load Response Program web site or email. Files that are emailed must be in the PJM-approved file format. Meter data will be forwarded to the EDC and LSE upon receipt, and these parties will then have ten (10) business days to provide feedback to PJM.

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ATTACHMENT B

**MMU Proposed Tariff Revisions,
Redlined Against Provisions in the April 29th Filing**

Attachment M

ATTACHMENT M

PJM MARKET MONITORING PLAN

I. OBJECTIVES

The objectives of this PJM Market Monitoring Plan are to maintain an independent Market Monitoring Unit that will objectively monitor, investigate, evaluate and report on the PJM Markets, including, but not limited to, structural, design or operational flaws in the PJM Markets or the exercise of market power or manipulation in the PJM Markets. The Market Monitoring Unit shall have responsibility for implementing the Plan. In the event of any conflict between a provision in the Plan and a provision of the PJM Market Rules, the provision of the Plan shall control.

II. DEFINITIONS

Unless the context otherwise requires, for purposes of this Plan, capitalized terms shall have the meanings given below or in Section I of the PJM Tariff.

- (a) **“Authorized Government Agency”** means a regulatory body or government agency, with jurisdiction over PJM, the PJM Market, or any entity doing business in the PJM Market, including, but not limited to, the Commission, State Commissions, and state and federal attorneys general.
- (b) **“Commission”** means the Federal Energy Regulatory Commission.
- (c) **“Corrective Action”** means an action set forth in section IV.I of this Plan.

(c-1) “Cost Development Guidelines” means the manual that includes the detailed method for determining the components of Incremental Costs (see section II(d-2)) for operating capacity in accordance with Schedule 2 of the Operating Agreement.

(d) **“FERC Market Rules”** mean the market behavior rules and the prohibition against electric energy market manipulation codified by the Commission in its Rules and Regulations at 18 CFR §§ 1c.2 and 35.37, respectively; the Commission-approved PJM Market Rules and any related proscriptions or any successor rules that the Commission from time to time may issue, approve or otherwise establish.

(d-1) “Incremental Cost” means the operating costs determined in accordance with the Cost Development Guidelines that are intended to equal the short run marginal costs of a specific generating unit.

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- (t) **“PJM Reliability Assurance Agreement”** means the Reliability Assurance Agreement among Load Serving Entities in the PJM Region on file with the Commission.
- (u) **“PJM Tariff”** means the Open Access Transmission Tariff of PJM on file with the Commission.
- (v) **“PJM Transmission Owners Agreement”** means the PJM Consolidated Transmission Owners Agreement on file with the Commission.
- (w) **“Plan”** means the PJM market monitoring plan set forth in this Attachment M and the Attachment M–Appendix.
- (x) **“State”** means the District of Columbia and any state or commonwealth in the PJM Region.
- (y) **“State Commission”** means any state regulatory agency having jurisdiction over retail electricity sales in any State in the PJM Region.

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III. MARKET MONITORING UNIT

A. Establishment: PJM shall establish or retain a Market Monitoring Unit to perform exclusively the functions set forth in this Plan.

B. Composition: The Market Monitoring Unit shall be comprised of personnel having the experience and qualifications necessary to implement this Plan. In carrying out its responsibilities, the Market Monitoring Unit may retain such consultants, attorneys and experts as it deems necessary.

C. Independence: The Market Monitoring Unit shall be independent from, and not subject to, the direction or supervision of any person or entity, with the exception of the PJM Board as specified in Section III.D, and the Commission. No person or entity shall have the right to preview, screen, alter, delete, or otherwise exercise editorial control over or delay Market Monitoring Unit actions or investigations or the findings, conclusions, and recommendations developed by the Market Monitoring Unit that fall within the scope of market monitoring responsibilities contained in this Plan. Nothing in this section shall be interpreted to exempt the Market Monitoring Unit from any applicable provision of state or federal law.

D. Role of PJM Board:

1. The PJM Board shall have the authority and responsibility:
 - a. To review the budget of the Market Monitoring Unit, consistent with the budget processes and requirements set forth in Section III.E.
 - b. To propose to terminate, retain by contract renewal or replace the Market Monitoring Unit, consistent with the requirements of Section III.F.
2. The PJM Board and the Market Monitor shall meet and confer from time to time on matters relevant to the discharge of the PJM Board's and the Market Monitoring Unit's duties under this Plan.
3. Other than the matters set forth in Sections III.D.1 and D.2, the PJM Board shall have no responsibility for, or authority over, the Market Monitoring Unit.

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B. Monitored Activities: The Market Monitoring Unit shall be responsible for monitoring the following:

1. Compliance with the PJM Market Rules.
2. Actual or potential design flaws in the PJM Market Rules.
3. Structural problems in the PJM Markets that may inhibit a robust and competitive market.
4. The potential for a Market Participant to exercise market power or violate any of the PJM or FERC Market Rules or the actual exercise of market power or violation of the PJM or FERC Market Rules.
5. PJM's implementation of the PJM Market Rules or operation of the PJM Markets, as further set forth in Section IV.C.
6. Such matters as are necessary to prepare the reports set forth in Section VI.

C. Monitoring of PJM: The Market Monitoring Unit shall monitor PJM's implementation of the PJM Market Rules and operation of the PJM Markets. If the Market Monitoring Unit disagrees with the implementation of the PJM Market Rules or the operation of the PJM Markets, the Market Monitoring Unit may so advise PJM. Excepting matters governed by Section IV.I, if the disagreement cannot be resolved informally, the Market Monitoring Unit may inform the Commission, Authorized Government Agencies, or the PJM members. The Market Monitoring Unit shall have no authority to direct PJM to modify its operation of the PJM Markets or implementation of the PJM Market Rules.

C-1. Monitoring of ITCs: The Market Monitoring Unit shall monitor the services provided by the independent transmission companies (ITCs), and the ITC-PJM relationship, to detect any problems that may inhibit a robust and competitive market. Transactions utilizing the ITC Transmission Facilities shall be subject to the authority of the Market Monitoring Unit on the same basis as transactions involving any other Market Participant using other portions of the Transmission System. This provision is also found in Section 12.1 of Attachment U of the PJM Tariff.

D. Market Design: PJM is responsible for proposing for approval by the Commission, consistent with tariff procedures and applicable law, changes to the design of the PJM Markets. If the Market Monitoring Unit detects a design flaw or other problem with the PJM Markets, the Market Monitoring Unit may initiate and propose, through the appropriate stakeholder processes, changes to the design of such market. In support of this function, the Market Monitoring Unit may engage in discussions with stakeholders, State Commissions, PJM Management, or the PJM Board; participate in PJM stakeholder meetings or working groups

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regarding market design matters; publish proposals, reports or studies on such market design issues; and make filings with the Commission on market design issues.

E. Mitigation: The Market Monitoring Unit shall have exclusive authority to administer the provisions for retrospective mitigation and the development of inputs for use in prospective mitigation described in the Attachment M–Appendix. The Market Monitoring Unit may, consistent with the PJM Market Rules, recommend to PJM that it take specific mitigation action that PJM is authorized to take under the PJM Market Rules to address market behavior or conditions. The Market Monitoring Unit shall not, however, have authority to require modification of PJM operational decisions, including dispatch instructions. If PJM does not accept the Market Monitoring Unit’s

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J. Additional Market Monitoring Unit Authority: In addition to notifications and referrals under Sections IV.I.1 and IV.I.2, respectively, the Market Monitoring Unit shall have the additional authority described in this section, as follows:

1. Engage in discussions regarding issues relating to the PJM Market Rules or FERC Market Rules, in order to understand such issues and to attempt to resolve informally such issues or other issues.
2. Excepting matters governed by Section IV.I, file reports and make appropriate regulatory filings with Authorized Government Agencies to address design flaws, structural problems, compliance, market power, or other issues, and seek such appropriate action or make such recommendations as the Market Monitoring Unit shall deem appropriate. The Market Monitoring Unit shall make such filings or reports publicly available and provide simultaneous notice of the existence of reports to the PJM members and PJM, subject to protection of confidential information.
3. Consult with Authorized Government Agencies concerning the need for specific investigations or monitoring activities.
4. Consider and evaluate a broad range of additional enforcement mechanisms that may be necessary to assure compliance with the PJM Market Rules. As part of this evaluation process, the Market Monitoring Unit shall consult with Authorized Government Agencies and other interested parties.
5. Report directly to the Commission staff on any matter.

K. Confidentiality:

1. All discussions between the Market Monitoring Unit and Market Participants concerning the informal resolution of compliance issues initially shall remain confidential, subject to the provisions in subsection IV.K.3.
2. Except as provided in subsection IV.K.3, in exercising its authority to take Corrective Actions, the Market Monitoring Unit shall observe the confidentiality provisions of the PJM Operating Agreement and Attachment M - Appendix.
3. Notwithstanding anything to the contrary in this Plan or the PJM Operating Agreement and Attachment M - Appendix, the Market Monitoring Unit: (a) may disclose any information to the Commission in connection with the reporting required under Sections IV.I.1 and IV.I.2 of this Plan, provided that any written submission to

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the Commission that includes information that is confidential under the PJM Operating Agreement or Attachment M - Appendix shall be accompanied by a request that the information be maintained as confidential, and (b) may make reports or other regulatory filings pursuant to Section IV.J or V of this Plan if accompanied by a request that information that is confidential under the PJM Operating Agreement or Attachment M - Appendix be maintained as confidential.

V. INFORMATION AND DATA

A. Primary Information Sources: The Market Monitoring Unit shall rely primarily upon data and information that are customarily gathered in the normal course of business of PJM and such publicly available data and information that may be helpful to accomplish the objectives of the Plan, including, but not limited to, (1) information gathered or generated by PJM in connection with its scheduling and dispatch functions, its operation of the transmission grid in the PJM Region or its determination of Locational Marginal Prices, (2) information required to be provided to PJM in accordance with the PJM Market Rules and (3) any other information that is generated by, provided to, or in the possession of PJM. The foregoing information shall be provided to the Market Monitoring Unit as soon as practicable, including, but not limited to, real-time access to scheduling, dispatch and other operational data.

B. Other Information Requests: If other information is required from a Market Participant, the Market Monitoring Unit shall comply with the following procedures:

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1. **Request for Additional Data:** If the Market Monitoring Unit determines that additional information is required to accomplish the objectives of the Plan, the Market Monitoring Unit may make reasonable requests of the entities possessing such information to provide the information. Any such request for additional information will be accompanied by an explanation of the need for the information and the Market Monitoring Unit's inability to acquire the information from alternate sources.

2. **Failure to Comply with Request:** The information request recipient shall provide the Market Monitoring Unit with all information that is reasonably requested. If an information request recipient does not provide requested information within a reasonable time, the Market Monitoring Unit may initiate such regulatory or judicial proceedings to compel the production of such information as may be available and deemed appropriate by the Market Monitoring Unit, including petitioning the Commission for an order that the information is necessary and directing its production. An information request recipient shall have the right to respond to any such petitions and participate in the proceedings thereon.

3. **Information Concerning Possible Undue Preference:** Notwithstanding subsection V.B.1, if the Market Monitoring Unit requests information relating to possible undue preference between Transmission Owners and their affiliates, Transmission Owners and their affiliates must provide requested information to the Market Monitoring Unit within a reasonable time, as specified by the Market Monitoring Unit; provided, however, that an information request recipient may petition the Commission for an order limiting all or part of the information request, in which event the Commission's order on the petition shall determine the extent of the information request recipient's obligation to comply with the disputed portion of the information request.

4. **Confidentiality:** Except as provided in Section IV.K.3 of this Plan, the Market Monitoring Unit shall observe the confidentiality provisions of the PJM Operating Agreement and Attachment M - Appendix with respect to information provided under this section if an entity providing the information designates it as confidential.

C. **Complaints:** Any Market Participant or other interested entity may at any time submit information to the Market Monitoring Unit concerning any matter relevant to the Market Monitoring Unit's responsibilities under the Plan, or may request the Market Monitoring Unit to make inquiry or take any action contemplated by the Plan. Such submissions or requests may be made on a confidential basis. The Market Monitoring Unit may request further information from such Market Participant or other entity and make such inquiry as the Market Monitoring Unit considers appropriate. The Market Monitoring Unit shall not be required to act with respect to any specific complaint unless the Market Monitoring Unit determines action to be warranted.

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D. Collection and Availability of Information: The Market Monitoring Unit shall regularly collect and maintain under its sole control the information that it deems necessary for implementing the Plan. A Market Participant shall have sole responsibility to make available to the Market Monitoring Unit any information that the Market Monitoring Unit deems reasonably necessary to document, verify or investigate a claim or request by such Market Participant. All load reduction data are subject to audit by the Market Monitoring Unit. The Market Monitoring Unit shall make publicly available a detailed description of the categories of data collected by the Market Monitoring Unit. To the extent it deems appropriate and upon specific request, the Market Monitoring Unit may release other data to the public, consistent with the obligations of the Market Monitoring Unit and PJM to protect confidential, proprietary, or commercially sensitive information as provided in Attachment M - Appendix and the PJM Operating Agreement.

E. Access to Personnel and Facilities: The Market Monitoring Unit shall have access to PJM personnel and facilities as necessary to perform the functions set forth in this Plan. If the Market Monitoring Unit seeks data or other information from PJM personnel, it may contact the appropriate personnel that may be in possession of such data or information. If the Market Monitoring Unit seeks a formal opinion or position on a matter from PJM, it shall contact the PJM Liaison or appropriate senior management official to provide such opinion or position.

F. Market Monitoring Indices: The Market Monitoring Unit shall develop, and shall refine on the basis of experience, indices or other standards to evaluate the information that it collects and maintains. Prior to using any such index or standard, the Market Monitoring Unit shall provide PJM members, Authorized Government Agencies, and other interested parties an opportunity to comment on the appropriateness of such index or standard. Following such opportunity for comments, the decision to use any index or standard shall be solely that of the Market Monitoring Unit.

G. Evaluation of Information: The Market Monitoring Unit shall evaluate, and shall refine on the basis of experience, the information it collects and maintains, or that it receives from other sources, regarding the operation of the PJM Markets or other matters relevant to the Plan. As so evaluated, such information shall provide the basis for reports or other actions of the Market Monitoring Unit under this Plan.

VI. REPORTS

A. Reports: The Market Monitoring Unit shall prepare and submit contemporaneously to the Commission, the State Commissions, the PJM Board, PJM Management and to the PJM Members Committee, annual state-of-the-market reports on the state of competition within, and the efficiency of, the PJM Markets, and quarterly reports that update selected portions of the annual report and which may focus on certain topics of particular interest to the Market Monitoring Unit. The quarterly reports shall not be as extensive as the annual reports. In its annual, quarterly and other reports, the Market Monitoring Unit may make recommendations regarding any matter within its purview. The annual reports shall, and the quarterly reports may, address, among other things, the extent to which prices in the PJM Markets reflect competitive outcomes, the structural competitiveness of the PJM Markets, the

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effectiveness of bid mitigation rules, and the effectiveness of the PJM Markets in signaling infrastructure investment. These annual reports shall, and the quarterly reports may include recommendations as to whether changes to the Market Monitoring Unit or the Plan are required. In addition, the Market Monitoring Unit shall provide to the PJM Board, in a timely manner, copies of any reports submitted to Authorized Government Agencies pursuant to Section VI.B. The Market Monitoring Unit may from time-to-time prepare and submit additional reports to the Commission, the PJM Board and PJM Members Committee as the Market Monitoring Unit may deem appropriate in the discharge of its responsibilities under the Plan.

B. Reports to Authorized Government Agencies: The Market Monitoring Unit shall contemporaneously submit to the Authorized Government Agencies the reports provided to the PJM Board pursuant to Section VI.A. Subject to applicable law and regulation and any other applicable provisions of the PJM Operating Agreement or PJM Tariff, the Market Monitoring Unit shall, to the extent practicable, respond to reasonable requests by Authorized Government Agencies other than the Commission for reports, subject to protection of confidential, proprietary and commercially sensitive information, the protection of the confidentiality of ongoing inquiries and monitoring activities, and the availability of resources.

C. Public Reports: The Market Monitoring Unit shall prepare a detailed public annual report about the Market Monitoring Unit's activities, subject to protection of confidential, proprietary, and commercially sensitive information and the protection of the confidentiality of ongoing investigations and monitoring activities. The Market Monitoring Unit may, instead of filing a separate report, include the referenced material in a report filed pursuant to Section VI.A hereof.

VII. AUDIT

The Market Monitoring Unit shall annually (a) document, and advise PJM of, Market Monitoring Unit's actual expenses for the prior year by no later than March 15, and provide a copy of such documentation to the Finance Committee, and (b) provide audited financial statements of the Market Monitoring Unit of revenues and expenses related solely to the services provided to PJM, audited by a nationally recognized independent third party auditor selected by the Market Monitor, by no later than May 15. The audit report shall include, but not be limited to, a review of whether MMU expenditures were for purposes consistent with the functions set forth in this Plan and shall include documentation at a level of supporting detail consistent with that required in Section III.E above. The audit report shall be provided to the PJM Board, Finance Committee, Market Monitoring Unit, OPSI, OPSI Advisory Committee, PJM and PJM members subject to the protection of confidential information. The requirement that the Market Monitoring Unit annually document and advise PJM of its expenses for the prior year is also found in subsection (e) of Schedule 9-MMU.

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VIII. LIMITATION OF LIABILITY

Any liability of PJM arising under or in relation to this Plan shall be subject to this Section VIII. The PJM Entities shall not be liable to any Market Participant, any party to the PJM Operating Agreement, any customer under the PJM Tariff, or any other person subject to this Plan in respect of any matter described in or contemplated by this Plan, as the same may be amended or supplemented from time to time, including but not limited to liability for any financial loss, loss of economic advantage, opportunity cost, or actual or consequential damages of any kind resulting from or attributable to any act or omission of any of the PJM Entities under this Plan. Neither the OPSI Advisory Committee nor any State Commission (including commissioners and staff persons) shall be liable to any person under this Plan for any financial loss, loss of economic advantage, opportunity cost, or actual or consequential damages associated with performing any of its functions or duties under this Plan.

IX. ALTERNATIVE DISPUTE RESOLUTION

Notwithstanding any provision of the PJM Tariff or the PJM Operating Agreement, PJM and the Market Monitoring Unit shall not be required to use the dispute resolution procedures in the PJM Tariff or the PJM Operating Agreement in carrying out its duties and responsibilities under this Plan. However, nothing herein shall prevent PJM or any other person from requesting the use of the dispute resolution procedure set forth in the PJM Tariff or the PJM Operating Agreement, as applicable.

X. EFFECTIVE DATE

This Plan shall be effective as of August 1, 2008.

XI. CODE OF ETHICS

The Market Monitoring Unit and its employees, as applicable, shall adhere to the following Code of Ethics, which is reproduced from Section 17 of PJM Rate Schedule No. 46, Market Monitoring Services Agreement By And Between PJM Interconnection, L.L.C. And Monitoring Analytics, LLC entered into on December 18, 2007, and filed with the Commission to comply with order of the Federal Energy Regulatory Commission, Docket Nos. EL07-56 and EL07-58 *et al.*, issued March 21, 2008, 122 FERC ¶ 61,257.

A. Conflicts of Interest:

1. The Market Monitoring Unit will use its best efforts to assure that all of its employees comply with this Code of Ethics and shall take appropriate disciplinary actions against employees who violate the policy.
2. The Market Monitoring Unit and its employees assisting on market monitoring matters for PJM, and their spouses and dependent children, may

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not have a direct equity or other financial interest in a Market Participant or in a parent, subsidiary, or affiliate of a Market Participant. (The term “direct” is meant to exclude investments such as mutual funds in which a person has no direct control, with the exception of sector-specific mutual funds.)

3. The Market Monitoring Unit and its employees assisting on market monitoring matters for PJM, may not undertake a matter for a third party where such representation would require disclosure of market-sensitive or proprietary information of PJM.

B. Prohibited Engagements and Conduct by the Market Monitoring Unit:

1. Neither the Market Monitoring Unit nor its employees will be engaged to provide advice, or undertake a matter for or on behalf of, any entity on any entity’s participation in the PJM Markets, except as otherwise authorized under subparagraphs (iii) and (v).
2. Neither the Market Monitoring Unit nor its employees will be engaged by any entity in any litigation, open regulatory docket, alternative dispute resolution procedure, or arbitration with PJM, except as otherwise authorized under subparagraphs (iii) and (v).
3. Neither the Market Monitoring Unit nor its employees will be engaged to appear on behalf of or against any entity before a state regulatory commission within the PJM Region in any new engagement in the electricity business except as authorized under the PJM Tariff, as requested by a state regulatory commission, or as otherwise required by law.
4. Neither the Market Monitoring Unit nor its employees shall accept any engagement by any market participant outside of the PJM Region that would require the Market Monitoring Unit to take a position adverse to any PJM member or inconsistent with any position taken by the Market Monitoring Unit in the PJM Region.
5. Neither the Market Monitoring Unit nor its employees will be engaged to appear on behalf of or against any entity before the Commission on any matter within the PJM Region in any new engagement in the electricity business except as authorized under the PJM Tariff, as requested by the Commission, or as otherwise required by law.
6. Before the Market Monitoring Unit accepts any engagement on behalf of or against an Interested Party, it must inform the PJM General Counsel and the PJM Board of such potential engagement and provide the PJM Board with an

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opportunity to state its objection to such representation on the ground the engagement would present a conflict of interest or result in the material appearance of conflict. At the discretion of the Market Monitoring Unit, the Market Monitoring Unit may notify the PJM General Counsel that the proposed engagement is confidential and request that the General Counsel disclose the proposed engagement only to a PJM Board subcommittee in a manner which limits the disclosure of nonpublic information. Within seven (7) business days of being informed of the potential engagement by the Market Monitoring Unit, the PJM Board shall state any objection to such potential engagement. If the Market Monitoring Unit disagrees with the PJM Board's determination regarding the potential engagement by the Market Monitoring Unit, the Parties shall jointly engage the Commission's Dispute Resolution Service to determine whether the engagement would present a conflict of interest or result in the material appearance of a conflict. Unless the Commission's Dispute Resolution Service finds no conflict of interest the Market Monitoring Unit shall be precluded from accepting the challenged engagement. For these purposes, the term "Interested Party" means (x) a Market Participant; (v) a state regulatory commission within the PJM Region; or (z) a person or entity with a significant direct financial interest in the organization, governance or operation of PJM but shall not include PJM itself.

7. Employees of the Market Monitoring Unit shall not accept gifts, payments, favors, meals, transportation, entertainment, or services (individually, "Gift," and collectively, "Gifts"), of other than nominal value within a calendar year from PJM, Authorized Government Agencies, any market participant, contractor, supplier or vendor to the Market Monitoring Unit. Except that "Gifts" shall not include any of the foregoing that is generally provided to the attendees of business meetings (e.g. PJM stakeholder meetings). Gifts not exceeding One Hundred Fifty Dollars (\$150) shall be deemed to be of "nominal value." Similarly, neither the Market Monitoring Unit nor any employee of the Market Monitoring Unit shall offer any Gift to any public official or Market Participant unless such Gifts: are legal; not offered for specific gain or reciprocal action; follow generally accepted ethical standards; and are of nominal value.

- C. **Compliance with All Applicable Laws:** The Market Monitoring Unit will use its best efforts to assure the compliance of the Market Monitoring Unit and its employees with all applicable laws, including but not limited to those referenced in the PJM Code of Conduct.

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ATTACHMENT M – APPENDIX

I. CONFIDENTIALITY OF DATA AND INFORMATION

A. Party Access:

1. No Member shall have a right hereunder to receive or review any documents, data or other information of another Member, including documents, data or other information provided to the Market Monitoring Unit, to the extent such documents, data or information have been designated as confidential pursuant to the procedures adopted by the Market Monitoring Unit or to the extent that they have been designated as confidential by such other Member; provided, however, a Member may receive and review any composite documents, data and other information that may be developed based on such confidential documents, data or information if the composite does not disclose any individual Member's confidential data or information.

2. Except as may be provided in this Appendix, the Plan, the PJM Operating Agreement or in the PJM Tariff, the Market Monitoring Unit shall not disclose to its Members or to third parties, any documents, data, or other information of a Member or entity applying for Membership, to the extent such documents, data, or other information has been designated confidential pursuant to the procedures adopted by the Market Monitoring Unit or by such Member or entity applying for membership; provided that nothing contained herein shall prohibit the Market Monitoring Unit from providing any such confidential information to its agents, representatives, or contractors to the extent that such person or entity is bound by an obligation to maintain such confidentiality. The Market Monitoring Unit shall collect and use confidential information only in connection with its authority under this Appendix, the Plan, the PJM Operating Agreement or in the PJM Tariff and the retention of such information shall be in accordance with PJM's data retention policies.

3. Nothing contained herein shall prevent the Market Monitoring Unit from releasing a Member's confidential data or information to a third party provided that the Member has delivered to the Market Monitoring Unit specific, written authorization for such release setting forth the data or information to be released, to whom such release is authorized, and the period of time for which such release shall be authorized. The Market Monitoring Unit shall limit the release of a Member's confidential data or information to that specific authorization received from the Member. Nothing herein shall prohibit a Member from withdrawing such authorization upon written notice to the Market Monitoring Unit, who shall cease such release as soon as practicable after receipt of such withdrawal notice.

4. Reciprocal provisions to this Section I hereof, delineating the confidentiality requirements of the Office of the Interconnection and PJM members, are set forth in Section 18.17 of the PJM Operating Agreement.

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B. Required Disclosure:

1. Notwithstanding anything in the foregoing section to the contrary, and subject to the provisions of Section I.C below, if the Market Monitoring Unit is required by applicable law, or in the course of administrative or judicial proceedings, to disclose to third parties, information that is otherwise required to be maintained in confidence pursuant to the PJM Tariff, PJM Operating Agreement, Attachment M or this Appendix, the Market Monitoring Unit may make disclosure of such information; provided, however, that as soon as the Market Monitoring Unit learns of the disclosure requirement and prior to making disclosure, the Market Monitoring Unit shall notify the affected Member or Members of the requirement and the terms thereof and the affected Member or Members may direct, at their sole discretion and cost, any challenge to or defense against the disclosure requirement. The Market Monitoring Unit shall cooperate with such affected Members to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law. The Market Monitoring Unit shall cooperate with the affected Members to obtain proprietary or confidential treatment of such information by the person to whom such information is disclosed prior to any such disclosure.

2. Nothing in this Section I shall prohibit or otherwise limit the Market Monitoring Unit's use of information covered herein if such information was: (i) previously known to the Market Monitoring Unit without an obligation of confidentiality; (ii) independently developed by or for the Office of the Interconnection and/or the PJM Market Monitor using non-confidential information; (iii) acquired by the Office of the Interconnection and/or the PJM Market Monitor from a third party which is not, to the Office of the Market Monitoring Unit's knowledge, under an obligation of confidence with respect to such information; (iv) which is or becomes publicly available other than through a manner inconsistent with this Section I.

3. The Market Monitoring Unit shall impose on any contractors retained to provide technical support or otherwise to assist with the implementation of the Plan or this Appendix a contractual duty of confidentiality consistent with the Plan or this Appendix. A Member shall not be obligated to provide confidential or proprietary information to any contractor that does not assume such a duty of confidentiality, and the Market Monitoring Unit shall not provide any such information to any such contractor without the express written permission of the Member providing the information.

C. Disclosure to FERC:

1. Notwithstanding anything in this Section I to the contrary, if the FERC or its staff, during the course of an investigation or otherwise, requests information from the Market Monitoring Unit that is otherwise required to be maintained in confidence pursuant to the PJM Tariff, the PJM Operating Agreement, the Plan or this Appendix, the Market Monitoring Unit shall provide the requested information to the FERC or its staff, within the time provided for in the request for information. In providing the information to the FERC or its staff, the Market Monitoring Unit may, consistent with 18 C.F.R. § 388.112, request that the information be treated as confidential and non-public by the FERC and its staff and that the information be withheld from public

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disclosure. The Market Monitoring Unit shall notify any affected Member(s) when it is notified by FERC or its staff, that a request for disclosure of, or decision to disclose, confidential information has been received, at which time the Office of the Interconnection, the Market Monitoring Unit, and/or the affected Member may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

2. The foregoing Section I.C.1 shall not apply to requests for production of information under Subpart D of the FERC's Rules of Practice and Procedure (18 CFR Part 385) in proceedings before FERC and its administrative law judges. In all such proceedings, PJM and/or the Market Monitoring Unit shall follow the procedures in Section 18.17.2.

D. Disclosure to Authorized Commissions:

1. Notwithstanding anything in this Section I to the contrary, the Market Monitoring Unit shall disclose confidential information, otherwise required to be maintained in confidence pursuant to the PJM Tariff, the PJM Operating Agreement, the Plan or this Appendix, to an Authorized Commission under the following conditions:

- (i) The Authorized Commission has provided the FERC with a properly executed Certification in the form attached hereto as Schedule 10A. Upon receipt of the Authorized Commission's Certification, the FERC shall provide public notice of the Authorized Commission's filing pursuant to 18 C.F.R. § 385.2009. If any interested party disputes the accuracy and adequacy of the representations contained in the Authorized Commission's Certification, that party may file a protest with the FERC within 14 days of the date of such notice, pursuant to 18 C.F.R. § 385.211. The Authorized Commission may file a response to any such protest within seven days. Each party shall bear its own costs in connection with such a protest proceeding. If there are material changes in law that affect the accuracy and adequacy of the representations in the Certification filed with the FERC, the Authorized Commission shall, within thirty (30) days, submit an amended Certification identifying such changes. Any such amended Certification shall be subject to the same procedures for comment and review by the FERC as set forth above in this paragraph.
- (ii) Neither the Office of the Interconnection nor the Market Monitoring Unit may disclose data to an Authorized Commission during the FERC's consideration of the Certification and any filed protests. If the FERC does not act upon an Authorized Commission's Certification within 90 days of the date of filing, the Certification shall be deemed approved and the Authorized Commission shall be permitted to receive confidential information pursuant to this Section I. In the event that an interested party protests the Authorized Commission's Certification and the FERC

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approves the Certification, that party may not challenge any Information Request made by the Authorized Commission on the grounds that the Authorized Commission is unable to protect the confidentiality of the information requested, in the absence of a showing of changed circumstances.

- (iii) Any confidential information provided to an Authorized Commission pursuant to this Section I shall not be further disclosed by the recipient Authorized Commission except by order of the FERC.
- (iv) The Market Monitoring Unit shall be expressly entitled to rely upon such Authorized Commission Certifications in providing confidential information to the Authorized Commission, and shall in no event be liable, or subject to damages or claims of any kind or nature hereunder, due to the ineffectiveness or inaccuracy of such Authorized Commission Certifications.
- (v) The Authorized Commission may provide confidential information obtained from the Market Monitoring Unit to such of its employees, attorneys and contractors as needed to examine or handle that information in the course and scope of their work on behalf of the Authorized Commission, provided that (a) the Authorized Commission has internal procedures in place, pursuant to the Certification, to ensure that each person receiving such information agrees to protect the confidentiality of such information (such employees, attorneys or contractors to be defined hereinafter as “Authorized Persons”); (b) the Authorized Commission provides, pursuant to the Certification, a list of such Authorized Persons to the Office of the Interconnection and the Market Monitoring Unit and updates such list, as necessary, every ninety (90) days; and (c) any third-party contractors provided access to confidential information sign a nondisclosure agreement in the form attached hereto as Schedule 10 before being provided access to any such confidential information.

2. The Market Monitoring Unit may, in the course of discussions with an Authorized Person, orally disclose information otherwise required to be maintained in confidence, without the need for a prior Information Request. Such oral disclosures shall provide enough information to enable the Authorized Person or the Authorized Commission with which that Authorized Person is associated to determine whether additional Information Requests are appropriate. The Market Monitoring Unit will not make any written or electronic disclosures of confidential information to the Authorized Person pursuant to this Section I.D.2. In any such discussions, the Market Monitoring Unit shall ensure that the individual or individuals receiving such confidential information are Authorized Persons as defined herein, orally designate confidential information that is disclosed, and refrain from identifying any specific Affected Member whose information is disclosed. The Market Monitoring Unit shall also be authorized to assist

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Authorized Persons in interpreting confidential information that is disclosed. The Market Monitoring Unit shall provide any Affected Member with oral notice of any oral disclosure immediately, but not later than one (1) business day after the oral disclosure. Such oral notice to the Affected Member shall include the substance of the oral disclosure, but shall not reveal any confidential information of any other Member and must be received by the Affected Member before the name of the Affected Member is released to the Authorized Person; provided however, disclosure of the identity of the Affected Party must be made to the Authorized Commission with which the Authorized Person is associated within two (2) business days of the initial oral disclosure.

3. As regards Information Requests:

- (i) Information Requests to the Office of the Interconnection and/or Market Monitoring Unit by an Authorized Commission shall be in writing, which shall include electronic communications, addressed to the Market Monitoring Unit, and shall: (a) describe the information sought in sufficient detail to allow a response to the Information Request; (b) provide a general description of the purpose of the Information Request; (c) state the time period for which confidential information is requested; and (d) re-affirm that only Authorized Persons shall have access to the confidential information requested. The Market Monitoring Unit shall provide an Affected Member with written notice, which shall include electronic communication, of an Information Request by an Authorized Commission as soon as possible, but not later than two (2) business days after the receipt of the Information Request.
- (ii) Subject to the provisions of Section I.D.3(iii) below, the Market Monitoring Unit shall supply confidential information to the Authorized Commission in response to any Information Request within five (5) business days of the receipt of the Information Request, to the extent that the requested confidential information can be made available within such period; provided however, that in no event shall confidential information be released prior to the end of the fourth (4th) business day without the express consent of the Affected Member. To the extent that the Market Monitoring Unit cannot reasonably prepare and deliver the requested confidential information within such five (5) day period, it shall, within such period, provide the Authorized Commission with a written schedule for the provision of such remaining confidential information. Upon providing confidential information to the Authorized Commission, the Market Monitoring Unit shall either provide a copy of the confidential information to the Affected Member(s), or provide a listing of the confidential information disclosed; provided, however, that the Market Monitoring Unit shall not reveal any Member's confidential information to any other Member.

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- (iii) Notwithstanding Section I.D.3(ii), above, should the Office of the Interconnection, the Market Monitoring Unit or an Affected Member object to an Information Request or any portion thereof, any of them may, within four (4) business days following the Market Monitoring Unit's receipt of the Information Request, request, in writing, a conference with the Authorized Commission to resolve differences concerning the scope or timing of the Information Request; provided, however, nothing herein shall require the Authorized Commission to participate in any conference. Any party to the conference may seek assistance from FERC staff in resolution of the dispute or terminate the conference process at any time. Should such conference be refused or terminated by any participant or should such conference not resolve the dispute, then the Office of the Interconnection, Market Monitoring Unit, or the Affected Member may file a complaint with the FERC pursuant to Rule 206 objecting to the Information Request within ten (10) business days following receipt of written notice from any conference participant terminating such conference. Any complaints filed at the FERC objecting to a particular Information Request shall be designated by the party as a "fast track" complaint and each party shall bear its own costs in connection with such FERC proceeding. The grounds for such a complaint shall be limited to the following: (a) the Authorized Commission is no longer able to preserve the confidentiality of the requested information due to changed circumstances relating to the Authorized Commission's ability to protect confidential information arising since the filing of or rejection of a protest directed to the Authorized Commission's Certification; (b) complying with the Information Request would be unduly burdensome to the complainant, and the complainant has made a good faith effort to negotiate limitations in the scope of the requested information; or (c) other exceptional circumstances exist such that complying with the Information Request would result in harm to the complainant. There shall be a presumption that "exceptional circumstances," as used in the prior sentence, does not include circumstances in which an Authorized Commission has requested wholesale market data (or Market Monitoring Unit workpapers that support or explain conclusions or analyses) generated in the ordinary course and scope of the operations of the Market Monitoring Unit. There shall be a presumption that circumstances in which an Authorized Commission has requested personnel files, internal emails and internal company memos, analyses and related work product constitute "exceptional circumstances" as used in the prior sentence. If no complaint challenging the Information Request is filed within the ten (10) day period defined above, the Office of the Interconnection and/or Market Monitoring Unit shall utilize its best efforts to respond to the Information

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Request promptly. If a complaint is filed, and the Commission does not act on that complaint within ninety (90) days, the complaint shall be deemed denied and the Market Monitoring Unit shall use its best efforts to respond to the Information Request promptly.

- (iv) Any Authorized Commission may initiate appropriate legal action at the FERC within ten (10) business days following receipt of information designated as “Confidential,” challenging such designation. Any complaints filed at FERC objecting to the designation of information as “Confidential” shall be designated by the party as a “fast track” complaint and each party shall bear its own costs in connection with such FERC proceeding. The party filing such a complaint shall be required to prove that the material disclosed does not merit “Confidential” status because it is publicly available from other sources or contains no trade secret or other sensitive commercial information (with “publicly available” not being deemed to include unauthorized disclosures of otherwise confidential data).

4. In the event of any breach of confidentiality of information disclosed pursuant to an Information Request by an Authorized Commission or Authorized Person:

- (i) The Authorized Commission or Authorized Person shall promptly notify the Market Monitoring Unit, who shall, in turn, promptly notify any Affected Member of any inadvertent or intentional release, or possible release, of confidential information provided pursuant to this Section I.
- (ii) The Office Market Monitoring Unit shall terminate the right of such Authorized Commission to receive confidential information under this Section I upon written notice to such Authorized Commission unless: (i) there was no harm or damage suffered by the Affected Member; or (ii) similar good cause is shown. Any appeal of the Market Monitoring Unit’s actions under this Section I shall be to Commission. An Authorized Commission shall be entitled to reestablish its certification as set forth in Section I.D.1 by submitting a filing with the Commission showing that it has taken appropriate corrective action. If the Commission does not act upon an Authorized Commission’s recertification filing with sixty (60) days of the date of the filing, the recertification shall be deemed approved and the Authorized Commission shall be permitted to receive confidential information pursuant to this section.
- (iii) The Office of the Interconnection, the Market Monitoring Unit, and/or the Affected Member shall have the right to seek and obtain at least the following types of relief: (a) an order from the FERC requiring any breach

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to cease and preventing any future breaches; (b) temporary, preliminary, and/or permanent injunctive relief with respect to any breach; and (c) the immediate return of all confidential information to the Market Monitoring Unit.

- (iv) No Authorized Person or Authorized Commission shall have responsibility or liability whatsoever under this section for any and all liabilities, losses, damages, demands, fines, monetary judgments, penalties, costs and expenses caused by, resulting from, or arising out of or in connection with the release of confidential information to persons not authorized to receive it, provided that such Authorized Person is an agent, servant, employee or member of an Authorized Commission at the time of such unauthorized release. Nothing in this Section I.D.4(iv) is intended to limit the liability of any person who is not an agent, servant, employee or member of an Authorized Commission at the time of such unauthorized release for any and all economic losses, damages, demands, fines, monetary judgments, penalties, costs and expenses caused by, resulting from, or arising out of or in connection with such unauthorized release.
- (v) Any dispute or conflict requesting the relief in Section I.D.4(ii) or I.D.4(iii)(a) above, shall be submitted to the FERC for hearing and resolution. Any dispute or conflict requesting the relief in Section I.D.4(iii)(c) above may be submitted to FERC or any court of competent jurisdiction for hearing and resolution.

E. Market Monitoring:

1. Subject to the requirements of Section E.2, the Market Monitoring Unit may release confidential information of Public Service Electric & Gas Company (“PSE&G”), Consolidated Edison Company of New York (“ConEd”), and their affiliates, and the confidential information of any Member regarding generation and/or transmission facilities located within the PSE&G Zone to the New York Independent System Operator, Inc. (“New York ISO”), the market monitoring unit of New York ISO and the New York ISO Market Advisor to the limited extent that PJM or the Market Monitoring Unit determines necessary to carry out the responsibilities of PJM, New York ISO or the market monitoring units of PJM and the New York ISO under FERC Opinion No. 476 (see Consolidated Edison Company v. Public Service Electric and Gas Company, et al., 108 FERC ¶ 61,120, at P 215 (2004)) to conduct joint investigations to ensure that gaming, abuse of market power, or similar activities do not take place with regard to power transfers under the contracts that are the subject of FERC Opinion No. 476.

2. The Market Monitoring Unit may release a Member’s confidential information pursuant to Section I.E.1 to the New York ISO, the market monitoring unit of the New York ISO and the New York ISO Market Advisor only if the New York ISO, the market

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monitoring unit of the New York ISO and the New York ISO Market Advisor are subject to obligations limiting the disclosure of such information that are equivalent to or greater than the limitations on disclosure specified in this Section I.E. Information received from the New York ISO, the market monitoring unit of the New York ISO, or the New York ISO Market Advisor under Section I.E.1 that is designated as confidential shall be protected from disclosure in accordance with this Section I.E.

II. DEVELOPMENT OF INPUTS FOR PROSPECTIVE MITIGATION

A. Offer Price Caps:

1. The Market Monitor or his designee shall serve as the ~~Chair Technical Advisor~~ to PJM's Cost Development Task Force and shall ~~advise the Office of the Interconnection whether it believes~~ have responsibility to ensure that the cost references, methods and rules included in the Cost Development Guidelines are accurate and appropriate, ~~as specified in the PJM Manuals.~~

2. A Market Seller shall determine for each generating unit that is offers in to the PJM Interchange Energy Market an offer price cap in accordance with one of the procedures, at the Market Seller elections, provided below:

(i) The weighted average Locational Marginal Price at the generation bus at which energy from the capped resource was delivered during a specified number of hours during which the resource was dispatched for energy in economic merit order, the specified number of hours to be determined by the Market Monitoring Unit to be a number of hours sufficient to result in an offer price cap that reflects reasonably contemporaneous competitive market conditions for that unit.

(ii) The Incremental Cost of the generation resource plus 10% of such costs, or, for those units determined to be Frequently Mitigated Units (FMUs) as pursuant to Section II.A.4 below, one of the following, as applicable:

(a) For units that are offer capped for 60% or more of their run hours, but less than 70% of their run hours, the offer price cap will be either (i) incremental cost plus 10% or (ii) incremental cost plus \$20 per megawatt-hour;

(b) For units that are offer capped for 70% or more of their run hours, but less than 80% of their run hours, the offer price cap will be either (i) incremental cost plus 15%, not to exceed incremental cost plus \$40 per megawatt-hour, or (ii) incremental cost plus \$30 per megawatt-hour;

(c) For units that are offer capped for 80% or more of their run hours, the offer price cap will be (i) incremental costs plus 10%; (ii) incremental cost plus \$40 per megawatt-hour; or (iii) the

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agreed unit-specific going forward costs of the affected unit as reflected in an agreement entered pursuant to subparagraph (iv), below; or

- (iii) An amount determined by agreement between the Market Monitoring Unit and the Market Seller determined in accordance with the process provided at section II.A.3 below.

3. The Market Monitoring Unit shall review upon request of a Market Seller, and may review upon its own initiative at any time, the ~~Incremental Costs (defined in Section 6.4.2 of Schedule 1 of the Operating Agreement)~~ included in the Offer Price Cap of a generating unit in order to ensure that the Market Seller has correctly applied the Cost Development Guidelines and that the level of the Offer Price Cap is otherwise ~~acceptable~~ appropriate. The Market Seller and the Market Monitor shall attempt to agree to an appropriate Offer Price Cap to the extent that the formula for calculating Incremental Costs as included in the Cost Development Guidelines does not sufficiently address a unit's particular circumstances. In the event that the Market Monitoring Unit and the Market Participant can agree on an appropriate Offer Price Cap, the Market Participant shall commit to offer no higher than such Offer Price Cap. In the event that the Market Monitoring Unit and the Market Seller cannot reach agreement after 60 days from the commencement of negotiations, the Market Seller may submit the value that it chooses, subject to section 6.4.2(b) of the Operating Agreement, provided that within 30 days it shall submit the rates, terms and conditions of its proposed Offer Price Cap to the Commission for approval.

43. The Market Monitoring Unit shall issue a written notice to a unit indicating that it is a "Frequently Mitigated Unit" or "FMU," or an "Associated Unit," when the Market Monitoring Unit determines that the unit meets the following criteria: ~~delineated in Section 6.4.2 of Schedule 1 of the Operating Agreement~~

- (i) The unit has the identical electric impact on the transmission system as the FMU;
- (ii) The unit (i) belongs to the same design class (where a design class includes generation that is the same size and utilizes the same technology, without regard to manufacturer) and uses the identical primary fuel as the FMU or (ii) is regularly dispatched by PJM as a substitute for the FMU based on differences in cost that result from the currently applicable FMU adder;
- (iii) The unit (i) has an average daily cost-based offer, as measured over the preceding 12-month period, that is less than or equal to the FMU's average daily cost-based offer adjusted to include the currently applicable FMU adder or (ii) is regularly dispatched by PJM as a substitute for the FMU based on differences in cost that result from the currently applicable FMU adder.

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The Offer Price Cap for an associated unit shall be equal to the Incremental Cost of such unit plus the applicable percentage adder or dollar per megawatt-hour adder as specified in Section 6.4.2(a)(iii)(a), (b), or (c) of Schedule 1 of the Operating Agreement for the unit with which it is associated.

For purposes of subsection (iii) above, the unit-specific going forward costs determined by agreement between the Market Seller and the Market Monitoring Unit shall include only the costs included in the Deactivation Avoidable Cost Rate, excluding costs associated with the Avoidable Project Investment Recovery Rate (APIR), set forth in section 115 of the PJM Tariff. Any costs that would be capitalized according to generally accepted accounting principles, associated carrying costs, or other fixed costs shall not be included. The agreement shall further provide that (i) in order for such costs to qualify for inclusion in the amounts determined by the agreement, the Market Seller must agree to provide to the Market Monitoring Unit relevant cost data concerning fuel, operating and maintenance, and other avoidable costs, (ii) the maintenance practices and incurrence of expense at the unit shall be subject to audit by the Office of the Interconnection, and (iii) the unit owner agrees to operate the unit in accordance with Good Utility Practice.

B. Minimum Generator Operating Parameters:

1. The Market Monitoring Unit shall provide to the Office of the Interconnection a table of default unit class specific parameter limits to be known as the “Parameter Limited Schedule Matrix” to be included in Section 6.6(c) of Schedule 1 of the Operating Agreement. The Parameter Limited Schedule Matrix shall include default values on a unit-type basis as specified in Section 6.6(c). The Market Monitoring Unit shall review the Parameter Limited Schedule Matrix twice yearly, and, in the event it determines that revision is appropriate, shall provide a revised matrix to the Office of the Interconnection by no later than December 31 and June 30, respectively, prior to the bi-annual enrollment periods for the submission of start-up and no-load costs on April 1 and October 1. Upon filing of such revised values by PJM, the Market Monitor shall file comments supporting such values.

2. The Market Monitoring Unit shall notify Generation Capacity Resources no later than March 15 and September 15 each year of its determination regarding each request for an exception to a value specified in the Parameter Limited Schedule Matrix or the parameters defined in (i) through (vii) below, in Section 6.6 of Schedule 1 of the Operating Agreement and the PJM Manuals, provided that the Market Monitoring Unit receives such request by no later than February 28 or

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August 31, respectively. The Market Monitoring Unit's determination for an exception shall continue for a period of no less than six months, and, if requested, for such longer period as the Market Monitoring Unit may determine is supported by the data. The Market Monitoring Unit shall first determine whether any of the provisions below apply, and, if so, then determine whether and to what extent historical operating data relevant to such provisions exist in support of an exception under the applicable criteria. The Market Monitoring Unit shall agree to permit the least flexible exception that it determines to be supported by the historical operating data.

- (i) With the sole exception of combustion turbine units (which shall have an assumed turn down ratio value equal to 1.0), the Market Monitoring Unit shall calculate on the basis of historical offer data the minimum acceptable turn down ratio parameter as the greater of (A) the ratio calculated on the basis of the minimum of the economic minima and the maximum of the economic maxima submitted by such unit over the prior 24 months or (B) 90 percent of the unit class turn down ratio from the Parameter Limited Schedule Matrix.
- (ii) The submitted minimum run time may not exceed the level defined in the Parameter Limited Schedule Matrix.
- (iii) For all units, the Market Monitoring Unit shall calculate on the basis of historical offer data the minimum down time parameter as the minimum of the minimum down times submitted over the prior 24 months up to a maximum value equal to 110 percent of the value specified in the Parameter Limited Schedule Matrix.
- (iv) The maximum starts per week may not be less than the level defined in the Parameter Limited Schedule Matrix.
- (v) The maximum starts per day may not be less than the level defined in the Parameter Limited Schedule Matrix.
- (vi) For steam units only, the Market Monitoring Unit shall calculate parameters that may be used in place of values from the parameter limited schedule matrix on the basis of market-based offers from units making market based offers and on the basis of cost-based offers for units which made only cost-based offers using the 2006 historical offer average parameters.
- (vii) For combined cycle units only, if the Market Monitoring Unit calculates that the unit's 2006 average historical market-based offer parameters are within the limits in the parameter matrix, the unit will be limited to that 2006 historical average. If the unit is not limited on the foregoing basis, then the Market Monitoring Unit shall determine whether the unit was

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offered with market-based offer parameters for ten percent or more of the days (36 days minimum) at a level at or more flexible than the values in the parameter limited schedule matrix, and, if so, the unit will be limited at that level. If the unit is not limited on the foregoing basis, then the Market Monitoring Unit shall determine whether the 2006 average historical market based offer parameters exceed the limits in the matrix (less flexible than the parameters in the matrix), and, if so, the unit shall be limited to the level at which the market-based parameter was bid to the most flexible level for ten percent or of the days (36 days minimum) at that level.

3. In the event that a generation unit believes that a physical operational limitation prevents such unit from meeting the minimum parameters or the parameters defined in (i) through (vii) above, the Market Monitoring Unit shall, upon request, analyze the historical operating data of such unit and shall agree to a value that is no less flexible than a value that it determines is supported on the basis of the actual historical operating data of the unit (inclusive of any data provided on a timely basis by the generating unit). A “physical operational limitation” shall include, but not be limited to, metallurgical restrictions due to age and long term degradation, physical design modifications performed as part of a life extension program, or environmental permit limitations under non-emergency conditions. The Market Monitoring Unit shall not consider a value supported for the foregoing determination if the historical operating data show that the generating unit can operate as or more flexibly than the value included in the Parameter Limited Schedule Matrix for ten percent or more of its run time. If the historical operating data show that the unit operated at or less flexibly than that defined in the matrix ten percent or less of its run time, but more flexibly than the requested exception, then the Market Monitoring Unit shall consider the exception request as supported at a level equal to the most flexible level at which such unit has operated for at least ten percent of its run time. The Market Monitoring Unit shall not agree to value any value less flexible than the level supported by the historical operating data unless section II.B.5 below applies. The Market Monitoring Unit shall notify the Office of the Interconnection of any exception to which it and the Generation Resource agree or its determination if agreement is not obtained. If a Generation Resource submits a Parameter Limited Schedule value inconsistent with its agreement or inconsistent with the Market Monitoring Unit’s determination regarding such value, the Market Monitoring Unit may petition the Commission for an order that would require the Generation Resource to submit an appropriate value.

4. Generation Resources that are expecting to undergo major operating configuration changes may submit requests for exceptions pursuant to Section II.B.3 above based upon those changes. The Generation Resource shall submit all relevant technical information supporting such operational limitations and an explanation of the derivation of the resulting Parameter Limited Schedule values. The Market Monitoring Unit shall review such requests based on historical data after at least 12 months of operating history becomes available.

53. When a Generation Capacity Resource notifies the Market Monitoring Unit of a material change to the facts relied upon by the Market Monitoring Unit to support a parameter

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limited schedule exception pursuant to Section 6.7 of Schedule 1 of the Operating Agreement (or the Commission in support of its approval), the Market Monitoring Unit shall either agree to continue the existing exception, agree to a revised exception or find that no exception is supported by the data, in which case the values specified in the parameter limited schedule matrix shall apply.

~~64. A nuclear generation resource seeking to establish eligibility to receive Operating Reserve payments by developing a risk premium pursuant to section 1.7.17(c) of the Operating Agreement shall attempt to obtain agreement on an appropriate level, if any, for such risk premium. The Market Monitoring Unit shall notify the Office of the Interconnection of any risk premium to which it and a nuclear generation resource agree or its determination if agreement is not obtained. In the event that ~~if~~ a nuclear generation resource and the Market Monitoring Unit cannot agree to ~~submit~~ a risk premium, then the nuclear generation owner shall have recourse to the Commission to establish an appropriate level, if any, of such risk premium inconsistent with its agreement or inconsistent with the Market Monitoring Unit's determination regarding such risk premium, the Market Monitoring Unit may exercise its powers to inform Commission staff of its concerns and request a determination that would require the nuclear generation resource to submit an appropriate risk premium.~~

C. RPM Must Offer Obligation:

1. The Market Monitoring Unit shall maintain, post on its website, provide to the Office of the Interconnection and file with the Commission for informational purposes (updated, as necessary, on at least a quarterly basis), a list of existing Generation Capacity Resources located in the PJM Region that are subject to the “must offer” obligation set forth in Section 6.6 of Attachment DD.

2. Pursuant to ~~the terms of~~ Section 5.6.6(d) of Attachment DD, the Market Monitoring Unit shall evaluate requests submitted by Capacity Market Sellers to delist a Generation Capacity Resource from PJM Capacity Resource ~~status consistent with Section 6.6 of Attachment DD~~, and make a determination as to whether the resource meets the applicable criteria to delist or explain why the resource does not meet such criteria and so inform both the Capacity Market Seller and the Office of the Interconnection of such determination. The applicable criteria shall be met by evidence of any of the following: (i) a unit specific bilateral transaction for service to load located outside the PJM Region, (ii) a demonstration that such resource is identified on a unit specific basis as a network resource under the transmission tariff for the control area applicable to such external load, or (iii) an equivalent demonstration of a financially and physically firm commitment to an external sale. The resource additionally shall identify the megawatt amount, export zone, and time period (in days) of the export. If a potential Capacity Resource owner notifies the Market Monitoring Unit that a material change with respect to any of the ~~prerequisites for the application of Section 5.6.6(d) to the Generation Capacity Resource~~ foregoing criteria has occurred, the Market Monitoring Unit shall re-evaluate the status of the Generation Capacity Resource.

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3. The Market Monitoring Unit shall evaluate the data and documentation provided to it by a potential Capacity Market Seller to establish the EFORD to be included in a Sell Offer applicable to each resource pursuant to Section 6.6 of Attachment DD, then it shall notify the Office of the Interconnection of any EFORD to which it and the Generation Capacity Resource agree or its determination of the EFORD if agreement is not obtained. If the Capacity Market Seller submits an EFORD inconsistent with the determination of the Market Monitoring Unit, the Market Monitoring may file a petition with FERC seeking on an expedited basis a determination of whether the EFORD complies with the FERC Market Rules. If such submittal would result in an increase in Zonal Capacity Prices determined at auction and the Market Monitoring Unit determines to petition the FERC for appropriate relief, it shall notify the Office of Interconnection.

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4. The Market Monitoring Unit shall consider the documentation provided to it by a potential Capacity Market Seller pursuant to Section 6.6 of Attachment DD, in determining whether that such resource (i) is reasonably expected to be physically unable to participate in the relevant auction; (ii) has a financially and physically firm commitment to an external sale of its capacity; or (iii) was interconnected to the Transmission System as an Energy Resource and not subsequently converted to a Capacity Resource. If the Market Monitoring Unit determines that a Capacity Market Sellers' failure to offer part or all of one or more existing generation resources into an auction has not been supported on the basis of the foregoing criteria, the Market Monitoring Unit may apply to FERC for an order, on an expedited basis, directing such Capacity Market Seller to participate in the auction, or for other appropriate relief. If such failure would result in an increase in Zonal Capacity Prices determined at auction, and the Market Monitoring Unit determines to petition the FERC for appropriate relief, it shall notify the Office of Interconnection.

5. If a Generation Capacity Resource submits, and the Office of Interconnection accepts, a Market Seller Offer Cap inconsistent with its agreement with the Market Monitoring Unit or inconsistent with the Market Monitoring Unit's determination regarding such Market Seller Offer Cap, the Market Monitoring Unit may ~~exercise its powers to inform Commission staff of its concerns and request a determination~~ petition the Commission, on an expedited basis, that would require the Generation Capacity Resource to submit an appropriate Market Seller Offer Cap.

D. Preliminary Market Structure Screen:

1. In sufficient time to permit the posting required by Section 6.2(a) of Attachment DD, the Market Monitoring Unit shall apply the Preliminary Market Structure Screen to identify the LDAs in which Capacity Market Sellers must provide the data specified in Section 6.7(b) of Attachment DD for any auction conducted with respect to such Delivery Year and whether Capacity Market Sellers must provide this data for the entire PJM Region. For each LDA and for the PJM Region, the Preliminary Market Structure Screen will be based on: (1) the Unforced Capacity available for such Delivery Year from Generation Capacity Resources located in such area; and (2) the Locational Deliverability Area Reliability Requirement and the PJM Reliability Requirement. For purposes of this screen, any LDA for which a separate Variable Resource Requirement Curve has not been established under Section 5.10 of Attachment DD shall be combined with all other such LDAs that form an electrically contiguous area ("Unconstrained LDA Group"), and the screen shall be applied to such area in the aggregate, rather than to each such LDA individually. Any such Unconstrained LDA Groups shall be identified in the posting required by Section 6.2(a) of Attachment DD.

2. An LDA, Unconstrained LDA Group, or the entire PJM Region shall fail the Preliminary Market Structure Screen, and Capacity Market Sellers owning or controlling any Generation Capacity Resource located in such LDA, Unconstrained LDA Group, or region shall be required to provide the information specified in Section 6.7 of Attachment DD, if any one of the following three conditions is met: (1) the market share of any Capacity Market Seller exceeds

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twenty percent; (2) the HHI for all such sellers is 1800 or higher; or (3) there are not more than three jointly pivotal suppliers.

3. By no later than 90 days prior to the conduct of the Base Residual Auction and each Incremental Auction for such Delivery Year, the Market Monitoring Unit shall provide to the Office of Interconnection and post or continue posting on its website for each LDA, Unconstrained LDA Group (if applicable) and to the entire PJM Region, the result of its Preliminary Market Structure Screen.

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4. In applying the Preliminary Market Structure Screen, the Market Monitoring Unit shall consider all incremental supply up to and including all such supply available at an effective cost less than or equal to 150% of the cost-based clearing price calculated using the incremental megawatts of supply available to solve the constraint and the need for megawatts to solve the constraint giving rise to a Locational Price Adder.

5. The Preliminary Market Structure Screen shall reflect the delisting of resources approved as provide under Section II.C.2 above no less than 30 days prior to the posting deadline.

E. Market Seller Offer Caps:

1. Based on the data and calculations submitted by the Capacity Market Sellers for each existing Generation Capacity Resource and the formulas specified in Section 6.7(d) of Attachment DD, the Market Monitoring Unit shall calculate the Market Seller Offer Cap for each such resource, and notify the Capacity Market Seller one month prior to the auction of its determination. This provision is duplicated in Section 6.7(d) of Attachment DD. In performing such calculations for each Generation Capacity Resource, the Market Monitoring Unit shall, at the election of the Market Seller, apply the applicable default values specified in Section 6.7 of Attachment DD or determine a unit-specific Market Seller Offer Cap on the basis of the provisions for determining a unit-specific Avoidable Cost Rate (Section II.E.5), PJM Market Revenues (Section II.E.6), or, if requested, Opportunity Cost (Section II.E.7), below.

2. The Market Monitoring Unit, must attempt to reach agreement with the Generation Market Seller on the level of the Market Seller Offer Cap. If such agreement cannot be reached because a Capacity Market Seller fails to submit data adequate to support the Market Seller Offer Cap requested, then the Market Monitoring Unit shall so inform the Office of the Interconnection. In the event that a Capacity Market Seller and the Market Monitoring Unit cannot come to agreement on the level of a Market Seller Offer Cap, then the Market Monitoring Unit shall inform the Capacity Market Seller and the Office of the Interconnection of its determination. If, pursuant to Section 6.4 of the Attachment DD, a Capacity Market Seller submits a Market Seller Offer Cap inconsistent with the Market Monitor's determination or a Sell Offer inconsistent with a requirement under such section to offer as Self-Supply, and the Market Monitoring Unit may petition the Commission for an order, on an expedited basis, for appropriate relief may pursue any action available to it under Attachment M. If such failure would result in an increase in Zonal Capacity Prices determined at auction, and the Market Monitoring Unit determines to petition the FERC for appropriate relief, it shall notify the Office of Interconnection.

3. Nothing herein shall preclude any Capacity Market Seller and the Market Monitoring Unit from agreeing to, nor require either such entity to agree to, an alternative market seller offer cap determined on a mutually agreeable basis. Any such alternative offer cap shall be filed with the Commission for its approval. This provision is duplicated in Section 6.4(a) of Attachment DD.

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4. Notwithstanding the number of jointly pivotal suppliers in any hour, if the Market Monitoring Unit determines that a reasonable level of competition will not exist based on an evaluation of all facts and circumstances, it may propose to the Commission the removal of offer-capping suspensions otherwise authorized by Section 6.4 of the Operating Agreement. Such proposals shall take effect upon Commission acceptance of the Market Monitoring Unit's filing.

5. The Market Monitoring Unit shall calculate the Avoidable Cost Rate (or may calculate, in the case of the tardy receipt of data) and provide a unit-specific value to Capacity Market Sellers requesting such calculation within the time specified in section 6.7(d) of Attachment DD. In performing this calculation, avoidable expenses (i) shall include only incremental expenses directly required to operate a Generation Capacity Resource that a Generation Owner would not incur if such generating unit did not operate in the Delivery Year or meet availability criteria during Peak-Hour Periods during the Delivery Year and (ii) shall exclude variable costs recoverable under cost-based offers to sell energy from operating capacity on the PJM Interchange Energy Market under the Operating Agreement.

The Avoidable Cost Rate for a Generation Capacity Resource that is the subject of a Sell Offer shall be determined using the following formula, expressed in dollars per megawatt-year:

$$\text{Avoidable Cost Rate} = \frac{[\text{Adjustment Factor} * (\text{AOML} + \text{AAE} + \text{AME} + \text{AVE} + \text{ATEI} + \text{ACC} + \text{ACLE}) + \text{ARPIR} + \text{APIR}]}{}$$

Where:

- Adjustment Factor equals 1.10 (to provide a margin of error for understatement of costs) plus an additional adjustment referencing the 10-year average Handy-Whitman Index in order to account for expected inflation from the time interval between the submission of the Sell Offer and the commencement of the Delivery Year.
- AOML (Avoidable Operations and Maintenance Labor) consists of the avoidable labor expenses related directly to operations and maintenance of the generating unit for the twelve months preceding the month in which the data must be provided. The categories of expenses included in AOML are those incurred for: (a) on-site based labor engaged in operations and maintenance activities; (b) off-site based labor engaged in on-site operations and maintenance activities directly related to the generating unit; and (c) off-site based labor engaged in off-site operations and maintenance activities directly related to generating unit equipment removed from the generating unit site.
- AAE (Avoidable Administrative Expenses) consists of the avoidable administrative expenses related directly to employees at the generating unit for twelve months preceding the month in which the data must be provided.

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The categories of expenses included in AAE are those incurred for: (a) employee expenses (except employee expenses included in AOML); (b) environmental fees; (c) safety and operator training; (d) office supplies; (e) communications; and (f) annual plant test, inspection and analysis.

- AME (Avoidable Maintenance Expenses) consists of avoidable maintenance expenses (other than expenses included in AOML) related directly to the generating unit for the twelve months preceding the month in which the data must be provided. The categories of expenses included in AME are those incurred for: (a) chemical and materials consumed during maintenance of the generating unit; and (b) rented maintenance equipment used to maintain the generating unit.
- AVE (Avoidable Variable Expenses) consists of avoidable variable expenses related directly to the generating unit incurred in the twelve months preceding the month in which the data must be provided. The categories of expenses included in AVE are those incurred for: (a) water treatment chemicals and lubricants; (b) water, gas, and electric service (not for power generation); and (c) waste water treatment.
- ATFI (Avoidable Taxes, Fees and Insurance) consists of avoidable expenses related directly to the generating unit incurred in the twelve months preceding the month in which the data must be provided. The categories of expenses included in AFTI are those incurred for: (a) insurance, (b) permits and licensing fees, (c) site security and utilities for maintaining security at the site; and (d) property taxes.
- ACC (Avoidable Carrying Charges) consists of avoidable short-term carrying charges related directly to the generating unit in the twelve months preceding the month in which the data must be provided. Avoidable short-term carrying charges shall include short term carrying charges for maintaining reasonable levels of inventories of fuel and spare parts that result from short-term operational unit decisions as measured by industry best practice standards. For the purpose of determining ACC, short term is the time period in which a reasonable replacement of inventory for normal, expected operations can occur.
- ACLE (Avoidable Corporate Level Expenses) consists of avoidable corporate level expenses directly related to the generating unit incurred in the twelve months preceding the month in which the data must be provided. Avoidable corporate level expenses shall include only such expenses that are directly linked to providing tangible services required for the operation of the generating unit proposed for Deactivation. The categories of avoidable

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expenses included in ACLE are those incurred for: (a) legal services, (b) environmental reporting; and (c) procurement expenses.

• **APIR (Avoidable Project Investment Recovery Rate) = PI * CRF**

Where:

- PI is the amount of project investment completed prior to June 1 of the Delivery Year, except for Mandatory Capital Expenditures (“CapEx”) for which the project investment must be completed during the Delivery Year, that is reasonably required to enable a Generation Capacity Resource that is the subject of a Sell Offer to continue operating or improve availability during Peak-Hour Periods during the Delivery Year.
- CRF is the annual capital recovery factor from the following table, applied in accordance with the terms specified below.

<u>Age of Existing Unit (Years)</u>	<u>Remaining Life of Plant (Years)</u>	<u>Levelized CRF</u>
<u>1 to 5</u>	<u>20</u>	<u>0.125</u>
<u>6 to 10</u>	<u>15</u>	<u>0.146</u>
<u>11 to 15</u>	<u>10</u>	<u>0.198</u>
<u>16 Plus</u>	<u>5</u>	<u>0.363</u>
<u>Mandatory CapEx</u>	<u>4</u>	<u>0.450</u>
<u>40 Plus Alternative</u>	<u>1</u>	<u>1.100</u>

Unless otherwise stated, Age of Existing Unit shall be equal to the number of years since the Unit commenced commercial operation, up to and through the relevant Delivery Year.

Remaining Life of Plant defines the amortization schedule (i.e., the maximum number of years over which the Project Investment may be included in the Avoidable Cost Rate.)

Capital Expenditures and Project Investment

For any given Project Investment, a Capacity Market Seller may make a one-time election to recover such investment using: (i) the highest CRF

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and associated recovery schedule to which it is entitled; or (ii) the next highest CRF and associated recovery schedule. For these purposes, the CRF and recovery schedule for the 16 Plus category is the next highest CRF and recovery schedule for both the Mandatory CapEx and the 40 Plus Alternative categories. The Capacity Market Seller using the above table must provide the Market Monitoring Unit with information, identifying and supporting such election, including but not limited to the age of the unit, the amount of the Project Investment, the purpose of the investment, evidence of corporate commitment (e.g., an SEC filing, a press release, or a letter from a duly authorized corporate officer indicating intent to make such investment), and detailed information concerning the governmental requirement (if applicable). Absent other written notification, such election shall be deemed based on the CRF such Seller employs for the first Sell Offer reflecting recovery of any portion of such Project Investment. A Sell Offer submitted in the Base Residual Auction for either or both of the 2007-2008 and 2008-2009 Delivery Years for which the “16 Plus” CRF and recovery schedule is selected may not exceed an offer price equal to the then-current Net CONE (on an unforced-equivalent basis).

For any resource using the CRF and associated recovery schedule from the CRF table that set the Capacity Resource Clearing Price in any Delivery Year, such Capacity Market Seller must also provide to the Market Monitoring Unit, for informational purposes only, evidence of the actual expenditure of the Project Investment, when such information becomes available.

If the project associated with a Project Investment that was included in a Sell Offer using a CRF and associated recovery schedule from the above table has not entered into commercial operation prior to the end of the relevant Delivery Year, and the resource’s Sell Offer sets the clearing price for the relevant LDA, the Capacity Market Seller shall be required to elect to either (i) pay a charge that is equal to the difference between the Capacity Resource Clearing Price for such LDA for the relevant Delivery Year and what the clearing price would have been absent the APIR component of the Avoidable Cost Rate, this difference to be multiplied by the cleared megawatt volume from such Resource (“rebate payment”); (ii) hold such rebate payment in escrow, to be released to the Capacity Market Seller in the event that the project enters into commercial operation during the subsequent Delivery Year or rebated to LSEs in the relevant LDA if the project has not entered into commercial operation during the subsequent Delivery Year; or (iii) make a reasonable investment in the amount of the PI in other existing Generation Capacity Resources owned

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or controlled by the Capacity Market Seller or its Affiliates in the relevant LDA. The revenue from such rebate payments shall be allocated pro rata to LSEs in the relevant LDA(s) that were charged a Locational Reliability Charge for such Delivery Year, based on their Daily Unforced Capacity Obligation in the relevant LDA(s). If the Sell Offer from the Generation Capacity Resource did not set the Capacity Resource Clearing Price in the relevant LDA, no alternative investment or rebate payment is required. If the difference between the Capacity Resource Clearing Price for such LDA for the relevant Delivery Year and what the clearing price would have been absent the APIR amount does not exceed the greater of \$10 per megawatt-day or a 10 percent increase in the clearing price, no alternative investment or rebate payment is required.

Mandatory CapEx Option

The Mandatory CapEx CRF and recovery schedule is an option available, beginning in the third Base Residual Auction (Delivery Year 2009-10), to a resource that must make a Project Investment to comply with a governmental requirement that would otherwise materially impact operating levels during the Delivery Year, where: (i) such resource is a coal, oil or gas-fired resource that began commercial operation no fewer than fifteen years prior to the start of the first Delivery Year for which such recovery is sought, and such Project Investment is equal to or exceeds \$200/kW of capitalized project cost; or (ii) such resource is a coal-fired resource located in an LDA for which a separate VRR Curve has been established for the relevant Delivery Years, and began commercial operation at least 50 years prior to the conduct of the relevant Base Residual Auction.

A Capacity Market Seller that wishes to elect the Mandatory CapEx option for a Project Investment must do so beginning with the Base Residual Auction for the Delivery Year in which such project is expected to enter commercial operation. A Sell Offer submitted in any Base Residual Auction for which the Mandatory CapEx option is selected may not exceed an offer price equivalent to 0.90 times the then-current Net CONE (on an unforced-equivalent basis).

40 Year Plus Alternative Option

The 40 Plus Alternative CRF and recovery schedule is an option available, beginning in the third Base Residual Auction (Delivery Year 2009-10), for a resource that is a gas- or oil-fired resource that began commercial operation no less than 40 years prior to the conduct of the relevant Base Residual Auction (excluding, however, any resource in any Delivery Year

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for which the resource is receiving a payment under Part V of the PJM Tariff. Generation Capacity Resources electing this 40 Plus Alternative CRF shall be treated as At Risk Generation for purposes of the sensitivity runs in the RTEP process). Resources electing the 40 Year Plus Option will be modeled in the RTEP process as “at-risk” at the end of the one-year amortization period.

A Capacity Market Seller that wishes to elect the 40 Plus Alternative option for a Project Investment must provide written notice of such election to the Office of the Interconnection no later than 180 days prior to the Base Residual Auction for which such election is sought; provided however that shorter notice may be provided if unforeseen circumstances give rise to the need to make such election and such seller gives notice as soon as practicable.

The Office of the Interconnection shall give market participants reasonable notice of such election, subject to satisfaction of requirements under the PJM Operating Agreement for protection of confidential and commercially sensitive information. A Sell Offer submitted in any Base Residual Auction for which the 40 Plus Alternative option is selected may not exceed an offer price equivalent to the then-current Net CONE (on an unforced-equivalent basis).

- ARPIR (Avoidable Refunds of Project Investment Reimbursements) consists of avoidable refund amounts of Project Investment Reimbursements payable by a Generation Owner to PJM under Part V, Section 118 of this Tariff or avoidable refund amounts of project investment reimbursements payable by a Generation Owner to PJM under a Cost of Service Recovery Rate filed under Part V, Section 119 of the Tariff and approved by the Commission.

6. The Market Monitoring Unit shall calculate the Projected PJM Market Revenues for any Generation Capacity Resource to which the Avoidable Cost Rate is applied and shall include all actual unit-specific revenues from PJM energy markets, ancillary services, and unit-specific bilateral contracts from such Generation Capacity Resource, net of marginal costs for providing such energy (i.e., costs allowed under cost-based offers pursuant to Section 6.4 of Schedule 1 of the Operating Agreement) and ancillary services from such resource. The calculation of Projected PJM Market Revenues shall be equal to the rolling simple average of such net revenues as described above from the three most recent whole calendar years prior to the year in which the Base Residual Auction is conducted. If a Generation Capacity Resource did not receive PJM market revenues during the entire relevant time period because the Generation Capacity Resource was not integrated into PJM during the full period, then the Projected PJM Market Revenues shall be calculated using only those whole calendar years within the full period in which such Resource received PJM market revenues. If a Generation Capacity Resource did not receive PJM market revenues during the entire relevant time period because it was not in

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commercial operation during the entire period, or if data is not available to the Capacity Market Seller for the entire period, despite the good faith efforts of such seller to obtain such data, then the Projected PJM Market Revenues shall be calculated based upon net revenues received over the entire period by comparable units, as agreed upon by the MMU and the Capacity Market Seller.

7. The Market Monitoring Unit shall review and verify the documentation of prices available to existing generation resources in markets external to PJM and proposed for inclusion in Opportunity Costs by a Generation Capacity Resource pursuant to section 6.7(d)(ii) of Attachment DD to the PJM Tariff. The Market Monitoring Unit shall notify such Generation Capacity Resource and the Office of the Interconnection if it is dissatisfied with the documentation provided and whether it objects to the inclusion of such Opportunity Costs in a Market Seller Offer. If such Generation Capacity Resource submits a Market Seller Offer that includes Opportunity Costs that have not been documented and verified to the Market Monitoring Unit's satisfaction, then the Market Monitoring Unit may petition the Commission for an order that would require the Generation Resource to remove them.

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F. Mitigation of Offers from Planned Generation Capacity Resources:

Pursuant to Section 6.5 of Attachment DD, the Market Monitoring Unit shall ~~notify each Capacity Market Seller whose Sell Offer that its Sell Offer has been determined to be excessive.~~ evaluate Sell Offers received from Planned Generation Capacity Resources and determined whether such Sell Offers are “excessive.” A Sell Offer shall be excessive if such Sell Offer exceeds 140 percent of: (x) the average of location-adjusted Sell Offers for Planned Generation Capacity Resources from the same asset class as such Sell Offer, submitted (and not rejected) (“Asset-Class New Plant Offers”) for such Delivery Year; or (y) if there are no Asset-Class New Plant Offers for such Delivery Year, the average of Asset-Class New Plant Offers for all prior Delivery Years; or (z) if there are no Asset-Class New Plant Offers for any prior Delivery Year, the Net CONE applicable for such Delivery Year in the LDA for which such offer was submitted. For purposes of this paragraph, asset classes shall be as stated in section 6.7(c) of Attachment DD to the PJM Tariff as effective for such Delivery Year, and Asset-Class New Plant Offers shall be location-adjusted by the ratio between the Net CONE effective for such Delivery Year for the LDA in which the Sell Offer subject to this paragraph was submitted and the average, weighted by installed capacity, of the Net CONEs for all LDAs in which the units underlying such Asset Class New Plant Offers are located. If the Market Monitoring Unit identifies an excessive offer, it shall promptly notify the Capacity Market Seller and the Office of the Interconnection, and, if requested by an affected Capacity Market Seller, work to develop a Sell Offer that complies with the foregoing criteria.

G. Data Submission: ~~Pursuant to Section 6.7I, t~~The Market Monitoring Unit may request additional information ~~(in addition to that required pursuant to section 6.7 of Attachment DD) from any potential auction participant as deemed necessary by the Market Monitoring Unit,~~ including, without limitation, additional cost data on resources in a class that is not otherwise expected to include the marginal price setting resource; and compliance with such request shall be a condition ~~for submitting an Offer Price Cap greater than the default level applicable to such resource as specified in 6.7(c) of Attachment DD of participation in any auction.~~ All data submitted to the Office of the Interconnection or the Market Monitoring Unit by a Market Participant is subject to verification by the Market Monitoring Unit.

H. Determination of Default Avoidable Cost Rates:

1. The Market Monitoring Unit shall annually review the table of default Avoidable Cost Rates included in Section 6.7(c) of Attachment DD and calculated on the bases set forth therein, and determine whether the values included therein need to be updated. If so, the Market Monitoring Unit shall provide to Office of the Interconnection updated values or notice of its determination that updated values are not needed. Upon filing of such revised values by PJM, the Market Monitor shall file comments supporting such values.

2. The Market Monitoring Unit shall indicate in its posted reports on RPM performance the number of Generation Capacity Resources and megawatts per LDA that use the retirement Avoidable Cost Rates.

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3. If a Capacity Market Seller does not elect to use a default Avoidable Cost Rate and has timely provided to the Market Monitoring Unit the data described in Section 6.7 of Attachment DD, the Market Monitoring Unit shall calculate ~~the Avoidable Cost Rate~~ (or may calculate, in the case of the tardy receipt of data) a Market Seller Offer Price Cap as provided in Section II.E above and provide a unit-specific value to the Capacity Market Seller.

4. If a Capacity Market Sellers submits a retirement Avoidable Cost Rate that is higher than the applicable default Avoidable Cost Rate included in the table in Section 6.7 of Attachment DD, and the Capacity Market Seller and the Market Monitoring Unit do not agree that the proposed retirement Avoidable Cost Rate that has been submitted is appropriate, and the Office of the Interconnection accepts the proposed retirement Avoidable Cost Rate submitted by the Capacity Market Seller, the Market Monitoring Unit may exercise its powers to inform Commission staff of its concerns and request a determination that would require the Capacity Market Seller to utilize the retirement Avoidable Cost Rate determined by the Market Monitoring Unit or such other retirement Avoidable Cost Rate as determined by the Commission.

~~**I. — Determination of PJM Market Revenues:** The Market Monitoring Unit shall calculate the Projected PJM Market Revenues for any Generation Capacity Resource to which the Avoidable Cost Rate is applied pursuant to Section 6.8(d) of Attachment DD.~~

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~~**J. — Determination of Opportunity Costs:** The Market Monitoring Unit shall review and verify the documentation of prices available to existing Generation Capacity Resources in markets external to PJM and proposed for inclusion in Opportunity Costs pursuant to Section 6.7(d)(ii) of Attachment DD. The Market Monitoring Unit shall notify such Generation Capacity Resource and the Office of the Interconnection if it is dissatisfied with the documentation provided and whether it objects to the inclusion of such Opportunity Costs in a Market Seller Offer. If such Generation Capacity Resource submits a Market Seller Offer that includes Opportunity Costs that have not been documented and verified to the Market Monitoring Unit's satisfaction, then the Market Monitoring Unit may exercise its powers to inform Commission staff of its concerns and request a determination that would require the Generation Capacity Resource to remove them.~~

III. BLACKSTART SERVICE

A. Upon the submission by a Black Start Service generator owner of a request for changes to the Black Start Service revenue requirements for the generator, the Black Start Service generator owner and the Market Monitoring Unit shall attempt to agree to appropriate values.

B. Pursuant to the terms of Schedule 6A of the PJM Tariff and the PJM Manuals, the Market Monitoring Unit will analyze any requested generator black start cost changes on an annual basis and shall notify the Office of the Interconnection of any costs to which it and the Black Start Service generator owner have agreed or the Market Monitoring Unit's determination regarding any cost components to which agreement has not been obtained. If a Black Start Service generator owner includes a cost component inconsistent with its agreement or inconsistent with the Market Monitoring Unit's determination ~~regarding such cost component, and the Office of the Interconnection accepts the Black Start Service revenue requirements submitted by the Black Start Service generator owner,~~ the Market Monitoring Unit may ~~exercise its powers to inform Commission staff of its concerns and request a determination that would require the Black Start Service generator to utilize the values determined by the Market Monitoring Unit petition the Commission for an order that would require the Generation Resource to include an appropriate cost component or such other values as determined by the Commission.~~

IV. DEACTIVATION RATES

1. Upon receipt of a notice to deactivate a generating unit under Part V of the PJM Tariff from the Office of the Interconnection forwarded pursuant to Section 113.1 of the PJM Tariff, the Market Monitoring Unit shall analyze the effects of the proposed deactivation with regard to potential market power issues and shall notify the Office of the Interconnection and the generator owner (of, if applicable, its designated agent) within 30 days of the deactivation request if a market power issue has been identified. Such notice shall include the specific market

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power impact resulting from the proposed deactivation of the generating unit, as well as an initial assessment of any steps that could be taken to mitigate the market power impact.

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2. The Market Monitoring Unit and the generating unit owner shall attempt to come to agreement on the level of each component included in the Deactivation Avoidable Cost Credit. In the case of cost of service filing submitted to the Commission in alternative to the Deactivation Cost Credit, the Market Monitoring Unit shall indicate to the generating unit owner in advance of filing its views regarding the proposed method or cost components of recovery. The Market Monitoring Unit shall notify the Office of the Interconnection of any costs to which it and the generating unit owner have agreed or the Market Monitoring Unit's determination regarding any cost components to which agreement has not been obtained. If a generating unit owner includes a cost component inconsistent with its agreement or inconsistent with the Market Monitoring Unit's determination regarding such cost components, the Market Monitoring Unit shall notify the Office of the Interconnection of any costs to which it and the generation owner have agreed or the Market Monitoring Unit's determination regarding any cost components to which agreement has not been obtained. If a generation owner includes a cost component inconsistent with its agreement or inconsistent with the Market Monitoring Unit's determination regarding such cost components, the Market Monitoring Unit may petition the Commission for an order that would require the Generation Resource to include an appropriate cost component. ~~may exercise its powers to inform Commission staff of its concerns and seek a determination that would require the Generating unit to include an appropriate cost component. This provision is duplicated in Sections 114 and 119 of Part V of the PJM Tariff.~~

V. OPPORTUNITY COST CALCULATION: The Market Monitoring Unit shall review requests for opportunity cost compensation under Sections 3.2.3(f-3) (Operating Reserves) and 3.2.3B(h) (Reactive Services) ~~of Schedule 1 of the Operating Agreement, discuss with the Office of the Interconnection and individual Market Sellers the amount of compensation, and file exercise its powers to inform Commission staff of its concerns and request a determination of compensation as provided by such sections. These requirements are duplicated in Sections 3.2.3(f-3) and 3.2.3B(h) of Schedule 1 of the Operating Agreement and work with Market Participants to develop an appropriate level, if any, for such compensation. The Market Monitoring Unit shall notify the Office of the Interconnection of any risk premium to which it and a Market Participant agree or its determination of an appropriate level or mechanism for compensation, if any, if agreement is not obtained. In the event that a Market Participant and the Market Monitoring Unit cannot agree to a risk premium, then the Market Participant shall have recourse to the Commission to establish an appropriate level, if any, for opportunity cost compensation.~~

VI. FTR FORFEITURE RULE:

1. The Market Monitoring Unit shall calculate Transmission Congestion Credits as required under sections VI.2 below ~~Section 5.2.1(b) of Schedule 1 of the Operating Agreement~~, including the determination of the identity of the holder of FTRs and an evaluation of the overall benefits accrued by an entity or affiliated entities trading in FTRs and virtual trading in the Day-ahead Energy Market, and provide such calculations to the Office of the Interconnection. Nothing in this section shall preclude the Market Monitoring Unit from action to recover

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inappropriate benefits from the subject activity if the amount forfeited is less than the benefit derived by the FTR holder. If the Office of the Interconnection imposes a forfeiture of the Transmission Congestion Credit in an amount that the Market Monitoring Unit disagrees with, then it may exercise its powers to inform Commission staff of its concerns and request an adjustment.

2. If a holder of a Financial Transmission Right between specified delivery and receipt buses acquired the Financial Transmission Right in a Financial Transmission Rights Auction (the procedures for which are set forth in Part 7 of this Schedule 1) and (i) had an Increment Bid and/or Decrement Bid that was accepted by the Office of the Interconnection for an applicable hour in the Day-ahead Energy Market for delivery or receipt at or near delivery or receipt buses of the Financial Transmission Right; and (ii) the result of the acceptance of such Increment Bid or Decrement Bid is that the difference in locational marginal prices in the Day-ahead Energy Market between such delivery and receipt buses is greater than the difference in locational marginal prices between such delivery and receipt buses in the Real-time Energy Market, then the Market Participant shall not receive any Transmission Congestion Credit, associated with such Financial Transmission Right in such hour, in excess of one divided by the number of hours in the applicable month multiplied by the amount that the Market Participant paid for the Financial Transmission Right in the Financial Transmission Rights Auction.

3. For purposes of section VI.2 above, a bus shall be considered at or near the Financial Transmission Right delivery or receipt bus if seventy-five percent or more of the energy injected or withdrawn at that bus and which is withdrawn or injected at any other bus is reflected in the constrained path between the subject Financial Transmission Right delivery and receipt buses that were acquired in the Financial Transmission Rights Auction.

VII. FORCED OUTAGE RULE

1. The Market Monitoring Unit shall observe offers submitted in the Day-ahead Energy Market to determine whether all or part of a generating unit's capacity (MW) is designated as Maximum Emergency and (i) such offer in the Real-time Energy Market designates a smaller amount of capacity from that unit as Maximum Emergency for the same time period, and (ii) there is no physical reason to designate a larger amount of capacity as Maximum Emergency in the offer in the Day-ahead Energy Market than in the Real-time Energy Market, the Market Monitoring Unit shall notify the owner of the generation unit (who must record an outage in PJM systems) and the Office of Interconnection.

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2. If the Market Monitoring Unit observes that (i) an offer submitted in the Day-ahead Energy market designates all or part of capacity (MW) of a Generating unit as economic maximum that is less than the economic maximum designated in the offer in the Real-time Energy Market, and (ii) there is no physical reason to designate a lower economic maximum in the offer in the Day-ahead Energy Market than in the offer in the Real-time Energy Market, the Market Monitoring Unit shall notify the owner of the generation unit (who must record an outage in PJM systems) and the Office of Interconnection, which shall give an outage ticket in accordance with the PJM manuals.

VIII. DATA COLLECTION AND VERIFICATION: The Market Monitoring Unit shall gather and keep confidential detailed data on the procurement and usage of fuel to produce electric power transmitted in the PJM Region in order to assist the performance of its duties under Attachment M. To achieve this objective, the Market Monitoring Unit shall maintain on its website a mechanism that allows Members to conveniently and confidentially submit such data and develop a manual in consultation with stakeholders that describes the nature of and procedure for collecting data. Members of PJM owning a Generating unit that is located in the PJM Region (including dynamically scheduled units), or is included in a PJM Black Start Service plan, committed as a Generation Capacity Resource for the current or future Delivery Year, or otherwise subject to a commitment to provide service to PJM, shall provide data to the Market Monitoring Unit in the manner prescribed in the PJM Manuals.

IX. NOTIFICATION OF ELIGIBILITY FOR POST-CONTINGENCY CONGESTION MANAGEMENT PROGRAM: In the event that a Transmission Owner requests, pursuant to the PJM manuals, that PJM change constraints in the Post-Contingency Congestion Management Program, during the applicable period, the Market Monitoring Unit may perform market studies to determine whether the transmission constraint is eligible for acceptance in the program and so advise the Transmission Owner.

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**MMU Proposed Tariff Revisions,
Redlined Against Provisions in the April 29th Filing**

Attachment DD

ATTACHMENT DD

Reliability Pricing Model

1. INTRODUCTION

This Attachment sets forth the terms and conditions governing the Reliability Pricing Model for the PJM Region. In the event of a conflict between this Attachment DD and Attachment M and its Appendix with respect to the responsibilities of the Market Monitoring Unit, the provisions of Attachment M and its Appendix shall control. As more fully set forth in this Attachment and the PJM Manuals, and in conjunction with the Reliability Assurance Agreement, the Reliability Pricing Model provides:

- (a) support for LSEs in satisfying Daily Unforced Capacity Obligations for future Delivery Years through Self Supply of Capacity Resources;
- (b) a competitive auction mechanism to secure the forward commitment of additional Capacity Resources and Qualifying Transmission Upgrades as necessary to satisfy the portion of LSEs' Unforced Capacity Obligations not satisfied through Self-Supply, in order to ensure the reliability of the PJM Region for future Delivery Years;
- (c) long-term pricing signals for the development of Capacity Resources, including demand resources and planned generation resources, to ensure the reliability of the PJM Region;
- (d) recognition for the locational benefits of Capacity Resources;
- (e) deficiency charges to ensure progress toward, and fulfillment of, forward commitments by demand and generation resources to satisfy capacity requirements;
- (f) measures to identify and mitigate capacity market structure deficiencies; and
- (g) a Reliability Backstop mechanism to ensure that sufficient generation, transmission and demand response solutions will be available to preserve system reliability.

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2. DEFINITIONS

Definitions specific to this Attachment are set forth below. In addition, any capitalized terms used in this Attachment not defined herein shall have the meaning given to such terms elsewhere in this Tariff or in the RAA. References to section numbers in this Attachment DD refer to sections of this attachment, unless otherwise specified.

2.1 Annual Revenue Rate

“Annual Revenue Rate” shall mean the rate employed to assess a compliance penalty charge on a Demand Resource Provider or ILR Provider under section 11.

2.2 Avoidable Cost Rate

“Avoidable Cost Rate” shall mean a component of the Market Seller Offer Cap calculated in accordance with section 6 and section II.E of Attachment M–Appendix.

2.3 Base Load Generation Resource

“Base Load Generation Resource” shall mean a Generation Capacity Resource that operates at least 90 percent of the hours that it is available to operate, as determined by the Office of the Interconnection in accordance with the PJM Manuals.

2.4 Base Offer Segment

“Base Offer Segment” shall mean a component of a Sell Offer based on an existing Generation Capacity Resource, equal to the Unforced Capacity of such resource, as determined in accordance with the PJM Manuals. If the Sell Offers of multiple Market Sellers are based on a single existing Generation Capacity Resource, the Base Offer Segments of such Market Sellers shall be determined pro rata based on their entitlements to Unforced Capacity from such resource.

2.5 Base Residual Auction

“Base Residual Auction” shall mean the auction conducted three years prior to the start of the Delivery Year to secure commitments from Capacity Resources as necessary to satisfy any portion of the Unforced Capacity Obligation of the PJM Region not satisfied through Self-Supply.

2.6 Buy Bid

“Buy Bid” shall mean a bid to buy Capacity Resources in any Incremental Auction.

2.7 Capacity Credit

“Capacity Credit” shall have the meaning specified in Schedule 11 of the Operating Agreement, including Capacity Credits obtained prior to the termination of such Schedule applicable to periods after the termination of such Schedule.

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2.37 Load Serving Entity (LSE)

“Load Serving Entity” or “LSE” shall have the meaning specified in the Reliability Assurance Agreement.

2.38 Locational Deliverability Area (LDA)

“Locational Deliverability Area” or “LDA” shall mean a geographic area within the PJM Region that has limited transmission capability to import capacity to satisfy such area’s reliability requirement, as determined by the Office of the Interconnection in connection with preparation of the Regional Transmission Expansion Plan, and as specified in Schedule 10.1 of the Reliability Assurance Agreement.

2.39 Locational Deliverability Area Reliability Requirement

“Locational Deliverability Area Reliability Requirement” shall mean the projected internal capacity in the Locational Deliverability Area plus the Capacity Emergency Transfer Objective for the Delivery Year, as determined by the Office of the Interconnection in connection with preparation of the Regional Transmission Expansion Plan, less the minimum internal resources required for all FRR Entities in such Locational Deliverability Area.

2.40 Locational Price Adder

“Locational Price Adder” shall mean an addition to the marginal value of Unforced Capacity within an LDA as necessary to reflect the price of Capacity Resources required to relieve applicable binding locational constraints.

2.41 Locational Reliability Charge

“Locational Reliability Charge” shall have the meaning specified in the Reliability Assurance Agreement.

2.41A Locational UCAP

“Locational UCAP” shall mean unforced capacity that a Member with available uncommitted capacity sells in a bilateral transaction to a Member that previously committed capacity through an RPM Auction but now requires replacement capacity to fulfill its RPM Auction commitment. The Locational UCAP Seller retains responsibility for performance of the resource providing such replacement capacity.

2.41B Locational UCAP Seller

“Locational UCAP Seller” shall mean a Member that sells Locational UCAP.

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2.41C Market Seller Offer Cap

“Market Seller Offer Cap” shall mean a maximum offer price applicable to certain Market Sellers under certain conditions, as determined in accordance with section 6 of Attachment DD and section II.E of Attachment M - Appendix.

2.42 Net Cost of New Entry

“Net Cost of New Entry” shall mean the Cost of New Entry minus the Net Energy and Ancillary Service Revenue Offset, as defined in Section 5.

2.43 Nominated Demand Resource Value

“Nominated Demand Resource Value” shall mean the amount of load reduction that a Demand Resource commits to provide either through direct load control, firm service level or guaranteed load drop programs. For existing Demand Resources, the maximum Nominated Demand Resource Value is limited, in accordance with the PJM Manuals, to the value appropriate for the method by which the load reduction would be accomplished, at the time the Base Residual Auction or Incremental Auction is being conducted.

2.43A Nominated Energy Efficiency Value

“Nominated Energy Efficiency Value” shall mean the amount of load reduction that an Energy Efficiency Resource commits to provide through installation of more efficient devices or equipment or implementation of more efficient processes or systems.

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2.44 Nominated ILR Value

“Nominated ILR Value” shall mean the amount of load reduction that an ILR resource commits to provide either through direct load control, firm service level or guaranteed load drop programs. For ILR, the maximum Nominated ILR Capacity Value is limited, in accordance with the PJM Manuals, to the value appropriate for the method by which the load reduction would be accomplished, at the time the ILR is certified.

2.45 Opportunity Cost

“Opportunity Cost” shall mean a component of the Market Seller Offer Cap calculated in accordance with section 6 [and section II.E of Attachment M–Appendix](#).

2.46 Peak-Hour Dispatch

“Peak-Hour Dispatch” shall mean, for purposes of calculating the Energy and Ancillary Services Revenue Offset under section 5 of this Attachment, an assumption, as more fully set forth in the PJM Manuals, that the Reference Resource is dispatched in four distinct blocks of four hours of continuous output for each block from the peak-hour period beginning with the hour ending 0800 EPT through to the hour ending 2300 EPT for any day when the average real-time LMP for the area for which the Net Cost of New Entry is being determined is greater than, or equal to, the cost to generate (including the cost for a complete start and shutdown cycle) for at least two hours during each four-hour block, where such blocks shall be assumed to be dispatched independently; provided that, if there are not at least two economic hours in any given four-hour block, then the Reference Resource shall be assumed not to be dispatched for such block.

2.47 Peak Season

“Peak Season” shall mean the weeks containing the 24th through 36th Wednesdays of the calendar year. Each such week shall begin on a Monday and end on the following Sunday, except for the week containing the 36th Wednesday, which shall end on the following Friday.

2.48 Percentage Internal Resources Required

“Percentage Internal Resources Required” shall have the meaning specified in the Reliability Assurance Agreement.

2.49 Planned Demand Resource

“Planned Demand Resource” shall have the meaning specified in the Reliability Assurance Agreement.

2.50 Planned External Generation Capacity Resource

“Planned External Generation Capacity Resource” shall have the meaning specified in the Reliability Assurance Agreement.

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2.50A Planned Generation Capacity Resource

“Planned Generation Capacity Resource” shall have the meaning specified in the Reliability Assurance Agreement.

2.51 Planning Period

“Planning Period” shall have the meaning specified in the Reliability Assurance Agreement.

2.52 PJM Region

“PJM Region” shall have the meaning specified in the Reliability Assurance Agreement.

2.53 PJM Region Installed Reserve Margin

“PJM Region Installed Reserve Margin” shall have the meaning specified in the Reliability Assurance Agreement.

2.54 PJM Region Peak Load Forecast

“PJM Region Peak Load Forecast” shall mean the peak load forecast used by the Office of the Interconnection in determining the PJM Region Reliability Requirement, and shall be determined on both a preliminary and final basis as set forth in section 5.

2.55 PJM Region Reliability Requirement

“PJM Region Reliability Requirement” shall mean, for purposes of the Base Residual Auction, the Forecast Pool Requirement multiplied by the Preliminary PJM Region Peak Load Forecast, less the sum of all Preliminary Unforced Capacity Obligations of FRR Entities in the PJM Region; and, for purposes of the Incremental Auctions, the Forecast Pool Requirement multiplied by the updated PJM Region Peak Load Forecast, less the sum of all updated Unforced Capacity Obligations of FRR Entities in the PJM Region.

2.56 Projected PJM Market Revenues

“Projected PJM Market Revenues” shall mean a component of the Market Seller Offer Cap calculated in accordance with section 6 [and section II.E of Attachment M–Appendix](#).

2.57 Qualifying Transmission Upgrade

“Qualifying Transmission Upgrade” shall mean a proposed enhancement or addition to the Transmission System that: (a) will increase the Capacity Emergency Transfer Limit into an LDA by a megawatt quantity certified by the Office of the Interconnection; (b) the Office of the Interconnection has determined will be in service on or before the commencement of the first Delivery Year for which such upgrade is the subject of a Sell Offer in the Base Residual Auction; (c) is the subject of a Facilities Study Agreement executed before the conduct of the Base Residual Auction for such Delivery Year and (d) a New Service Customer is obligated to fund through a rate or charge specific to such facility or upgrade.

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2.58 Reference Resource

“Reference Resource” shall mean a combustion turbine generating station, configured with two General Electric Frame 7FA turbines with inlet air cooling to 50 degrees, Selective Catalytic Reduction technology, dual fuel capability, and a heat rate of 10,500 Mmbtu/MWh.

2.59 Reliability Assurance Agreement

“Reliability Assurance Agreement” shall mean that certain “Reliability Assurance Agreement Among Load-Serving Entities in the PJM Region,” on file with FERC as PJM Interconnection, L.L.C. Rate Schedule FERC No.44.

2.60 Reliability Pricing Model Auction

“Reliability Pricing Model Auction” shall mean the Base Residual Auction or any Incremental Auction.

2.61 Resource Substitution Charge

“Resource Substitution Charge” shall mean a charge assessed on Capacity Market Buyers in a First Incremental Auction or Third Incremental Auction to recover the cost of replacement Capacity Resources.

2.62 Second Incremental Auction

“Second Incremental Auction” shall mean an auction conducted pursuant to Section 5, to secure the commitment of Capacity Resources as necessary to satisfy an increase in the PJM Region Peak Load Forecast above that reflected in the Base Residual Auction.

2.63 Sell Offer

“Sell Offer” shall mean an offer to sell Capacity Resources in a Base Residual Auction, Incremental Auction, or Reliability Backstop Auction.

2.64 [Reserved for Future Use]

2.65 Self-Supply

“Self-Supply” shall mean Capacity Resources secured by a Load-Serving Entity, by ownership or contract, outside a Reliability Pricing Model Auction, and used to meet obligations under this Attachment or the Reliability Assurance Agreement through submission in a Base Residual Auction of a Sell Offer indicating such Market Seller’s intent that such Capacity Resource be committed regardless of clearing price. An LSE may submit a Sell Offer with a price bid for an owned or contracted Capacity Resource, but such Sell Offer shall not be deemed “Self-Supply,” solely as such term is used in this Attachment.

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4. GENERAL PROVISIONS

4.1 Capacity Market Sellers

Only Capacity Market Sellers shall be eligible to submit Sell Offers into the Base Residual Auction and Incremental Auctions. Capacity Market Sellers shall comply with the terms and conditions of all Sell Offers, as established by the Office of the Interconnection in accordance with this Attachment, Attachment M, Attachment M - Appendix and the Operating Agreement.

4.2 Capacity Market Buyers

Only Capacity Market Buyers shall be eligible to submit Buy Bids into an Incremental Auction. Capacity Market Buyers shall comply with the terms and conditions of all Buy Bids, as established by the Office of the Interconnection in accordance with this Attachment, Attachment M, Attachment M - Appendix and the Operating Agreement.

4.3 Agents

A Capacity Market Seller may participate in a Base Residual Auction or Incremental Auction through an Agent, provided that the Capacity Market Seller informs the Office of the Interconnection in advance in writing of the appointment and authority of such Agent. A Capacity Market Buyer may participate in an Incremental Auction through an Agent, provided that the Capacity Market Buyer informs the Office of the Interconnection in advance in writing of the appointment and authority of such Agent. A Capacity Market Buyer or Capacity Market Seller participating in such an auction through an Agent shall be bound by all of the acts or representations of such Agent with respect to transactions in such auction. Any written instrument establishing the authority of such Agent shall provide that any such Agent shall comply with the requirements of this Attachment and the Operating Agreement.

4.4 General Obligations of Capacity Market Buyers and Capacity Market Sellers

Each Capacity Market Buyer and Capacity Market Seller shall comply with all laws and regulations applicable to the operation of the Base Residual and Incremental Auctions and the use of these auctions shall comply with all applicable provisions of this Attachment, Attachment M, Attachment M - Appendix, the Operating Agreement, and the Reliability Assurance Agreement, and all procedures and requirements for the conduct of the Base Residual and Incremental Auctions and the PJM Region established by the Office of the Interconnection in accordance with the foregoing.

4.5 Confidentiality

The following information submitted to the Office of the Interconnection in connection with any Base Residual Auction, Incremental Auction, or Reliability Backstop Auction shall be deemed confidential information for purposes of Section 18.17 of the Operating Agreement, Attachment M and Attachment M - Appendix: (i) the terms and conditions of the Sell Offers and Buy Bids; and (ii) the terms and conditions of any bilateral transactions for Capacity Resources.

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5.6.6 Availability of Capacity Resources for Sale

(a) The Office of the Interconnection shall determine the maximum quantity of megawatts of Unforced Capacity each Market Seller may offer in any Base Residual Auction or Incremental Auction, through verification of the availability of megawatts of Unforced Capacity from: (i) Capacity Resources owned by or under contract to the Market Seller, including Capacity Resources obtained through bilateral contract; (ii) the results of prior Reliability Pricing Model Auctions, if any, for such Delivery Year; and (iii) such other information as may be available to the Office of the Interconnection. The Office of the Interconnection shall reject Sell Offers or portions of Sell Offers for Capacity Resources determined by it not to be available for sale.

(b) The Office of the Interconnection shall determine the maximum amount of Capacity Resources available for sale in a Base Residual Auction or Incremental Auction as of the beginning of the period during which Buy Bids and Sell Offers are accepted for each market, as applicable, in accordance with the time schedule set forth in the PJM Manuals. To enable the Office of the Interconnection to make this determination, no bilateral transactions for Capacity Resources applicable to the period covered by an auction will be processed from the beginning of the period for submission of Sell Offers and Buy Bids, as appropriate, for that auction until completion of the clearing determination for that market. Processing of such bilateral transactions will reconvene once clearing for that auction is completed.

(c) In order for a bilateral transaction for the purchase and sale of a Capacity Resource to be processed by the Office of the Interconnection, both parties to the transaction must notify the Office of the Interconnection of the transfer of the Capacity Resource from the seller to the buyer in accordance with procedures established by the Office of the Interconnection and set forth in the PJM Manuals.

(d) A Generation Capacity Resource located in the PJM Region shall not be removed (delisted) from PJM Capacity Resource status to the extent the resource is committed to service of PJM loads as a result of an RPM Auction, FRR Capacity Plan, or by designation as a replacement resource under this Attachment DD. To the extent not so committed, a Generation Capacity Resource (including any portion thereof not so committed or for any time period not so committed) located in the PJM Region may be removed from PJM Capacity Resource status if the Market Seller obtains a determination from the Market Monitoring Units shows that the resource has a financially and physically firm commitment to an external sale of its capacity; ~~consistent with section 6.6 and~~ in accordance with the procedure and criteria set forth in section II.C of Attachment M - Appendix. ~~—Such commitment shall be evidenced by a unit-specific bilateral transaction for service to load located outside the PJM Region, by a demonstration that such resource is identified on a unit-specific basis as a network resource under the transmission tariff for the control area applicable to such external load, or by an equivalent demonstration of a financially and physically firm commitment to an external sale. The Market Seller additionally shall identify the megawatt amount, export zone, and time period (in days) of the export.~~ Nothing herein shall require a Market Seller to offer its resource into an RPM auction prior to delisting, subject to the foregoing satisfaction of section 6.6.

~~Delisting of a resource (or~~

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~~portion thereof) shall not be reflected in a Preliminary Market Structure Screen unless the associated unit specific bilateral transaction is approved pursuant to subsection (c) above, the designation of such resource (or portion thereof) as a network resource for the external load is demonstrated to the Office of the Interconnection, or equivalent evidence of a firm external sale is provided prior to the deadline for Capacity Market Sellers to submit data for such Preliminary Market Structure Screen.~~ Delisting of a resource shall not be reflected in the determination of available capacity pursuant to subsection (b) above unless the associated unit-specific bilateral transaction is approved, the designation of such resource (or portion thereof) as a network resource for the external load is demonstrated to the Office of the Interconnection, or equivalent evidence of a firm external sale is provided prior to the deadline established by that subsection. If a material change with respect to any of the prerequisites for the application of section 5.6.6(d) to the Generation Capacity Resource occurs, the potential Capacity Resource Owner shall immediately notify the Market Monitoring Unit.

~~(e) A Capacity Market Seller that seeks to delist a Generation Capacity Resource from PJM Capacity Resource status pursuant to section 5.6.6(d) above shall submit such request to the Market Monitoring Unit for evaluation under the process set forth in Section II.C.2 of the Attachment M Appendix. A potential Capacity Market Seller may only delist the Generation Capacity Resource if (i) the Market Monitoring Unit has determined that the Generation Capacity Resource meets the applicable criteria set forth in this section II.C.2 of the Attachment M Appendix or such resource has obtained approval to delist from the Commission, 5.6.6, or, (ii) the potential Capacity Market Seller and the Market Monitoring Unit cannot come to agreement on whether a Generation Capacity Resource should be delisted, the potential Capacity Market Seller has submitted its request to delist the resource to the Office of the Interconnection, and the Office of the Interconnection has determined that the Generation Capacity Resource meets the applicable criteria set forth in this section 5.6.6.~~

5.7 Buy Bids

Buy Bids may be submitted in any Incremental Auction. Buy Bids shall specify, as appropriate:

- a) The quantity of Unforced Capacity desired, in increments of 0.1 megawatt;
- b) The maximum price, in dollars and cents per megawatt per day, that will be paid by the buyer for the megawatt quantity of Unforced Capacity desired; and

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c) The desired LDA for a replacement Capacity Resource. In the event of delay or cancellation of a Qualifying Transmission Upgrade, the Buy Bid shall specify Capacity Resources in the LDA for which such Qualifying Transmission Upgrade was to increase CETL.

5.8 Submission of Sell Offers and Buy Bids

Submission of Sell Offers and Buy Bids shall be subject to the following requirements:

a) A Sell Offer or Buy Bid that fails to specify a positive megawatt quantity shall be rejected by the Office of the Interconnection.

b) A Buy Bid that fails to specify price shall be rejected by the Office of the Interconnection. A Sell Offer that fails to either designate such offer as self-scheduled or to specify an offer price shall be rejected by the Office of the Interconnection.

c) All Sell Offers and Buy Bids must be received by the Office of the Interconnection during a specified period, as determined by the Office of the Interconnection, in accordance with the PJM Manuals. A Sell Offer or Buy Bid may be withdrawn by a notification of withdrawal received by the Office of the Interconnection at any time during the foregoing period, but may not be withdrawn after such period.

d) Sell Offers or Buy Bids shall be submitted or withdrawn via the Internet site designated by the Office of the Interconnection; provided, however, that if the Internet site cannot be accessed at any time during the period specified for the applicable auction, a Sell Offer or Buy Bid may be submitted or withdrawn by electronic mail transmitted to the e-mail address, or faxed to the fax number, specified by the Office of the Interconnection in the PJM Manuals.

e) Sell Offers must be based on the Capacity Market Seller's Capacity Resource position at the opening of the auction's bidding window.

f) The Office of the Interconnection shall accept a Sell Offer only up to the megawatt amount of installed capacity of Capacity Resources owned or controlled by such Capacity Market Seller that has not previously been committed for the applicable Delivery Year.

g) No Sell Offer shall be accepted from an FRR Entity unless it meets the requirements applicable to such offers under Schedule 8.1 of the Reliability Assurance Agreement.

h) The Office of the Interconnection shall have final authority to determine whether to accept a Sell Offer in accordance with the ~~terms of the Tariff and the PJM Manuals~~above specified criteria.

i) Market Sellers shall have sole responsibility to submit Sell Offers, and, in particular, Market Seller Offer Caps, that are accurate and compliant with the FERC Market Rules. Market Sellers shall have sole liability for the consequences of Sell Offers that are inaccurate or non-compliant with the FERC Market Rules. PJM may contact Market Sellers to verify that a Sell Offer was intended, but may not reject a Sell Offer solely because either the Office of the Interconnection or the Market Monitoring Unit dispute the accuracy or compliance status of Sell Offer that a Market Seller submits and otherwise meets the above specified criteria.

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At the request of a Market Seller or the Market Monitoring Unit, PJM shall suspend clearing an auction for up to 90 days in order to afford the Commission an opportunity to rule on a petition for review of a Sell Offer submitted by either a Market Seller that could not obtain the agreement of the Market Monitoring Unit under Section II.{ } of Attachment M–Appendix or by the Market Monitoring Unit pursuant to Section II.{ } of Attachment M–Appendix.

5.9 Time Standard

All deadlines for the submission or withdrawal of Sell Offers or Buy Bids, or for other purposes specified in this Attachment, shall be determined by the prevailing time observed in the Eastern Time zone.

5.10 Auction Clearing Requirements

The Office of the Interconnection shall clear each Base Residual Auction and Incremental Auction for a Delivery Year in accordance with the following:

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(3) The Office of the Interconnection shall perform a sensitivity analysis on any Base Residual Auction that included Sell Offers meeting the criteria of Section 5.14(h)(2), for which the Capacity Market Seller has not obtained a prior favorable determination from FERC as described in subsection (2) hereof. Such analysis shall re-calculate the clearing price for the Base Residual Auction employing in place of each actual Sell Offer meeting the criteria a substitute Sell Offer equal to 90 percent of the applicable estimated cost determined in accordance with Section 5.14(h)(1) above, or, if there is no applicable estimated cost, equal to 80 percent of the then-applicable Net CONE. If the resulting difference in price between the new clearing price and the initial clearing price differs by an amount greater than the greater of 20 percent or 25 dollars per megawatt-day for a total LDA Reliability Requirement greater than 15,000 megawatts; or the greater of 25 percent or 25 dollars per megawatt-day for a total LDA Reliability Requirement greater than 5,000 and less than 15,000 megawatts; or the greater of 30 percent or 25 dollars per megawatt-day for a total LDA Reliability Requirement of less than 5,000 megawatts; then the Office of the interconnection shall discard the results of the Base Residual Auction and determine a replacement clearing price and the identity of the accepted Capacity Resources using the procedure set forth in section 5.14(h)(5) below.

(4) Including all of the Sell Offers in a single Base Residual Auction that meet the criteria of 5.14(h)(3) above, PJM shall first calculate the replacement clearing price and the total quantity of Capacity Resources needed for the LDA. PJM shall then accept Sell Offers to provide Capacity Resources in accordance with the following priority and criteria for allocation: (i) first, all Sell Offers in their entirety designated as self-supply; (ii) then, all Sell Offers of zero, prorating to the extent necessary, and (iii) then all remaining Sell Offers in order of the lowest price, subject to the optimization principles set forth in Section 5.14.

(5) Notwithstanding the foregoing, this provision shall terminate when there exists a positive net demand for new resources, as defined in Section 5.10(a)(iv)(B) of this Attachment, calculated over a period of consecutive Delivery Years beginning with the first Delivery Year for which this Attachment is effective and concluding with the last Delivery Year preceding such calculation, in an area comprised of the Unconstrained LDA Group (as defined in section 6.3) in existence during such first Delivery Year. Notwithstanding the foregoing, the Office of the Interconnection shall reinstate the provisions of this section, solely under conditions in which a

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LDA remaining for determination of further credits will be reduced by the allocation of credits attributable to Capacity Imported into the larger LDA.

(d) Capacity Transfer Rights shall be transferable. A purchaser of Capacity Transfer Rights from the original party allocated such rights shall receive any payments due under this section or section 5.16, provided the seller and purchaser of such rights timely notify the Office of the Interconnection of such purchase, in accordance with procedures specified in the PJM manuals.

5.16 Incremental Capacity Transfer Rights

(a) The Office of the Interconnection shall allocate Incremental Capacity Transfer Rights to a New Service Customer (or, for facilities or upgrades in a PJM queue prior to March 1, 2007, to an Interconnection Customer) obligated to fund a transmission facility or upgrade through a rate or charge specific to such facility or upgrade, to the extent such upgrade or facility increases the Import Capability into a Locational Deliverability Area, with respect to any such transmission facility or upgrade interconnected to the Transmission System pursuant to Part IV of this Tariff, including transmission facilities or upgrades interconnected to the Transmission System pursuant to Part IV prior to the effective date of this Attachment. Incremental Capacity Transfer Rights shall be available for a facility or upgrade for a Delivery Year only if the Office of the Interconnection certifies the quantity of Import Capability provided by such facility or upgrade at least 45 days prior to the Base Residual Auction for such Delivery Year. The megawatt quantity of Incremental Capacity Transfer Rights allocated to such a New Service Customer (or Interconnection Customer) shall equal the megawatt quantity of the increase in Import Capability across a locational constraint resulting from such upgrade or facility, provided that the total Incremental Capacity Transfer Rights awarded as to an LDA (including those allocated pursuant to Schedule 12A of the Tariff) may not exceed the total Capacity Transfer Rights determined as to such LDA. A Capacity Market Seller that offers and clears a Qualifying Transmission Upgrade in the Base Residual Auction for a Delivery Year shall not receive Incremental Capacity Transfer Rights with respect to such upgrade for such Delivery Year. Terms and conditions for the allocation of Incremental Capacity Transfer Rights to New Service Customers shall be as further set forth in Part VI of this Tariff, and those for the allocation of Incremental Capacity Transfer Rights to Responsible Customers shall be as further set forth in Schedule 12A of this Tariff.

(b) For any Base Residual or Incremental Auction that results in a positive Locational Price Adder for such LDA, the holder of an Incremental Capacity Transfer Right shall receive a payment equal to the Locational Price Adder for the LDA into which the associated facility or upgrade increased Import Capability minus the Locational Price Adder for the LDA from which the Import Capability increase was measured, multiplied by the megawatt quantity of the Incremental Capacity Transfer Right allocated to such Interconnection Customer.

6. MARKET POWER MITIGATION

6.1 Applicability

The provisions of the Market Monitoring Plan (Attachment M and Attachment M - Appendix to this Tariff) apply to the Reliability Pricing Model Auctions. In addition, PJM shall apply market power mitigation

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measures, as set forth in this section 6, to any Base Residual Auction or Incremental Auction for any Locational Deliverability Area ~~having a Locational Price Adder greater than zero as determined by the optimization algorithm pursuant to section 5.12~~that fails the Market Structure Test, but only in the event the Sell Offers that were accepted by such algorithm to resolve any locational constraint giving rise to the Locational Price Adder (and that would not have been accepted absent such constraint), and all Sell Offers that would resolve such constraint remaining available but unaccepted by such algorithm, collectively fail the Market Structure Test set forth in this section 6. PJM shall also apply market power mitigation measures, as set forth in this section 6, to any Base Residual Auction or Incremental Auction for the entire PJM Region. This section also specifies an offer requirement applicable to all Capacity Resources, regardless of Locational Deliverability Area.

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6.2 Process

(a) By no later than 90 days (or such other time period as established for purposes of the Transition Period) prior to the conduct of the Base Residual Auction and each Incremental Auction for such Delivery Year, the Office of the Interconnection shall post or continue to post the results of the Market Monitoring Unit's application of the Preliminary Market Structure Screen determined pursuant to section II.D of Attachment M - Appendix.

(b) In accordance with the schedule specified in the PJM Manuals, following PJM's conduct of a Base Residual Auction or Incremental Auction pursuant to section 5.12, but prior to the Office of the Interconnection's final determination of clearing prices and charges pursuant to section 5.14, the Office of the Interconnection shall: (i) apply the Market Structure Test to any LDA having a Locational Price Adder greater than zero and to the entire PJM region; (ii) apply Market Seller Offer Caps, if required under this section 6; and (iii) recompute the optimization algorithm to clear the auction with the Market Seller Offer Caps in place.

(c) Within seven days after the deadline for submission of Sell Offers in a Base Residual Auction or Incremental Auction, the Office of the Interconnection shall file with FERC a report of any determination made pursuant to sections 5.14(h), 6.5(a)(ii), or 6.7(c) identified in such sections as subject to the procedures of this section. Such report shall list each such determination, the information considered in making each such determination, and an explanation of each such determination. Any entity that objects to any such determination may file a written objection with FERC no later than seven days after the filing of the report. Any such objection must not merely allege that the determination was in error, and must provide support for the objection, demonstrating that the determination overlooked or failed to consider relevant evidence. In the event that no objection is filed, the determination shall be final. In the event that an objection is filed, FERC shall issue any decision modifying the determination no later than 60 days after the filing of such report; otherwise, the determination shall be final. Final auction results shall reflect any decision made by FERC regarding the report.

6.3 Market Structure Tests

(a) Preliminary Market Structure Screen.

The Market Monitoring Unit shall apply the Preliminary Market Structure Screen pursuant to section II.D of Attachment M - Appendix. Potential Capacity Market Sellers owning or controlling any potential existing Generation Capacity Resources in the PJM Region shall be required to provide to the Market Monitoring Unit the additional information specified in section II.D of Attachment M - Appendix if such Generation Capacity is located in an LDA, "Unconstrained LDA Group" (as defined in Attachment M - Appendix), or the entire PJM Region that fails the Preliminary Market Structure Screen, as applied pursuant to section II.D below.

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(b) Market Structure Test.

(i) In accordance with the schedule set under section 6.2, the Office of the Interconnection shall apply the Market Structure Test to an LDA or the PJM Region if the conditions specified in section 6.5 are met as to such LDA. The Office of the Interconnection shall confirm the results of the Market Structure Test with the Market Monitoring Unit.

(ii) An LDA, Unconstrained LDA Group, or the PJM Region shall fail the market structure test, and mitigation shall be applied to all jointly pivotal suppliers (including all Affiliates of such suppliers, and all third-party supply in the relevant LDA or Unconstrained LDA Group controlled by such suppliers by contract), if, as to the Sell Offers described in section 6.1, there are not more than three jointly pivotal suppliers.

(c) Determination of Incremental Supply

In applying the market structure test, the Office of the Interconnection shall consider all incremental supply up to and including all such supply available at an effective cost less than or equal to 150% of the cost-based clearing price calculated using the incremental megawatts of supply available to solve the constraint and the need for megawatts to solve the constraint giving rise to a Locational Price Adder.

6.4 Market Seller Offer Caps

(a) The Market Seller Offer Cap, stated in dollars per MW-year of installed capacity, applicable to price-quantity offers within the Base Offer Segment for an existing Generation Capacity Resource shall be the Avoidable Cost Rate for such resource, less the Projected PJM Market Revenues for such resource, stated in dollars per MW of unforced capacity, as determined in accordance with section 6.7. During the first three Delivery Years of the Transition Period, the Market Seller Offer Cap shall be increased for Sell Offers submitted by eligible Capacity Market Sellers in any Unconstrained LDA Group by the Transition Adder set forth in section 17.5 of this Attachment. The Market Seller Offer Cap for an existing Generation Capacity Resource shall be the Opportunity Cost for such resource, if applicable, as determined in accordance with section 6.7. Nothing herein shall preclude any Capacity Market Seller and the Market Monitoring Unit from agreeing to, nor require either such entity to agree to, an alternative market seller offer cap determined on a mutually agreeable basis. Any such alternative offer cap shall be filed with the Commission for its approval. This provision is duplicated in section II.E.3 of Attachment M - Appendix.

(b) For each existing Generation Capacity Resource, a potential Capacity Market Seller must timely provide to the Market Monitoring Unit data and documentation required under section 6.6 to establish the level of the Market Seller Offer Cap applicable to each resource. The Generation Market Seller must promptly address any concerns identified by the Market Monitoring Unit regarding the data and documentation provided, review the proposed Market Seller Offer Cap, and attempt to reach agreement with the Market Monitoring Unit on the level of the Market Seller Offer Cap.

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(c) If the Market Monitoring Unit informs the Office of the Interconnection that a Capacity Market Seller has failed to submit costs consistent with section 6.7, it shall be required to submit any Sell Offer in the applicable auction as Self-Supply. If such Capacity Market Seller submits a Sell Offer that is not Self-Supply, the Market Monitoring Unit may seek relief from the Commission pursuant to section II.E.2 of Attachment M-Appendix 6.4(d) below.

~~(d) In the event that a Capacity Market Seller and the Market Monitoring Unit cannot agree on the level of a Market Seller Offer Cap, the Office of the Interconnection shall make its own determination of the level of the Market Seller Offer Cap based on the requirements of the Tariff and the PJM Manuals. If the Capacity Market Seller submits a Sell Offer that the Office of the Interconnection determines would result in an increase of greater than five percent in any Zonal Capacity Price determined through such auction compared to the Office of the Interconnection's determination of the level of the Market Seller Offer Cap, the Office of the Interconnection shall apply to FERC for an order, on an expedited basis, directing such Capacity Market Seller to submit a Sell Offer consistent with the Market Monitoring Unit's determination, or for other appropriate relief, and PJM shall postpone clearing the auction pending FERC's decision on the matter. Should the Market Monitoring Unit exercise its powers to inform Commission staff of its concerns and request a determination, on an expedited basis, directing a Capacity Market Seller to submit a Sell Offer consistent with the Market Monitoring Unit's determination, or for other appropriate relief, pursuant to section II.E of Attachment M-Appendix, PJM may postpone clearing the auction pending FERC's decision on the matter.~~

~~(e) Nothing in this section precludes the Capacity Market Seller from filing a petition with FERC seeking a determination of whether the Sell Offer complies with the requirements of the Tariff.~~

~~(df) Notwithstanding the foregoing, a Capacity Market Seller may submit thea Market Seller Offer Cap that it chooses, provided that (i) it has participated in good faith with the process described in this section 6_4 and in section II.E of Attachment M - Appendix, (ii) the offer is no higher than the level defined in any agreement reached by the Capacity Market Seller and the Market Monitoring Unit that resulted from the foregoing process, and (iii) the offer is accepted by the Office of the Interconnection subject to the criteria set forth in section 5.8 above the Tariff and the PJM Manuals. If the Market Monitoring Unit notifies the Office of the Interconnection that a Market Seller Offer Cap is the subject of a referral or petition to the Commission under Section II.E of the Attachment M-Appendix, the Office of the Interconnection shall suspend clearing the auction for up to 90 days in order to allow the Commission time to act on such referral or petition. The Office of the Interconnection then shall clear the auction with any such revised or Commission-approved Sell Offer in place.~~

(eg) For any Third Incremental Auction, the Market Seller Offer Cap for an existing Generation Capacity Resource shall be determined pursuant to paragraph (a) of this Section 6.4, or if elected by the Capacity Market Seller, shall be equal to 1.1 times the Capacity Resource Clearing Price in the Base Residual Auction for the relevant LDA and Delivery Year.

6.5 Mitigation

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The Office of the Interconnection shall apply market power mitigation measures to any Base Residual Auction or Incremental Auction for any LDA, Unconstrained LDA Group, or the PJM Region that, without mitigation, would have a Locational Price Adder greater than zero, but only in the event the cost-based Sell Offers that would be accepted by the optimization algorithm

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to resolve any locational constraint giving rise to the Locational Price Adder (and that would not have been accepted absent such constraint), and all cost-based Sell Offers made at a price less than or equal to 150 percent of the clearing price determined by the optimization algorithm that would help resolve such constraint remaining available but unaccepted by such algorithm, collectively fail the Market Structure Test.

- (a) Mitigation for Generation Capacity Resources.
 - i) Existing Generation Resource

Mitigation will be applied on a unit-specific basis and only if the Sell Offer of Unforced Capacity from a Generation Capacity Resource: (1) is greater than the Market Seller Offer Cap applicable to such resource; and (2) would, absent mitigation, increase the Capacity Resource Clearing Price in the relevant auction. If such conditions are met, such Sell Offer shall be set equal to the Market Seller Offer Cap.

- ii) Planned Generation Capacity Resources

(A) Sell Offers based on Planned Generation Capacity Resources (including External Planned Generation Capacity Resources) shall be presumed to be competitive and shall not be subject to market power mitigation in the Base Residual Auction or Incremental Auction for adjustment of committed capacity for the first Delivery Year for which such resource qualifies as a Planned Generation Capacity Resource, but the Office of the Interconnection shall suspend clearing the auction for up to 90 days if it receives notice from any such Sell Offer shall be rejected if it meets the Market Monitoring Unit that such a Sell Offer is excessive under the criteria set forth in section II.F of Attachment M–Appendix and subsection (C) below, unless allow the Capacity Market Seller an opportunity to submit an alternative offer that the Market Monitoring Unit agrees meets the criteria set forth in section II.F or to obtains approval of its offer from the Commission on an expedited basis ~~FERC for use of such offer prior to the deadline for submission of such offers in the applicable auction. The Office of the Interconnection then shall clear the auction with any such revised or Commission-approved Sell Offer in place or without such offer, if unrevised. Such Planned Generation Capacity Resources~~ shall be treated as Existing Generation Capacity Resources in the auctions for any subsequent Delivery Year; provided, however, that such resources may receive certain price assurances for the two Delivery Years immediately following the first Delivery Year of service under certain conditions as set forth in section 5.14 of this Attachment.

(B) Sell Offers based on Planned Generation Capacity Resources (including External Planned Generation Capacity Resources) submitted for the first year in which such resources qualify as Planned Generation Capacity Resources shall be deemed competitive and not be subject to mitigation if: (1) collectively all such Sell Offers provide Unforced Capacity in an amount equal to or greater than two times the incremental quantity of new entry required to meet the LDA Reliability Requirement; and (2) at least two unaffiliated suppliers have submitted Sell Offers for Planned Generation Capacity Resources in such LDA. Notwithstanding the foregoing, any Capacity Market

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Seller, together with Affiliates, whose Sell Offers based on Planned Generation Capacity Resources in that LDA are pivotal, shall be subject to mitigation.

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~~(C) — Where the two conditions stated in Paragraph (B) are not met, or the Sell Offer is pivotal, the Sell Offer shall be rejected if it exceeds 140 percent of: 1) the average of location-adjusted Sell Offers for Planned Generation Capacity Resources from the same asset class as such Sell Offer, submitted (and not rejected) (Asset-Class New Plant Offers) for such Delivery Year; or 2) if there are no Asset-Class New Plant Offers for such Delivery Year, the average of Asset-Class New Plant Offers for all prior Delivery Years; or 3) if there are no Asset-Class New Plant Offers for any prior Delivery Year, the Net CONE applicable for such Delivery Year in the LDA for which such offer was submitted. For purposes of this paragraph, asset classes shall be as stated in section 6.7(c) as effective for such Delivery Year, and Asset-Class New Plant Offers shall be location-adjusted by the ratio between the Net CONE effective for such Delivery Year for the LDA in which the Sell Offer subject to this paragraph was submitted and the average, weighted by installed capacity, of the Net CONEs for all LDAs in which the units underlying such Asset-Class New Plant Offers are located. Following the conduct of the applicable auction and before the final determination of clearing prices, in accordance with Section 6.2(b) above, each Capacity Market Seller whose Sell Offer is so rejected shall be notified and allowed an opportunity to submit a revised Sell Offer that does not exceed such threshold. The Office of the Interconnection then shall clear the auction with such revised Sell Offer in place.~~

(b) Mitigation for Demand Resources

The Market Seller Offer Cap shall not be applied to Sell Offers of Planned Demand Resources or Energy Efficiency Resources. When the Market Structure Test is failed, any Sell Offers of existing Demand Resources or Energy Efficiency Resources shall not be considered in determining the Capacity Resource Clearing Price in any auction for the market for which such test was failed.

6.6 Offer Requirement for Capacity Resources

(a) To avoid application of subsection (d), all Unforced Capacity of all existing Generation Capacity Resources located in the PJM Region shall be offered (which may include submission as Self-Supply) in the Base Residual Auction for each Delivery Year, where Unforced Capacity is determined using an EFORD less than or equal to the greater of (i) the annual average EFORD for the five consecutive years ending on the September 30 that last precedes the submission of such offers or (ii) the EFORD for the 12 months ending on the September 30 that last precedes the submission of such offers.

(b) For each existing Generation Capacity Resource, a potential Capacity Market Seller must timely provide to the Market Monitoring Unit data and documentation required under section 6.6 to establish the EFORD applicable to each resource. The Generation Market Seller must promptly address any concerns identified by the Market Monitoring Unit regarding the data and documentation provided, review the proposed EFORD, and attempt to reach agreement with the Market Monitoring Unit on the level of the EFORD under the process provided in Section II.C of Attachment M-Appendix.

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(c) If the Market Monitoring Unit informs the Office of the Interconnection that a Capacity Market Seller has failed to submit data and documentation of costs consistent with section 6.7, such Capacity Market Seller shall be required to submit any Sell Offer in the applicable auction as Self-Supply. ~~If such Capacity Market Seller submits a Sell Offer that is not Self-Supply, the Market Monitoring Unit may seek relief from the Commission pursuant to section 6.64(d) below and section II.C of Attachment M—Appendix.~~

(d) ~~In the event that a Capacity Market Seller and the Market Monitoring Unit cannot agree on the level of the EFORD, the Office of the Interconnection shall make its own determination of the level of the EFORD based on the requirements of the Tariff and the PJM Manuals.—If the Capacity Market Seller submits an EFORD that the Market Monitoring Unit—Office of the Interconnection determines would result in an increase of greater than five percent in any Zonal Capacity Price determined through such auction compared to the Market Monitoring Unit—Office of the Interconnection’s determination pursuant to section II.C of Attachment M—Appendix of the level of the EFORD, the Market Monitoring Unit—Office of the Interconnection shall may apply to FERC for an order pursuant to section II.C of Attachment M—Appendix, on an expedited basis, directing such Capacity Market Seller to submit an EFORD consistent with the Market Monitoring Unit’s determination, or for other appropriate relief, and in which case PJM shall postpone clearing the auction for up to 90 days pending FERC’s decision on the matter.—Should the Market Monitoring Unit exercise its powers to inform Commission staff of its concerns and request a determination, on an expedited basis, directing a Capacity Market Seller to submit an EFORD consistent with the Market Monitoring Unit’s determination, or for other appropriate relief, pursuant to section II.C of Attachment M—Appendix, PJM may postpone clearing the auction pending FERC’s decision on the matter.~~

(e) Nothing in this section precludes the Capacity Market Seller from filing a petition with FERC seeking a determination of whether the EFORD complies with the requirements of the Tariff.

(f) ~~Notwithstanding the foregoing, a~~ Capacity Market Seller may submit an EFORD that it chooses, provided that (i) it has participated in good faith with the process described in this section ~~6.6~~ and in section II.C of Attachment M - Appendix, (ii) the offer is no higher than the level defined in any agreement reached by the Capacity Market Seller and the Market Monitoring Unit that resulted from the foregoing process, and (iii) the offer is accepted by the Office of the Interconnection subject to the criteria set forth in section 5.8 above~~the Tariff and the PJM Manuals~~.

(g) Existing generation resources in the PJM Region capable of qualifying as a Generation Capacity Resource may not avoid the rule in subsection (a) by failing to qualify as a Generation Capacity Resource, or by attempting to remove a unit previously qualified as a Generation Capacity Resource from classification as a Capacity Resource, excepting only generation resources that, as shown by appropriate documentation: (i) are reasonably expected to be physically unable to participate in the relevant Delivery Year; (ii) have a financially and physically firm commitment to an external sale of its capacity, or (iii) were interconnected to the Transmission System as Energy Resources and not subsequently converted to a Capacity Resource. A Generation Capacity Resource that does not qualify for submission into an RPM Auction because it is not owned or controlled by the Capacity Market Seller for a full Delivery Year is not subject to the offer requirement hereunder; provided, however, that a Capacity Market Seller planning to transfer

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ownership or control of a Generation Capacity Resource during a Delivery Year pursuant to a sale or transfer agreement entered into after March 26, 2009 shall be required to satisfy the offer

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requirement hereunder for the entirety of such Delivery Year and may satisfy such requirement by providing for the assumption of this requirement by the transferee of ownership or control under such agreement.

(h) Any existing generation resource located in the PJM Region that is not offered into the Base Residual Auction for a Delivery Year, and that does not meet any of the

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exceptions stated in the prior subsection (g): (i) may not participate in any subsequent auctions conducted for such Delivery Year; (ii) shall not receive any payments under section 5.14 for such Delivery Year; and (iii) shall not be permitted to satisfy any LSE's Unforced Capacity Obligation, or any entity's obligation to obtain the commitment of Capacity Resources, for such Delivery Year.

(i) To avoid application of subsection (j), any existing Generation Capacity Resource located in the PJM Region that is offered into the Base Residual Auction for a Delivery Year, but that does not clear in such auction, shall be offered in the First, Second, and Third Incremental Auctions (and any Conditional Incremental Auction) for such Delivery Year, unless such Generation Capacity Resource, as shown by appropriate documentation, (i) is reasonably expected to be physically unable to participate in the relevant auction; (ii) has a financially and physically firm commitment to an external sale of its capacity; or (iii) was interconnected to the Transmission System as an Energy Resource and not subsequently converted to a Capacity Resource.

(j) Any existing Generation Capacity Resource located in the PJM Region that is offered into the Base Residual Auction for a particular Delivery Year, does not clear in such auction, is not offered into the First, Second, Third, and Conditional Incremental Auctions for such Delivery Year, and does not meet any of the exceptions stated in subsection (g): (i) may not participate in any subsequent auctions conducted for such Delivery Year; (ii) shall not receive any payments under section 5.14 for such Delivery Year; (iii) shall not be permitted to satisfy any LSE's Unforced Capacity Obligation, or any entity's obligation to obtain the commitment of Capacity Resources, for such Delivery Year, and (iv) may be subject to further action by the Market Monitoring Unit under Attachment M and Attachment M - Appendix.

(k) In addition to the remedies set forth in subsections (g), (h), (i), and (j), if the Market Monitoring Unit determines that one or more Capacity Market Sellers' failure to offer part or all of one or more existing generation resources into an auction would ~~result in an increase of greater than five percent in any~~ Zonal Capacity Prices determined through such auction, the ~~Market Monitoring Unit Office of the Interconnection shall~~ may apply to FERC for an order, on an expedited basis, directing such Capacity Market Seller to participate in the auction, or for other appropriate relief, and PJM ~~shall~~ will postpone clearing the auction for up to 90 days pending FERC's decision on the matter.

6.7 Data Submission

(a) Potential participants in any PJM Reliability Pricing Model Auction shall submit, together with supporting documentation for each item, to the Market Monitoring Unit no later than four months prior to the posted date for the conduct of such auction, a list of owned or controlled generation resources by PJM transmission zone for the specified Delivery Year, including the amount of gross capacity, the EFORD and the net (unforced) capacity.

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(b) Except as provided in subsection (c) below, potential participants in any PJM Reliability Pricing Model Auction in any LDA or Unconstrained LDA Group that fails the Preliminary Market Structure Screen (or, if such region fails the screen, potential auction participants in the entire PJM Region) shall, in addition, submit the following data, together with supporting documentation for each item, to the Market Monitoring Unit no later than two months prior to the conduct of such auction:

i. If the Capacity Market Seller intends to submit a non-zero price in its Sell Offer in any such auction, the Capacity Market Seller shall submit a calculation of the Avoidable Cost Rate and Projected PJM Market Revenues, as defined in subsection (d) below, together with detailed supporting documentation.

ii. If the Capacity Market Seller intends to submit a Sell Offer based on opportunity cost, the Capacity Market Seller shall also submit a calculation of Opportunity Cost, as defined in subsection (d), with detailed supporting documentation.

(c) Potential auction participants identified in subsection (b) above need not submit the data specified in that subsection for any Generation Capacity Resource:

i. that is in an Unconstrained LDA Group or, if this is the relevant market, the entire PJM Region, and is in a resource class identified in the table below as not likely to include the marginal price-setting resources in such auction; or

ii. for which the potential participant commits that any Sell Offer it submits as to such resource shall not include any price above: (1) the level identified in the table below for the relevant resource class, less (2) the Projected PJM Market Revenues for such resource, as determined in accordance with this Tariff.

Nothing herein precludes the Market Monitoring Unit from requesting additional information from any potential auction participant as deemed necessary by the Market Monitoring Unit, including, without limitation, additional cost data on resources in a class that is not otherwise expected to include the marginal price setting resource; and compliance with such request shall be a condition of participation in any auction. Any Sell Offer submitted in any auction that is inconsistent with any commitment made pursuant to this subsection shall be rejected, and the Capacity Market Seller shall be required promptly to resubmit a Sell Offer that complies with such commitments. If the Capacity Market Seller does not timely resubmit its Sell Offer, it shall be deemed to have submitted a Sell Offer that complies with the commitments made under this subsection, with a default price equal to the maximum price for the class of resource

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determined under section (c)(ii) above. The obligation imposed under section 6.6(a) shall not be satisfied unless and until the Capacity Market Seller submits (or is deemed to have submitted) a Sell Offer that conforms to its commitments made pursuant to this subsection or subject to the procedures set forth in section 6.4 and section II.H of Attachment M - Appendix. The default Avoidable Cost Rates referenced in section (c)(ii) above are as set forth in the tables below. Capacity Market Sellers shall use the one-year mothball Avoidable Cost Rate shown below, unless such Capacity Market Seller satisfies the criteria set forth in section 6.7(e), in which case the Capacity Market Seller may use the retirement Avoidable Cost Rate. PJM shall also publish on its Web site the number of Generation Capacity Resources and megawatts per LDA that use the retirement Avoidable Cost Rates.

Technology Classes Not Likely to be the Marginal Price Setting Resource		
Technology	Mothball Avoidable Cost Rate (\$/MW-Day)	Retirement Avoidable Cost Rate (\$/MW-Day)
Nuclear	N/a	N/a
Pumped Storage	\$22.71	\$31.89
Hydro	\$77.62	\$101.52
Sub-Critical Coal	\$186.35	\$206.57
Super Critical Coal	\$192.53	\$210.59
Waste Coal - Small	\$245.75	\$297.65
Waste Coal – Large	\$90.89	\$109.80
Wind	N/a	N/a

Maximum Avoidable Cost Rates by Technology Class		
Technology	Mothball Avoidable Cost Rate (\$/MW-Day)	Retirement Avoidable Cost Rate (\$/MW-Day)
CC- Two on One Frame F Technology	\$33.80	\$47.95
CC- Three on One Frame E/Siemens Technology	\$37.52	\$50.81
CC - Three or More on One or More Frame F Technology	\$29.26	\$40.62
CC - NUG Cogeneration Frame B or E Technology	\$125.62	\$168.80
CT - First & Second Generation Aero (P&W FT 4)	\$26.86	\$35.73
CT - First & Second Generation Frame B	\$26.54	\$35.42
CT - Second Generation Frame E	\$25.23	\$33.76
CT - Third Generation Aero (GE LM 6000)	\$61.07	\$90.02
CT - Third Generation Aero (P&W FT- 8 TwinPak)	\$32.03	\$47.23
CT - Third Generation Frame F	\$25.90	\$37.30
Diesel	\$28.74	\$36.49
Oil and Gas Steam	\$71.28	\$86.78

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After the Market Monitoring Unit conducts its annual review of the table of default Avoided Cost Rates included in section 6.7(c) above in accordance with the procedure specified in section II.H of Attachment M – Appendix, it will provide updated values, ~~if needed, or notice of its determination that updated values are not needed~~ to the Office of the Interconnection, ~~which. In the event that the Office of the Interconnection disagrees with the values proposed for revising the matrix, the Office of the Interconnection~~ shall file such its updated values with the Commission. The Office of the Interconnection may defer to the Market Monitoring Unit to support such values in a separate attachment or pleading.

~~i.——(d) In order for costs to qualify for inclusion in the Market Seller Offer Cap, the Capacity Market Seller must provide to the Market Monitoring Unit relevant cost data concerning each data item specified as set forth in section 6.8, costs may be estimated for such period based on the most recent data available, with an explanation of and basis for the estimate used. Based on the data and calculations submitted by the Capacity Market Sellers for each existing generation resource and the formulas specified below, the Market Monitoring Unit shall calculate the Market Seller Offer Cap for each such resource, and notify the Capacity Market Seller one month prior to the auction of its determination. Avoidable Cost Rate: The Avoidable Cost Rate for an existing generation resource shall be determined using the formula below and applied to the unit's Base Offer Segment.~~

~~ii.——Opportunity Cost: Opportunity Cost shall be the documented price available to an existing generation resource in a market external to PJM. In the event that the total MW of existing generation resources submitting opportunity cost offers in any auction for a Delivery Year exceeds the firm export capability of the PJM system for such Delivery Year, or the capability of external markets to import capacity in such year, the Office of the Interconnection will accept such offers on a competitive basis. PJM will construct a supply curve of opportunity cost offers, ordered by opportunity cost, and accept such offers to export starting with the highest opportunity cost, until the maximum level of such exports is reached. The maximum level of such exports is the lesser of the Office of the Interconnection's ability to permit firm exports or the ability of the importing area(s) to accept firm imports or imports of capacity, taking account of relevant export limitations by location. If, as a result, an opportunity cost offer is not accepted from an existing generation resource, the Market Seller Offer Cap applicable to Sell Offers relying on such generation resource shall be the Avoidable Cost Rate. The default Avoidable Cost Rate shall be the one year mothball Avoidable Cost Rate set forth in the tables in section 6.7(c) above unless Capacity Market Seller satisfies the criteria delineated in section 6.7(c) below.~~

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~~iii. — iii. — Projected PJM Market Revenues, as defined by section 6.8(d), for any Generation Capacity Resource to which the Avoidable Cost Rate is applied.~~

~~iv. — (e) — In order for the retirement Avoidable Cost Rate set forth in the table in section 6.7(e) to apply, a Capacity Market Seller must timely submit to the Office of the Interconnection and the Market Monitoring Unit a written sworn, notarized statement of a corporate officer representing that the Capacity Market Seller will retire the Generation Capacity Resource if it does not receive during the relevant Delivery Year at least the applicable retirement Avoidable Cost Rate because it would be uneconomic to continue to operate the Generation Capacity Resource in the Delivery Year without the retirement Avoidable Cost Rate, and specifying the date the Generation Capacity Resource would otherwise be retired.~~

~~6.8 — Avoidable Cost Definition~~

~~(a) — Avoidable Cost Rate: The Avoidable Cost Rate for a Generation Capacity Resource that is the subject of a Sell Offer shall be determined using the following formula, expressed in dollars per MW-year:~~

$$\text{Avoidable Cost Rate} = [\text{Adjustment Factor} * (\text{AOML} + \text{AAE} + \text{AME} + \text{AVE} + \text{ATFI} + \text{ACC} + \text{ACLE}) + \text{ARPIR} + \text{APIR}]$$

~~— Where:~~

~~Adjustment Factor equals 1.10 (to provide a margin of error for understatement of costs) plus an additional adjustment referencing the 10-year average Handy-Whitman Index in order to account for expected inflation from the time interval between the submission of the Sell Offer and the commencement of the Delivery Year.~~

~~AOML (Avoidable Operations and Maintenance Labor) consists of the avoidable labor expenses related directly to operations and maintenance of the generating unit for the twelve months preceding the month in which the data must be provided. The categories of expenses included in AOML are those incurred for: (a) on site based labor engaged in operations and maintenance~~

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~~ACLE (Avoidable Corporate Level Expenses) consists of avoidable corporate level expenses directly related to the generating unit incurred in the twelve months preceding the month in which the data must be provided. Avoidable corporate level expenses shall include only such expenses that are directly linked to providing tangible services required for the operation of the generating unit proposed for Deactivation. The categories of avoidable expenses included in ACLE are those incurred for: (a) legal services, (b) environmental reporting; and (c) procurement expenses.~~

~~APIR (Avoidable Project Investment Recovery Rate) = PI * CRF~~

~~Where:~~

~~PI is the amount of project investment completed prior to June 1 of the Delivery Year, except for Mandatory Capital Expenditures (“CapEx”) for which the project investment must be completed during the Delivery Year, that is reasonably required to enable a Generation Capacity Resource that is the subject of a Sell Offer to continue operating or improve availability during Peak Hour Periods during the Delivery Year.~~

~~CRF is the annual capital recovery factor from the following table, applied in accordance with the terms specified below.~~

Age of Existing Units (Years)	Remaining—Life of Plant (Years)	Levelized CRF
1 to 5	30	0.107
6 to 10	25	0.114
11 to 15	20	0.125
16 to 20	15	0.146
21 to 25	10	0.198
25 Plus	5	0.363
Mandatory CapEx	4	0.450
40 Plus Alternative	4	1.100

~~Unless otherwise stated, Age of Existing Unit shall be equal to the number of years since the Unit commenced commercial operation, up to and through the relevant Delivery Year.~~

~~Remaining Life of Plant defines the amortization schedule (i.e., the maximum number of years over which the Project Investment may be included in the Avoidable Cost Rate.)~~

~~**Capital Expenditures and Project Investment**~~

~~For any given Project Investment, a Capacity Market Seller may make a one-time election to recover such investment using: (i) the highest CRF and associated recovery schedule to which it is entitled; or (ii) the next highest CRF and associated recovery schedule. For these purposes, the CRF and recovery schedule for the 16 Plus category is the next highest CRF and recovery schedule for both the Mandatory CapEx and the 40 Plus Alternative categories. The Capacity Market Seller using the above table must provide the Market Monitoring Unit with information, identifying and supporting such election, including but not limited to the age of~~

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~~the unit, the amount of the Project Investment, the purpose of the investment, evidence of corporate commitment (e.g., an SEC filing, a press release, or a letter from a duly authorized corporate officer indicating intent to make such investment), and detailed information concerning the governmental requirement (if applicable). Absent other written notification, such election shall be deemed based on the CRF such Seller employs for the first Sell Offer reflecting recovery of any portion of such Project Investment. A Sell Offer submitted in the BRA for either or both of the 2007-2008 and 2008-2009 Delivery Years for which the "16 Plus" CRF and recovery schedule is selected may not exceed an offer price equal to the then current Net CONE (on an unforced-equivalent basis).~~

~~For any resource using the CRF and associated recovery schedule from the CRF table that set the Capacity Resource Clearing Price in any Delivery Year, such Capacity Market Seller must also provide to the Market Monitoring Unit, for informational purposes only, evidence of the actual expenditure of the Project Investment, when such information becomes available.~~

~~If the project associated with a Project Investment that was included in a Sell Offer using a CRF and associated recovery schedule from the above table has not entered into commercial operation prior to the end of the relevant Delivery Year, and the resource's Sell Offer sets the clearing price for the relevant LDA, the Capacity Market Seller shall be required to elect to either (i) pay a charge that is equal to the difference between the Capacity Resource Clearing Price for such LDA for the relevant Delivery Year and what the clearing price would have been absent the APIR component of the Avoidable Cost Rate, this difference to be multiplied by the cleared MW volume from such Resource ("rebate payment"); (ii) hold such rebate payment in escrow, to be released to the Capacity Market Seller in the event that the project enters into commercial operation during the subsequent Delivery Year or rebated to LSEs in the relevant LDA if the project has not entered into commercial operation during the subsequent Delivery Year; or (iii) make a reasonable investment in the amount of the PI in other existing Generation Capacity Resources owned or controlled by the Capacity Market Seller or its Affiliates in the relevant LDA. The revenue from such rebate payments shall be allocated pro rata to LSEs in the relevant LDA(s) that were charged a Locational Reliability Charge for such Delivery Year, based on their Daily Unforced Capacity Obligation in the relevant LDA(s). If the Sell Offer from the Generation Capacity Resource did not set the Capacity Resource Clearing Price in the relevant LDA, no alternative investment or rebate payment is required. If the difference between the Capacity Resource Clearing Price for such LDA for the relevant Delivery Year and what the clearing price would have been absent the APIR amount does not exceed the greater of \$10 per MW-day or a 10% increase in the clearing price, no alternative investment or rebate payment is required.~~

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Mandatory CapEx Option

~~The Mandatory CapEx CRF and recovery schedule is an option available, beginning in the third BRA (Delivery Year 2009-10), to a resource that must make a Project Investment to comply with a governmental requirement that would otherwise materially impact operating levels during the Delivery Year, where: (i) such resource is a coal, oil or gas fired resource that began commercial operation no fewer than fifteen years prior to the start of the first Delivery Year for which such recovery is sought, and such Project Investment is equal to or exceeds \$200/kW of capitalized project cost; or (ii) such resource is a coal fired resource located in an LDA for which a separate VRR Curve has been established for the relevant Delivery Years, and began commercial operation at least 50 years prior to the conduct of the relevant BRA.~~

~~A Capacity Market Seller that wishes to elect the Mandatory CapEx option for a Project Investment must do so beginning with the Base Residual Auction for the Delivery Year in which such project is expected to enter commercial operation. A Sell Offer submitted in any Base Residual Auction for which the Mandatory CapEx option is selected may not exceed an offer price equivalent to 0.90 times the then current Net CONE (on an unforced equivalent basis).~~

40 Year Plus Alternative Option

~~The 40 Plus Alternative CRF and recovery schedule is an option available, beginning in the third BRA (Delivery Year 2009-10), for a resource that is a gas or oil fired resource that began commercial operation no less than 40 years prior to the conduct of the relevant BRA (excluding, however, any resource in any Delivery Year for which the resource is receiving a payment under Part V of the PJM Tariff. Generation Capacity Resources electing this 40 Plus Alternative CRF shall be treated as At Risk Generation for purposes of the sensitivity runs in the RTEP process). Resources electing the 40 Year Plus Option will be modeled in the RTEP process as "at risk" at the end of the one year amortization period.~~

~~A Capacity Market Seller that wishes to elect the 40 Plus Alternative option for a Project Investment must provide written notice of such election to the Office of the Interconnection no later than six months prior to the Base Residual Auction for which such election is sought; provided however that shorter notice may be provided if unforeseen circumstances give rise to the need to make such election and such seller gives notice as soon as practicable.~~

~~The Office of the Interconnection shall give market participants reasonable notice of such election, subject to satisfaction of requirements under the PJM Operating Agreement for protection of confidential and commercially sensitive information. A Sell Offer submitted in any Base Residual Auction for which the 40 Plus Alternative option is selected may not exceed an offer price equivalent to the then current Net CONE (on an unforced equivalent basis).~~

Multi-Year Pricing Option

~~A Seller submitting a Sell Offer with an APIR component that is based on a Project Investment of at least \$450/kW may elect this Multi-Year Pricing Option by providing written notice to such effect the first time it submits a Sell Offer that includes an APIR component for such Project Investment, specifying the number of years ("Commitment Period"), up to 7 years, from the table above, that it wishes such option to be in effect. Such option shall be available only if (i) a separate Variable Resource Requirement Curve has been established for the LDA in~~

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~~which the Capacity Resource associated with such project is located for the first Base Residual Auction in which the Seller submits an offer based on such Project Investment; (ii) the sell offer including such APIR clears such first Base Residual Auction, and (iii) the Seller continues to submit in each subsequent Base Residual Auction during the Commitment Period a price equal to the Avoidable Cost Rate less the Projected PJM Market Revenues determined for such resource. If all such conditions are met, then:~~

~~i) if the Sell Offer submitted in a subsequent Base Residual Auction for a Delivery Year during the Commitment Period clears such auction, then the Seller shall be paid its offer price from the first Base Residual Auction, rather than the auction clearing price; and~~

~~ii) if the submitted Sell Offer in a subsequent Base Residual Auction for a Delivery Year during the Commitment Period would not clear such auction, then the sell offer shall be treated as resubmitted with a zero price offer and the Seller shall be paid its offer price from the first Base Residual Auction, rather than the auction clearing price.~~

~~Subject to the proviso stated in section 5.14(f), the costs of any payments to such Seller in excess of the clearing price in such auction, as well as the credit for any payments to such Seller below the clearing price, shall be apportioned to Load serving Entities (in proportion to their load ratio share) serving loads in the LDA in which the resource with such Project Investment cleared in the first Base Residual Auction is located, without regard to whether such LDA had a Locational Price Adder in such subsequent year.~~

~~During its Commitment Period, the Capacity Resource shall neither be delisted under the provisions of Section 5.6.6(d) nor designated as a resource in any FRR Capacity Plan.~~

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~~• ARPIR (Avoidable Refunds of Project Investment Reimbursements) consists of avoidable refund amounts of Project Investment Reimbursements payable by a Generation Owner to PJM under Part V, Section 118 of this Tariff or avoidable refund amounts of project investment reimbursements payable by a Generation Owner to PJM under a Cost of Service Recovery Rate filed under Part V, Section 119 of the Tariff and approved by the Commission.~~

~~(b) For the purpose of determining an Avoidable Cost Rate, avoidable expenses are incremental expenses directly required to operate a Generation Capacity Resource that a Generation Owner would not incur if such generating unit did not operate in the Delivery Year or meet Availability criteria during Peak Hour Periods during the Delivery Year.~~

~~(c) For the purpose of determining an Avoidable Cost Rate, avoidable expenses shall exclude variable costs recoverable under cost-based offers to sell energy from operating capacity on the PJM Interchange Energy Market under the Operating Agreement.~~

~~(d) Projected PJM Market Revenues for any Generation Capacity Resource to which the Avoidable Cost Rate is applied shall include all actual unit-specific revenues from PJM energy markets, ancillary services, and unit-specific bilateral contracts from such Generation Capacity Resource, net of marginal costs for providing such energy (i.e., costs allowed under cost-based offers pursuant to Section 6.4 of Schedule 1 of the Operating Agreement) and ancillary services from such resource.~~

~~(i) For the first three BRAs (for Delivery Years 2007-08, 2008-09, 2009-10), the calculation of Projected PJM Market Revenues shall be equal to the simple average of such net revenues as described above for calendar years 2001-2006; and~~

~~(ii) For the fourth BRA (delivery year 2010-11) and thereafter, the calculation of Projected PJM Market Revenues shall be equal to the rolling simple average of such net revenues as described above from the three most recent whole-calendar years prior to the year in which the BRA is conducted.~~

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~~If a Generation Capacity Resource did not receive PJM market revenues during the entire relevant time period because the Generation Capacity Resource was not integrated into PJM during the full period, then the Projected PJM Market Revenues shall be calculated using only those whole calendar years within the full period in which such Resource received PJM market revenues.~~

~~If a Generation Capacity Resource did not receive PJM market revenues during the entire relevant time period because it was not in commercial operation during the entire period, or if data is not available to the Capacity Market Seller for the entire period, despite the good faith efforts of such seller to obtain such data, then the Projected PJM Market Revenues shall be calculated based upon net revenues received over the entire period by comparable units, to be developed by the MMU and the Capacity Market Seller.~~

7. GENERATION RESOURCE RATING TEST FAILURE CHARGE

7.1 Generation Resource Rating Test Failure Charges

A Generation Resource Rating Test Failure Charge shall be assessed on any Market Seller that commits a Generation Capacity Resource for a Delivery Year, and on any Locational UCAP Seller that sells Locational UCAP for a Delivery Year based on a Generation Capacity Resource, if such resource fails a generation resource capacity test, as provided herein.

a) Generation Resource Fails Capacity Test in Delivery Year

Each Generation Capacity Resource committed for a Delivery Year shall be obligated to complete a generation resource capacity test, as described in the PJM Manuals, for both the Summer and Winter Seasons. The Market Seller that committed the resource, or Locational UCAP Seller that sold the resource, may perform an unlimited number of tests during each such period. If none of the tests during a testing period certify full delivery of the megawatt amount of installed capacity the Market Seller committed, or Locational UCAP Seller sold, for such Delivery Year, the Market Seller or Locational UCAP Seller shall be assessed a daily Generation Resource Rating Test Failure Charge for each day from the first day of the Summer or Winter Season in which such resource failed the rating test through the last day of such Delivery Year, provided, however, that such a seller that fails or is expected to fail a rating test may obtain and commit Unforced Capacity from a replacement Capacity Resource meeting the same locational requirements. Such Unforced Capacity may include uncommitted or uncleared Sell Offer blocks from Generation Capacity Resources that were otherwise committed. Any such commitment of replacement capacity shall be effective upon no less than one day's notice to the Office of the Interconnection, and shall reduce the amount of installed capacity committed from the Generation Capacity Resource, that failed or was expected to fail such rating test, in accordance with the determination prescribed by subsection (b) below.

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**MMU Proposed Tariff Revisions,
Redlined Against Provisions in the April 29th Filing**

Attachment K

in the PJM Manuals. Reserve levels are probabilistically determined based on the season's historical load forecasting error and forced outage rates.

(c) Nuclear generation resources shall not be eligible for Operating Reserve payments unless: 1) the Office of the Interconnection directs such resources to reduce output, in which case, such units shall be compensated in accordance with section 3.2.3(f) of this Schedule; or 2) the resource submits a request for a risk premium ~~to the Market Monitoring Unit~~ developed in accordance with under the procedures specified in Section II.B of Attachment M - Appendix. ~~A nuclear generation resource (i) must submit a risk premium consistent with its agreement under such process, or, (ii) if it has not agreed with the Market Monitoring Unit on an appropriate risk premium, may submit its own determination of an appropriate risk premium to the Office of the Interconnection, subject to acceptance by the Office of the Interconnection, with or without prior approval from the Commission.~~

1.7.18 Regulation.

(a) Regulation to meet the Regulation objective of each Regulation Zone shall be supplied from generation resources and/or Demand Resources located within the metered electrical boundaries of such Regulation Zone. Generating Market Buyers, and Market Sellers offering Regulation, shall comply with applicable standards and requirements for Regulation capability and dispatch specified in the PJM Manuals.

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Except as provided in Section 3.2.3(m), if the total offered price exceeds the total value, the difference less any credit as determined pursuant to Section 3.2.3(b) plus the resources opportunity cost plus the resource's opportunity cost and less any amounts credited for Reactive Services as specified in Section 3.2.3.B, and less any amounts for Day-ahead Scheduling Reserve in excess of the Day-ahead Scheduling Reserve offer plus the resource's opportunity cost, shall be credited to the Market Seller.

Regulation, Synchronized Reserve and Day-ahead Scheduling Reserve credits applied against Operating Reserve credits pursuant to this section shall be netted against the Operating Reserve credits earned in the corresponding hour(s) in which the Regulation, Synchronized Reserve, and Day-ahead Scheduling Reserve credits accrued, provided that for condensing combustion turbines, Synchronized Reserve credits will be netted against the total Operating Reserve credits accrued during each period the unit operates in condensing and generation mode for one or more contiguous hours.

(f) A Market Seller's steam-electric generating unit or combined cycle unit operating in combined cycle mode that is pool-scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), the output of which is reduced or suspended at the request of the Office of the Interconnection due to a transmission constraint or other reliability issue, and for which the hourly integrated, real-time LMP at the unit's bus is higher than the unit's offer corresponding to the level of output requested by the Office of the Interconnection (as indicated either by the desired MWs of output from the unit determined by PJM's unit dispatch system or as directed by the PJM dispatcher through a manual override), shall be credited hourly in an amount equal to $\{(LMP_{DMW} - AG) \times (URTLMP - UB)\}$, where:

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LMPDMW equals the level of output for the unit determined according to the point on the scheduled offer curve on which the unit was operating corresponding to the hourly integrated real time LMP;

AG equals the actual hourly integrated output of the unit;

URLMP equals the real time LMP at the unit's bus;

UB equals the unit offer for that unit for which output is reduced or suspended, determined according to the real-time scheduled offer curve on which the unit was operating, unless such schedule was a price-based schedule and the offer associated with that price schedule is less than the cost-based offer provided for the unit, in which case the offer for the unit will be determined from the cost-based schedule; and

where $URLMP - UB$ shall not be negative.

(f-1) A Market Seller's combustion turbine unit or combined cycle unit operating in simple cycle mode that is pool-scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), operated as requested by the Office of the Interconnection, shall be compensated for lost opportunity cost if either of the following conditions occur:

(i) if the unit output is reduced at the direction of the Office of the Interconnection and the real time LMP at the unit's bus is higher than the unit's offer corresponding to the level of output requested by the Office of the Interconnection (as directed by the PJM dispatcher), then the Market Seller shall be credited in a manner consistent with that described above for a steam unit or combined cycle unit operating in combined cycle mode.

(ii) if the unit is scheduled to produce energy in the day-ahead market, but the unit is not called on by PJM and does not operate in real time, then the Market Seller shall be credited hourly in an amount equal to the higher of (i) $\{(URLMP - UDALMP) \times DAG\}$, or (ii) $\{(URLMP - UB) \times DAG\}$ where:

URLMP equals the real time LMP at the unit's bus;

UDALMP equals the day-ahead LMP at the unit's bus;

DAG equals the day-ahead scheduled unit output for the hour;

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UB equals the offer price for the unit, determined according to the schedule on which the unit was committed day-ahead, unless such schedule was a price-based schedule and the offer associated with that price schedule is less than the cost-based offer provided for the unit, in which case the offer for the unit will be determined from the cost-based schedule; and

where $URTLMP - UDALMP$ and $URTLMP - UB$ shall not be negative.

(f-2) A Market Seller's hydroelectric resource that is pool-scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), the output of which is altered at the request of the Office of the Interconnection from the schedule submitted by the owner, due to a transmission constraint or other reliability issue, shall be compensated for lost opportunity cost in the same manner as provided in sections 3.2.2A(d) and 3.2.3A(f) and further detailed in the PJM Manuals.

(f-3) If a Market Seller believes that, due to specific pre-existing binding commitments to which it is a party, and that properly should be recognized for purposes of this section, the above calculations do not accurately compensate the Market Seller for opportunity cost associated with following PJM dispatch instructions and reducing or suspending a unit's output due to a transmission constraint or other reliability issue, then it may attempt to modify the amount of opportunity cost compensation in accordance with section V of the Attachment M-Appendix~~the Office of the Interconnection, the Market Monitoring Unit and the individual Market Seller will discuss a mutually acceptable, modified amount of opportunity cost compensation, taking into account the specific circumstances binding on the Market Seller. Following such discussion, if the Office of the Interconnection accepts a modified amount of opportunity cost compensation, the Office of the Interconnection shall invoice the Market Seller accordingly. If the Market Monitoring Unit disagrees with the modified amount of opportunity cost compensation, as accepted by the Office of the Interconnection, it will exercise its powers to inform the Commission staff of its concerns.~~

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(g) The sum of the foregoing credits, plus any cancellation fees paid in accordance with Section 1.10.2(d) such cancellation fees to be applied to the Operating Day for which the unit was scheduled, plus any shortfalls paid pursuant to the Market Settlement provision of the Real-time Economic Load Response Program, less any payments received from another Control Area for Operating Reserves, plus any redispatch costs incurred in accordance with section 10(a) of this Schedule, shall be the cost of Operating Reserves for the Real-time Energy Market in each Operating Day.

(h) The cost of Operating Reserves for the Real-time Energy Market for each Operating Day shall be allocated and charged to each Market Participant in proportion to the sum of the absolute values of its (i) load deviations (net of operating Behind The Meter Generation) from the Day-ahead Energy Market in megawatt-hours during that Operating Day, except as noted below and in the PJM Manuals; (ii) generation deviations (not including deviations in Behind The Meter Generation) from the Day-ahead Energy Market for non-dispatchable generation resources, including External Resources, in megawatt-hours during the Operating Day; (iii) deviations from the Day-ahead Energy Market for bilateral transactions from outside the PJM Region for delivery within such region in megawatt-hours during the Operating Day; and (iv) deviations of energy sales from the Day-ahead Energy Market from within the PJM Region to load outside such region in megawatt-hours during that Operating Day, but not including its bilateral transactions that are dynamically scheduled to load outside such area pursuant to Section 1.12.

Deviations that occur within a single Zone shall be associated with the Eastern or Western Regions, as defined in Section 3.2.3(q) of this Schedule, and shall be subject to the regional balancing Operating Reserve rate determined in accordance with Section 3.2.3(q). Deviations at interfaces and hubs shall be associated with the Eastern or Western Region if all the busses that define all interfaces or all hubs are located in the region. If deviations at interfaces and hubs are associated with the Eastern or Western region, they shall be subject to the regional balancing Operating Reserve rate. Demand and supply deviations shall be based on total activity in a Zone, including all aggregates and hubs defined by busses that are wholly contained within the same Zone.

The foregoing notwithstanding, netting deviations shall be allowed in accordance with the following provisions:

(i) Generation resources with multiple units located at a single bus shall be able to offset deviations in accordance with the PJM Manuals to determine the net deviation MW at the relevant bus.

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- (ii) Demand deviations will be assessed by comparing all day-ahead demand transactions at a single transmission zone, hub, or interface against the real-time demand transactions at that same transmission zone, hub, or interface; except that the positive values of demand deviations, as set forth in the PJM Manuals, will not be assessed Operating Reserve charges in the event of an Operating Reserve shortage in real-time or where PJM initiates the request for load reductions in real-time in order to avoid an Operating Reserve shortage as described in this Schedule, Section 6A, Scarcity Pricing.
- (iii) Supply deviations will be assessed by comparing all day-ahead transactions at a single transmission zone, hub, or interface against the real-time transactions at that same transmission zone, hub, or interface.

(i) At the end of each Operating Day, Market Sellers shall be credited on the basis of their offered prices for synchronous condensing for purposes other than providing Synchronized Reserve or Reactive Services, as well as the credits calculated as specified in Section 3.2.3(b) for those generators committed solely for the purpose of providing synchronous condensing for purposes other than providing Synchronized Reserve or Reactive Services, at the request of the Office of the Interconnection.

(j) The sum of the foregoing credits as specified in Section 3.2.3(i) shall be the cost of Operating Reserves for synchronous condensing for the PJM Region for purposes other than providing Synchronized Reserve or Reactive Services, or in association with post-contingency operation for the Operating Day and shall be separately determined for each Control Zone of the PJM Region based on the Control Zone to which the resource was synchronized to provide synchronous condensing for purposes other than providing Synchronized Reserve or Reactive Services, or in association with post-contingency operation.

(k) The cost of Operating Reserves for synchronous condensing for purposes other than providing Synchronized Reserve or Reactive Services, or in association with post-contingency operation for each Operating Day shall be allocated and charged to each Market Participant in proportion to the sum of its (i) deliveries of energy to load (net of operating Behind The Meter Generation, but not to be less than zero) in the PJM Region, served under Network Transmission Service, in megawatt-hours during that

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(b) At the end of each Operating Day, where the active energy output of a Market Seller's resource is reduced or suspended at the request of the Office of the Interconnection for the purpose of maintaining reactive reliability within the PJM Region, the Market Seller shall be credited according to Sections 3.2.3B(c) & 3.2.3B(d).

(c) A Market Seller providing Reactive Services from either a steam-electric generating unit or combined cycle unit operating in combined cycle mode, where such unit is pool-scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), and where the hourly integrated, real time LMP at the unit's bus is higher than the price offered by the Market Seller for energy from the unit at the level of output requested by the Office of the Interconnection (as indicated either by the desired MWs of output from the unit determined by PJM's unit dispatch system or as directed by the PJM dispatcher through a manual override) shall be compensated for lost opportunity cost by receiving a credit hourly in an amount equal to $\{(LMP_{DMW} - AG) \times (URTLMP - UB)\}$

where:

LMP_{DMW} equals the level of output for the unit determined according to the point on the scheduled offer curve on which the unit was operating corresponding to the hourly integrated real time LMP;

AG equals the actual hourly integrated output of the unit;

URTLMP equals the real time LMP at the unit's bus;

UB equals the unit offer for that unit for which output is reduced or suspended determined according to the real time scheduled offer curve on which the unit was operating, unless such schedule was a price-based schedule and the offer associated with that price-based schedule is less than the cost-based offer for the unit, in which case the offer for the unit will be determined based on the cost-based schedule; and

where $URTLMP - UB$ shall not be negative.

(d) A Market Seller providing Reactive Services from either a combustion turbine unit or combined cycle unit operating in simple cycle mode that is pool scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), operated as requested by the Office of the Interconnection, shall be compensated for lost opportunity cost if either of the following conditions occur:

(i) if the unit output is reduced at the direction of the Office of the Interconnection and the real time LMP at the unit's bus is higher than the price offered by the Market Seller for energy from the unit at the level of output requested by the Office of the Interconnection as directed by the PJM dispatcher, then the Market Seller shall be credited in a manner consistent with that described above in Section 3.2.3B(c) for a steam unit or a combined cycle unit operating in combined cycle mode.

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(ii) if the unit is scheduled to produce energy in the day-ahead market, but the unit is not called on by PJM and does not operate in real time, then the Market Seller shall be credited hourly in an amount equal to the higher of (i) $\{(URTLMP - UDALMP) \times DAG\}$, or (ii) $\{(URTLMP - UB) \times DAG\}$ where:

URTLMP equals the real time LMP at the unit's bus;

UDALMP equals the day-ahead LMP at the unit's bus;

DAG equals the day-ahead scheduled unit output for the hour;

UB equals the offer price for the unit determined according to the schedule on which the unit was committed day-ahead, unless such schedule was a price-based schedule and the offer associated with that price-based schedule is less than the cost-based offer for the unit, in which case the offer for the unit will be determined based on the cost-based schedule; and

where $URTLMP - UDALMP$ and $URTLMP - UB$ shall not be negative.

(e) At the end of each Operating Day, where the active energy output of a Market Seller's unit is increased at the request of the Office of the Interconnection for the purpose of maintaining reactive reliability within the PJM Region and the offered price of the energy is above the real-time LMP at the unit's bus, the Market Seller shall be credited according to Section 3.2.3B(f).

(f) A Market Seller providing Reactive Services from either a steam-electric generating unit, combined cycle unit or combustion turbine unit, where such unit is pool scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), and where the hourly integrated, real time LMP at the unit's bus is lower than the price offered by the Market Seller for energy from the unit at the level of output requested by the Office of the Interconnection (as indicated either by the desired MWs of output from the unit determined by PJM's unit dispatch system or as directed by the PJM dispatcher through a manual override), shall receive a credit hourly in an amount equal to $\{(AG - LMPDMW) \times (UB - URTLMP)\}$ where:

AG equals the actual hourly integrated output of the unit;

LMPDMW equals the level of output for the unit determined according to the point on the scheduled offer curve on which the unit was operating corresponding to the hourly integrated real time LMP;

UB equals the unit offer for that unit for which output is increased, determined according to the real time scheduled offer curve on which the unit was operating;

URTLMP equals the real time LMP at the unit's bus; and

where $UB - URTLMP$ shall not be negative.

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(g) A Market Seller providing Reactive Services from a hydroelectric resource where such resource is pool scheduled (or self-scheduled, if operating according to Section 1.10.3 (c) hereof), and where the output of such resource is altered from the schedule submitted by the Market Seller for the purpose of maintaining reactive reliability at the request of the Office of the Interconnection, shall be compensated for lost opportunity cost in the same manner as provided in sections 3.2.2A(d) and 3.2.3A(f) and further detailed in the PJM Manuals.

(h) If a Market Seller believes that, due to specific pre-existing binding commitments to which it is a party, and that properly should be recognized for purposes of this section, the above calculations do not accurately compensate the Market Seller for lost opportunity cost associated with following the Office of the Interconnection's dispatch instructions to reduce or suspend a unit's output for the purpose of maintaining reactive reliability, then the Office of the Interconnection, ~~it may attempt to modify the amount of opportunity cost compensation in accordance with section V of the Attachment M-Appendix the Market Monitoring Unit and the individual Market Seller will discuss a mutually acceptable, modified amount of such alternate lost opportunity cost compensation, taking into account the specific circumstances binding on the Market Seller. Following such discussion, if the Office of the Interconnection accepts a modified amount of alternate lost opportunity cost compensation, the Office of the Interconnection shall invoice the Market Seller accordingly. If the Market Monitoring Unit disagrees with the modified amount of alternate lost opportunity cost compensation, as accepted by the Office of the Interconnection, it will exercise its powers to inform the Commission staff of its concerns.~~

(i) The amount of Synchronized Reserve provided by generating units maintaining reactive reliability shall be counted as Synchronized reserve satisfying the overall PJM Synchronized Reserve requirements. Operators of these generation units shall be notified of such provision, and to the extent a generation unit's operator indicates that the generation unit is capable of providing Synchronized Reserve, shall be subject to the same requirements contained in Section 3.2.3A regarding provision of Tier 2 Synchronized Reserve. At the end of each Operating Day, to the extent a condenser operated to provide Reactive Services also provided Synchronized Reserve, a Market Seller shall be credited for providing synchronous condensing for the purpose of maintaining reactive reliability at the request of the Office of the Interconnection, in an amount equal to the higher of (i) the hourly Synchronized Reserve Market Clearing Price for each hour a generation unit provided synchronous condensing multiplied by the amount of Synchronized reserve provided by the synchronous condenser or (ii) the sum of (A) the generation unit's hourly cost to provide synchronous condensing, calculated in accordance with the PJM Manuals, (B) the hourly product of MW energy usage for providing synchronous condensing multiplied by the real time LMP at the generation unit's bus, (C) the generation unit's startup-cost of providing synchronous condensing, and (D) the unit-specific lost opportunity cost of the generation resource supplying the increment of Synchronized Reserve as determined by the Office of the Interconnection in accordance with procedures specified in the PJM Manuals. To the extent a condenser operated to provide Reactive Services was not also providing Synchronized Reserve, the Market Seller shall be credited only for the generation unit's cost to condense, as described in (ii) above. The total Synchronized Reserve Obligations of all Load Serving Entities under section 3.2.3A(a) in the zone where these condensers are located shall be reduced by the amount counted as satisfying the PJM Synchronized Reserve requirements. The Synchronized Reserve Obligation of each Load Serving Entity in the zone under section 3.2.3A(a) shall be reduced to the same extent that the costs of such condensers counted as Synchronized Reserve are allocated to such Load Serving Entity pursuant to paragraph (l) below.

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5.2 Transmission Congestion Credit Calculation.

5.2.1 Eligibility.

(a) Except as provided in Section 5.2.1(b) ~~below and Section VI of the Attachment M-Appendix~~, each holder of a Financial Transmission Right shall receive as a Transmission Congestion Credit a proportional share of the total Transmission Congestion Charges collected for each constrained hour.

~~(b) If a holder of a Financial Transmission Right between specified delivery and receipt buses acquired the Financial Transmission Right in a Financial Transmission Rights Auction (the procedures for which are set forth in Part 7 of this Schedule 1) and (i) had an Increment Bid and/or Decrement Bid that was accepted by the Office of the Interconnection for an applicable hour in the Day-ahead Energy Market for delivery or receipt at or near delivery or receipt buses of the Financial Transmission Right; and (ii) the result of the acceptance of such Increment Bid or Decrement Bid is that the difference in locational marginal prices in the Day-ahead Energy Market between such delivery and receipt buses is greater than the difference in locational marginal prices between such delivery and receipt buses in the Real-time Energy Market, then the Market Participant shall not receive any Transmission Congestion Credit, associated with such Financial Transmission Right in such hour, in excess of one divided by the number of hours in the applicable month multiplied by the amount that the Market Participant paid for the Financial Transmission Right in the Financial Transmission Rights Auction.~~

~~(c) For purposes of Section 5.2.1(b) a bus shall be considered at or near the Financial Transmission Right delivery or receipt bus if seventy-five percent or more of the energy injected or withdrawn at that bus and which is withdrawn or injected at any other bus is reflected in the constrained path between the subject Financial Transmission Right delivery and receipt buses that were acquired in the Financial Transmission Rights Auction.~~

~~(d) The Market Monitoring Unit shall calculate Transmission Congestion Credits pursuant to this section and section VI of Attachment M – Appendix and PJM shall bill Market Participants accordingly. Nothing in this section shall preclude the Market Monitoring Unit from action to recover inappropriate benefits from the subject activity if the amount forfeited is less than the benefit derived by the FTR holder. If the Office of the Interconnection agrees with such calculation, then it shall impose the forfeiture of the Transmission Congestion Credit accordingly. If the Office of the Interconnection does not agree with the calculation, then it shall impose a forfeiture of Transmission Congestion Credit consistent with its determination. If the Market Monitoring Unit disagrees with the Office of the Interconnection's determination, it may exercise its powers to inform the Commission staff of its concerns and may request an adjustment. This provision is duplicated in section VI of Attachment M – Appendix. An FTR holder objecting to the application of this rule shall have recourse to the Commission for review of the application of the FTR forfeiture rule to its trading activity.~~

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in which case the Office of the Interconnection may elect to defer to the Market Monitoring Unit to support such determination before the Commission.

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5.2.2 Financial Transmission Rights.

(a) Transmission Congestion Credits will be calculated based upon the Financial Transmission Rights held at the time of the constrained hour. Except as provided in paragraph (e) below, Financial Transmission Rights shall be auctioned as set forth in Section 7.

(b) The hourly economic value of a Financial Transmission Right Obligation is based on the Financial Transmission Right MW reservation and the difference between the Day-ahead Congestion Price at the point of delivery and the point of receipt of the Financial Transmission Right. The hourly economic value of a Financial Transmission Right Obligation is positive (a benefit to the Financial Transmission Right holder) when the Day-ahead Congestion Price at the point of delivery is higher than the Day-ahead Congestion Price at the point of receipt. The hourly economic value of a Financial Transmission Right Obligation

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subsection (a) that are jointly pivotal with respect to such transmission limit(s), and (2) the generation resource's owner, when combined with the two largest other generation suppliers, is not pivotal ("three pivotal supplier test").

(f) For the purposes of conducting the three pivotal supplier test in subsection (e), the following applies:

(i) All megawatts of available incremental supply for which the power distribution factor ("dfax") has an absolute value equal to or greater than the dfax used by the Office of the Interconnection's system operators when evaluating the impact of generation with respect to the constraint ("effective megawatts") will be included in the available supply analysis at costs equal to the cost-based offers of the available incremental supply adjusted for dfax ("effective costs"). The Office of the Interconnection will post on the PJM website the dfax value used by operators with respect to a constraint when it varies from three percent.

(ii) The three pivotal supplier test will include in the definition of the relevant market incremental supply up to and including all such supply available at an effective cost equal to 150% of the cost-based clearing price calculated using effective costs and effective megawatts and the need for megawatts to solve the constraint.

(iii) Offer price caps will apply on a generation supplier basis (i.e. not a generating unit by generating unit basis) and only the generation suppliers that fail the three pivotal supplier test will have their units that are dispatched with respect to the constraint offer capped. A generation supplier for the purposes of this section includes corporate affiliates. Supply controlled by a generation supplier or its affiliates by contract with unaffiliated third parties or otherwise will be included as supply of that generation supplier; supply owned by a generation supplier but controlled by an unaffiliated third party by contract or otherwise will be included as supply of that third party. A generation supplier's units are offer capped if, when combined with the two largest other generation suppliers, the generation supplier is pivotal.

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6.4.2 Level.

(a) The offer price cap shall be ~~one of the~~an amounts determined in accordance with the procedures set forth in Section II.A of Attachment M–Appendix and shall be provided by the Market Seller as a cost-based offer submitted in conjunction with any market offers specified below, as specified in advance by the Market Seller for the affected unit:

~~(i) The weighted average Locational Marginal Price at the generation bus at which energy from the capped resource was delivered during a specified number of hours during which the resource was dispatched for energy in economic merit order, the specified number of hours to be determined by the Office of the Interconnection and to be a number of hours sufficient to result in an offer price cap that reflects reasonably contemporaneous competitive market conditions for that unit;~~

~~(ii) The incremental operating cost of the generation resource as determined in accordance with Schedule 2 of the Operating Agreement and the PJM Manuals (“incremental cost”), plus 10% of such costs;~~

~~(iii) For units that are frequently offer capped, the following shall apply:~~

~~(a) For units that are offer capped for 60% or more of their run hours, but less than 70% of their run hours, the offer price cap will be either (i) incremental cost plus 10% or (ii) incremental cost plus \$20 per megawatt-hour;~~

~~(b) For units that are offer capped for 70% or more of their run hours, but less than 80% of their run hours, the offer price cap will be either (i) incremental cost plus 15%, not to exceed incremental cost plus \$40 per megawatt-hour, or (ii) incremental cost plus \$30 per megawatt-hour;~~

~~(c) For units that are offer capped for 80% or more of their run hours, the offer price cap will be (i) incremental costs plus 10%; (ii) incremental cost plus \$40 per megawatt-hour; or (iii) the agreed unit specific going forward costs of the affected unit as reflected in an agreement entered pursuant to subparagraph (iv), below; or~~

~~(iv) An amount determined by agreement between the Office of the Interconnection and the Market Seller, provided that, if the Office of the Interconnection and the Market Seller cannot reach agreement after 60 days from the commencement of negotiations, then the Market Seller may submit the rates, terms, and conditions of its proposed offer cap to the Commission for resolution.~~

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~~(b) For purposes of section 6.4.2(a)(iii), a generating unit shall qualify for the specified offer cap upon issuance of written notice from the Market Monitoring Unit that it is a “Frequently Mitigated Unit” or “FMU” because it was offer capped for the applicable percentage of its run hours, determined on a rolling 12-month average basis, effective with a one-month lag.~~

~~(c) Any generating unit, without regard to ownership, located at the same site as a Frequently Mitigated Unit qualifying under Sections 6.4.2(a)(iii) shall become an “Associated Unit” upon issuance of written notice from the Market Monitoring Unit that it meets all of the following criteria:~~

~~1. The unit has the identical electric impact on the transmission system as the FMU;~~

~~2. The unit (i) belongs to the same design class (where a design class includes generation that is the same size and utilizes the same technology, without regard to manufacturer) and uses the identical primary fuel as the FMU or (ii) is regularly dispatched by PJM as a substitute for the FMU based on differences in cost that result from the currently applicable FMU adder;~~

~~3. The unit (i) has an average daily cost based offer, as measured over the preceding 12-month period, that is less than or equal to the FMU’s average daily cost based offer adjusted to include the currently applicable FMU adder or (ii) is regularly dispatched by PJM as a substitute for the FMU based on differences in cost that result from the currently applicable FMU adder.~~

~~The offer cap for an associated unit shall be equal to the incremental operating cost of such unit, as determined in accordance with Schedule 2 of the Operating Agreement and the PJM Manuals, plus the applicable percentage adder or dollar per megawatt-hour adder as specified in Section 6.4.2(a)(iii)(a), (b), or (c) for the unit with which it is associated.~~

~~(d) For purposes of section 6.4.2(a)(iii)(c), the unit specific going forward costs determined by agreement between the Office of the Interconnection and the Market Seller shall include only the costs included in the Deactivation Avoidable Cost Rate, excluding costs associated with the Avoidable Project Investment Recovery Rate (APIR), set forth in section 115 of the PJM Tariff. Any costs that would be capitalized according to generally accepted accounting principles, associated carrying costs, or other fixed costs shall not be included. The agreement shall further provide that (i) in order for such costs to qualify for inclusion in the amounts determined by the agreement, the Market Seller~~

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~~_ must agree to provide to PJM relevant cost data concerning fuel, operating and maintenance, and other avoidable costs, (ii) the maintenance practices and incurrence of expense at the unit shall be subject to audit by the Office of the Interconnection, and (iii) the unit owner agrees to operate the unit in accordance with Good Utility Practice.~~

~~(e) Any agreement entered pursuant to section 6.4.2(a)(iv) shall be filed with the Commission and shall be effective only upon acceptance of the agreement for filing by the Commission; provided however, that agreements to reflect unit specific going forward costs in accordance with section 6.4.2(a)(iii) shall be filed with the Commission for informational purposes only and shall be effective the day following the date of the informational filing.~~

(b~~f~~) Market Participants shall have exclusive responsibility for preparing and submitting their offers on the basis of accurate information and in compliance with the FERC Market Rules, inclusive of the level of any applicable offer cap, and in no event shall PJM be held liable for the consequences of or make any retroactive adjustment to any clearing price on the basis of any offer submitted on the basis of inaccurate or non-compliant information.

6.5 [Reserved for Future Use]

6.6 Minimum Generator Operating Parameters – Parameter Limited Schedules

(a) Generation resources shall submit and be subject to pre-determined limits on non-price offer parameters (“parameter limited schedules”) under the following circumstances:

- (i) The Operating Reserve markets fail the three pivotal supplier test. When this subsection applies, the parameter limited schedule shall be the less limiting of the defined parameter limited schedules or the submitted offer parameters.
- (ii) The Office of the Interconnection: (i) declares a Maximum Generation Emergency; (ii) issues an alert that a Maximum Generation Emergency may be declared (“Maximum Generation Emergency Alert”); or (iii) schedules units based on the anticipation of a Maximum Generation Emergency or a Maximum Generation Emergency Alert for all, or any part, of an Operating Day.

(b) Parameter limited schedules shall be defined for the following parameters:

- (i) Turn Down Ratio;
- (ii) Minimum Down Time;
- (iii) Minimum Run Time;
- (iv) Maximum Daily Starts;
- (v) Maximum Weekly Starts.

(c) The following table specifies default parameter limited schedule values, by technology type, for generation resources:

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Parameter Limited Schedule Matrix

Parameter	Minimum Down Time (Hrs)	Minimum Run Time (Hrs)	Maximum Daily Starts	Maximum Weekly Starts	Turn Down Ratio = Economic Maximum MW / Economic Minimum MW
Small Frame CT and Aero CT Units - Up to 29 MW ICAP	2.0 or Less	2.0 or Less	2 or More	14 or More	1.0 or More
Medium Frame CT and Aero CT Units - 30 MW to 65 MW ICAP	2.0 or Less	3.0 or Less	2 or More	14 or More	1.0 or More
Medium-Large Frame CT Units - 65 MW to 125 MW ICAP	3.0 or Less	5.0 or Less	2 or More	14 or More	1.0 or More
Large Frame CT Units - 135 MW to 180 MW ICAP	4.0 or Less	5.0 or Less	2 or More	14 or More	1.0 or More
Combined Cycle Units	4.0 or Less	6.0 or Less	2 or More	11 or More	1.5 or More
Petroleum and Natural Gas Steam Units - Pre-1985	7.0 or Less	8.0 or Less	1 or More	7 or More	3.0 or More
Petroleum and Natural Gas Steam Units - Post-1985	3.5 or Less	5.5 or Less	2 or More	11 or More	2.0 or More
Sub-Critical Coal Units	9.0 or Less	15.0 or Less	1 or More	5 or More	2.0 or More
Super-Critical Coal Units	84.0	24.0 or Less	1 or More	2 or ore	1.5 or More

(d) Upon receipt of proposed revised parameter limited schedule values from the Market Monitoring Unit, prepared in accordance with the procedures for periodic review included in section II.B.1 of Attachment M - Appendix, the Office of the Interconnection shall file to revise the parameter limited schedule matrix in section 6.6(c) above accordingly. ~~In the event that the Office of the Interconnection disagrees with the values proposed for revising the matrix, the Office of the Interconnection shall file the values that it determines are appropriate.~~ The Office of the Interconnection may defer to the Market Monitoring Unit to support such values in a separate attachment or pleading.

(e) The Market Monitoring Unit shall calculate and provide generation resources unit-specific default values in accordance with section II.B of Attachment M - Appendix. In addition, a generation resource may obtain an exception from the unit-specific values for the period defined in section II.B of Attachment M - Appendix by submitting a request to ~~the Office of the Interconnection, which shall promptly provide a copy of said request to~~ the Market Monitoring

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Unit. The Market Monitor shall evaluate such request in accordance with the process set forth in Section II.B of Attachment M - Appendix. A generation resource (i) must submit a

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parameter limited schedule value consistent with its agreement under such process, or, (ii) if it has not agreed with the Market Monitoring Unit on an appropriate parameter limited schedule value, may submit its own determination of an appropriate value to the Office of the Interconnection. ~~The proposed parameter limited schedule value submitted by the generation resource owner is subject to approval of the Office of the Interconnection pursuant to the requirements of the Tariff and the PJM Manuals.~~

(f) On a daily basis each generation resource may submit notification to the Office of the Interconnection of changed operational limitations at such generation resources that require a temporary exception to the otherwise applicable parameter limited schedule value. Each generation resource must supply the required data necessary to support the exception consistent with the requirements set forth in the PJM Manuals. Such exceptions may not continue past the next period (as described in section II.B of Attachment M - Appendix). Temporary exception requests shall be subject to acceptance by the Office of the Interconnection upon submission by a generation resource, and shall be subject to further subsequent review by ~~the Office of the Interconnection and~~ the Market Monitoring Unit. Based on the further review and determination by ~~the Office of the Interconnection and~~ the Market Monitoring Unit, the generation resource may (i) continue to submit a parameter limited schedule value consistent with the Market Monitoring Unit's determination or, (ii) if dissatisfied with the Market Monitoring Unit's determination, continue to submit a parameter limited schedule value to the Office of Interconnection inconsistent with the Market Monitoring Unit's determination ~~subject to acceptance by the Office of the Interconnection, with or without prior approval of the Commission.~~ If physical conditions at the generation resource change, such that the exception is no longer required, the generation resource is required to so inform the Office of the Interconnection and the exception shall be terminated.

If during the period that an exception agreed to by the Market Monitoring Unit applies (or is approved by the Commission), there is a material change to the facts relied upon by the Market Monitoring Unit to support such exception (or the Commission in support of its approval), the generation resource shall bring the change to the attention of the Market Monitoring Unit (or the Commission) for a determination as to whether the exception continues to be appropriate.

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VERIFICATION

PJM requires that the load reduction meter data be submitted to PJM within 60 days of the event. If the data are not received within 60 days, no payment for participation is provided. Meter data must be provided for the hour prior to the event, as well as every hour during the event.

These data files are to be communicated to PJM either via the Load Response Program web site or email. Files that are emailed must be in the PJM-approved file format. Meter data will be forwarded to the EDC and LSE upon receipt, and these parties will then have ten (10) business days to provide feedback to PJM.

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ATTACHMENT C

EXPLANATION OF PROPOSED CHANGES

Topic	OATT Cite	Sheet No.	Propose Change/Rational
Definition of Cost Development Guidelines	Attachment M § II(c-1)	446	The “Cost Development Guidelines” should be separately defined rather than lumped in with the rest of the PJM manuals. Unlike other manuals, the Cost Development Guidelines reflect a consensus between Market Participants and the Market Monitor, approved by the PJM Board, about the appropriate method(s) for calculating Incremental Cost.
Definition of Incremental Cost	Attachment M § II(d-1)	446	“Incremental Cost” is an important concept relating to the development of inputs to prospective mitigation in the energy markets and should be defined for consistent use.
Definition of Plan	Attachment M § II(w)	447A	The MMU has the responsibility to administer the Plan. By adding express reference to the new Attachment M-Appendix, this provision makes it clear that the MMU’s responsibility extends to administering the Appendix.
Establishment of External MMU	Attachment M § III.A	448	In the 2007 PJM/MMU Settlement, the parties agreed to establish a fully external MMU. By inserting “exclusively” after “perform,” this section emphasizes that PJM has one MMU and that its role should not be wastefully and/or counterproductively duplicated. This will afford clarity to PJM and the MMU about their respective, complementary, roles.
MMM role in Mitigation	Attachment M § E	448.05a	This passage states the limits of the MMU’s role in administering mitigation consistent with the policy set forth in Order No. 719 and with current practice. This clarifies the role of the MMU.

MMU Role in CDTF	Attachment M–Appendix § II.A.1	453K	<p>These revisions codify the Market Monitor’s traditional role as Chair of the CDTF and specifies the Chair’s responsibility “to ensure that the cost references, methods and rules included in the Cost Development Guidelines are accurate and appropriate.” This role is consistent with the reliance placed on the CDTF and the Cost Development Guidelines to ensure the accuracy of the cost-based offers used as inputs to prospective local market power mitigation and therefore just and reasonable pricing in the energy market. These revisions clarify the role of the MMU in the process, including its specific responsibilities.</p>
Offer Price Caps Procedures	Attachment M–Appendix § II.A.2	453K	<p>This revision consolidates in one place provisions relating to the appropriate development of Offer Price Caps that the MMU administers. This also clarifies the MMU’s role in this process, which is for the purpose of monitoring the development of inputs (Offer Price Caps based on Incremental Cost) for use in prospective mitigation by Market Participants in accordance with the Cost Development Guidelines and through a transparent and consensual process. This process also seeks to establish objective rules of application wherever possible.</p>
Frequently Mitigated Units (FMUs)	Attachment M–Appendix § II.A.3	453K	<p>This provision clarifies and makes transparent the role of the MMU in the obligatory process for Market Participants to engage the MMU in discussions about the costs appropriate for inclusion in Offer Price Caps and to try to come to an agreement with the MMU. If agreement is achieved, the Market Participant is obligated to conduct itself accordingly. If agreement is not achieved within 60 days, then the Market Participant may submit the Offer Price Cap that it chooses, provided that it accepts the consequences of an adverse finding from the Commission about the nature and consequences of that conduct.</p> <p>This process involves the MMU in the development of an input for use in prospective mitigation, but the input is actually provided to PJM by the Market Participant, and the Market Participant is solely responsible for its accuracy and compliance with the market rules.</p>

Attachment C

<p>Frequently Mitigated Units (FMUs)</p>	<p>Attachment M–Appendix § II.A.4</p>	<p>453K</p>	<p>This addition relocates the specific criteria that the MMU will apply for determinations of FMU status to the Attachment M–Appendix, rather than provide for a cross-reference.</p> <p>This change is consistent with Order No. 719’s requirement that the RTO tariff codify MMU-related provisions in one place and serves to clarify the MMU’s responsibility to independently administer these provisions.</p>
<p>Parameter Limited Schedule Matrix</p>	<p>Attachment M–Appendix § II.B.1</p>	<p>453K</p>	<p>This provision obligates the MMU to support changes to the Parameter Limited Schedule Matrix for which it is responsible when they are filed by PJM. The purposed of the Parameter Limited Schedule Matrix is to reduce the administrative burden on Market Participants to establish values for every unit, whenever they are willing to adhere to default values sufficient to address market power issues.</p> <p>This approach coordinates the independent market monitoring function with the RTO’s responsibility to amend the tariff subject to Commission regulation, and addresses PJM’s concern that it not be required to implicitly endorse views of the Market Monitor.</p>

<p>Unit-Specific Parameter Limits Exceptions</p>	<p>Attachment M–Appendix § II.B.2– 4</p>	<p>453K–453L</p>	<p>This provision clarifies the role of the MMU in the obligatory process pursuant to which Market Participants engage the MMU in discussion and try to come to agreement about unit-specific exceptions to the values included in the Parameter Limited Schedule Matrix. If agreement is achieved, the Market Participant has committed to conduct itself accordingly. If agreement is not achieved, then the Market Participant may submit the value it chooses, provided that it accepts the consequences of an adverse finding from the Commission about the nature and consequences of that conduct. The provision specifies that the MMU has recourse to the Commission if the seller uses a value to which it objects.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, provides objective criteria, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
<p>Monitoring Risk Premiums</p>	<p>Attachment M–Appendix § II.B.6</p>	<p>453L</p>	<p>This revision clarifies that the MMU may petition the Commission to establish an appropriate risk premium if the MMU and the Market Participant cannot agree.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
<p>RPM Must Offer—Delisting</p>	<p>Attachment M–Appendix § II.C.2</p>	<p>453L</p>	<p>Clarifies the MMU’s role in applying the criteria used to evaluate evidence of a commitment sufficient to permit delisting.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>

RPM Must Offer— Monitoring EFORD	Attachment M—Appendix § II.C.3	453M	<p>Clarifies that the MMU may petition the Commission on an expedited basis to determine whether an EFORD submitted by a Capacity Market Seller is compliant with the FERC Market Rules.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
RPM Must Offer— Recourse to the Commission	Attachment M—Appendix § II.C.4	453M	<p>Clarifies that the MMU may petition the Commission to request Commission action if the MMU believes a seller has engaged in withholding; coordinating the MMU’s actions with PJM’s.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
RPM Must Offer— Enforcement	Attachment M—Appendix § II.C.5	453M	<p>Clarifies that the MMU may petition the Commission to request Commission action if the MMU believes a seller has failed to submit an offer consistent with its commitments, replacing confusing language.</p>
RPM Market Seller Offer Caps	Attachment M—Appendix § II.E.1	453N	<p>Clarifies the specific components for Market Seller Offer Caps that the Market Monitor must calculate in order to fulfill its responsibilities under this section.</p>
RPM Market Seller Offer Caps	Attachment M—Appendix § II.E.2	453N	<p>Provides additional clarification about the circumstances under which the MMU may petition the Commission to determine an appropriate Market Seller Offer Cap or compel submittal of a Self-Supply Sell Offer.</p>
RPM Market Seller Offer Caps—ACR Formula	Attachment M—Appendix § II.E.5	453N	<p>Clarifies in detail the formula used by the MMU and sellers for developing a unit-specific Avoidable Cost Rate.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>

<p>RPM Market Seller Offer Caps–PJM Market Revenues</p>	<p>Attachment M–Appendix § II.E.6</p>	<p>453N</p>	<p>Clarifies in detail the method pursuant to which the MMU and sellers develop PJM Market Revenues without substantive change to existing tariff language.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
<p>RPM Market Seller Offer Caps– Opportunity Cost</p>	<p>Attachment M–Appendix § II.E.7</p>	<p>453N</p>	<p>Clarifies in detail the method pursuant to which the MMU and sellers develop Opportunity Costs without substantive change to existing tariff language.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
<p>Determination of “Excessive” Offers from Planned Generation Capacity Resources</p>	<p>Attachment M–Appendix § II.F.1</p>	<p>453O</p>	<p>Clarifies in detail the method and objective criteria pursuant to which the MMU determines whether a sell offer from a Planned Generation Capacity Resource is “excessive.”</p>
<p>Mitigation of Planned Generation Capacity Resources</p>	<p>Attachment M–Appendix § II.F</p>	<p>453O</p>	<p>Clarifies role of MMU in determining whether Sell Offers submitted by Capacity Market Sellers for Planned Generation Resources are “excessive” with reference to objective criteria, and requires PJM to suspend final clearing of an RPM auction for sufficient time (90 days) for the MMU to work with the seller to develop a compliant Sell Offer or obtain a determination from the FERC that its offer is not “excessive.”</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>

Attachment C

Data Submission	Attachment M-Appendix § II.G	453O	Clarifies that the MMU may request information in addition to that specified in OATT Attachment DD § 6.7 to the OATT, and that compliance with such request is a condition for submitting a Market Seller Offer Cap at a level higher than the default; removes discretionary and confusing standard about the scope of information that the MMU may request; and ties to compliance the ability of a Market Participant to submit offers above default ACRs, rather than the ability to participate in an auction, because that is a more reasonable and appropriate result.
Default ACR	Attachment M-Appendix § II.H	453O	Adds “default” to the section heading to clarify that this section pertains to the development of default ACRs and the not unit-specific Market Seller Offer Caps (including an ACR component) discussed above.
Default ACR	Attachment M-Appendix § II.H.1	453O	<p>This provision obligates the MMU to support changes to the default Avoided Cost Rates in Attachment DD § 6.7(d) for which it is responsible when they are filed by PJM. The purpose of establishing default ACRs is to reduce the administrative burden on Market Participants to establish values for every unit, whenever they are willing to adhere to default values sufficient to address market power issues.</p> <p>This approach coordinates the independent market monitoring function with the RTO’s responsibility to amend the tariff subject to Commission regulation, and addresses PJM’s concern that it not be required to implicitly endorse views of the Market Monitor.</p>
Default ACR	Attachment M-Appendix § II.H.3	453O	Corrects references to Market Seller Offer Caps rather than ACR (a component of Market Seller Offer Caps)
Default ACR	Attachment M-Appendix § II.I&J	453O– 453P	Deletes provisions concerning the calculation of PJM Market Revenues and Opportunity Costs because the additional text proposed above describes the MMU role in greater and appropriate detail.
Black Start Service	Attachment M-Appendix § III.A	453P	Inserts “appropriate” before “values” in order to clarify the criteria and limits of MMU discretion about the values to which the MMU may agree.

<p>Black Start Service</p>	<p>Attachment M–Appendix § III.B</p>	<p>453P</p>	<p>Clarifies that the MMU may petition the Commission to try to make the case for action if it believes a seller has inappropriately calculated an input to the formula rates for black start service rather than merely offer advice.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
<p>Deactivation Rates</p>	<p>Attachment M–Appendix § IV.2</p>	<p>453Q</p>	<p>Clarifies that the MMU may petition the Commission to request Commission action if the MMU believes a seller has inappropriately calculated an input to the formula rates for reliability must run service rather than merely offer advice.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
<p>Opportunity Cost Calculation</p>	<p>Attachment M–Appendix § V</p>	<p>453Q</p>	<p>Clarifies that the MMU may petition the Commission to request Commission action if the MMU believes a seller has inappropriately calculated opportunity costs that may result in the course of providing operating reserves or reactive services rather than merely offer advice.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>

FTR Forfeiture Rule	Attachment M–Appendix § VI	453Q	<p>This addition relocates the specific criteria that the MMU will apply in administering the FTR Forfeiture Rule in the Attachment M–Appendix, rather than provide for a cross-reference.</p> <p>This change is consistent with Order No. 719’s requirement that the RTO tariff codify MMU-related provisions in one place and serves to clarify the MMU’s responsibility to independently administer these provisions.</p>
Forced Outage Rule	Attachment M–Appendix § VII	453Q	<p>This revision clearly indicates the consequence of the MMU’s application of the forced outage rule.</p> <p>This change is consistent with Order No. 719’s requirement that the RTO tariff codify MMU-related provisions in one place and serves to clarify its role.</p>
Avoidable Cost Rate	Attachment DD § 2.2	563	Cross reference to Section II.E.2 of the Attachment M–Appendix regarding the definition of “Avoidable Cost Rate.”
Opportunity Cost	Attachment DD § 2.45	569	Cross reference to Section II.E of the Attachment M–Appendix regarding the definition of “Opportunity Cost.”
Projected PJM Market Revenues	Attachment DD § 2.56	570	Cross reference to Section II.E of the Attachment M–Appendix regarding the definition of “Projected PJM Market Revenues.”
Availability of Capacity Resources for Sale	Attachment DD §5.6.6(d)	581–581A	<p>Clarifies who makes the determination concerning whether a purported external commitment does not constitute physical withholding and relocates the criteria applied and the documentation requirements to Section II.C of the Attachment M–Appendix.</p> <p>Relocates provision for removing delisted resources from those considered in developing the Preliminary Market Structure Screen because the PMSS is an MMU responsibility set forth in Attachment M–Appendix.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>

Attachment C

Availability of Capacity Resources for Sale	Attachment DD §5.66(e)	581A	Removes text because it is redundant to Section II.C.2 to Attachment M–Appendix and is potentially confusing.
Submission of Sell Offers and Buy Bids	Attachment DD §5.8 (h)	582	This change clarifies that the criteria applied by PJM in evaluating offers is fully addressed in this section 5.8. PJM’s proposed phrasing is confusing, and could be interpreted to suggest that PJM staff should duplicate the MMU’s determinations pursuant to Attachment M and the Attachment M–Appendix.
Submission of Sell Offers and Buy Bids	Attachment DD §5.8(i)	582	This provision clarifies that Market Participants have sole responsibility for the accuracy of their offers and their compliance with the FERC Market Rules and commitments made under those rules. This provision clarifies that neither PJM nor the MMU is liable for attempts to exercise market power or manipulation of the markets by Market Participants.
Market Power Mitigation	Attachment DD § 6.1	604A	This provision clarifies the locations where PJM applies the Market Structure Test. The definition provided by PJM is confusing because it does not apply to the PJM Regional LDA, which has no Locational Price Adder determined under Section 5.12. This correction clarifies PJM’s objective application of this test.
Market Seller Offer Caps	Attachment DD § 6.4 (a)	606	Adds clarifying cross reference to Section 6.7 of Attachment DD.

<p>Market Seller Offer Caps</p>	<p>Attachment DD § 6.4(c),(d) & (e)</p>	<p>606A</p>	<p>Relocates subsection (d) to Attachment M-Appendix because this describes the process whereby Market Participants and the MMU discuss and attempt to agree to Market Seller Offer Caps prior to Market Participants submitting them to PJM for evaluation under Section 5.8 of Attachment DD. Market Participants right of recourse to the Commission, in subsection (e), is also relocated to Attachment M-Appendix to avoid confusion. The cross reference in subsection (a) is updated to reflect the relocation of subsection (d).</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
<p>Market Seller Offer Caps</p>	<p>Attachment DD § 6.4(f) & (g)</p>	<p>606A</p>	<p>This section is revised to clarify and coordinate actions taken by PJM in the event that a Capacity Market Seller submits a Market Seller Offer Cap that is higher than appropriate and impacts prices in an LDA. PJM is required to suspend a final clearing of the auction for 90 days to afford time for the Commission to rule on the matter and for the Market Participant to respond accordingly.</p> <p>A 90-day postponement does not pose any special hardship, as payments resulting from an RPM auction will not occur for up to three years.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p> <p>The proposal also revises this subsection to clarify that PJM applies the criteria specified in Section 5.8 to Sell Offers and does not concurrently apply the criteria in Attachment M and Attachment M-Appendix.</p> <p>The definition is corrected to specify “Market Seller Offer Cap.”</p>

<p>Mitigation for Planned Generation Capacity Resources</p>	<p>Attachment DD § 6.5 (a)(ii)(A) & (C)</p>	<p>607–608</p>	<p>This section is revised to clarify and coordinate actions taken by PJM in the event that the MMU determines that an offer from a Planned Generation Capacity Resource is “excessive.” PJM is required to suspend a final clearing of the auction for 90 days to afford time for the Commission to rule on the matter and for the Market Participant to respond accordingly.</p> <p>A 90-day postponement does not pose any special hardship, as payments resulting from an RPM auction will not occur for up to three years. However, it is important for RPM to accurately accommodate offers from planned resources, as that was an important reason for creating RPM.</p> <p>Relocates the objective criteria that the MMU applies to determine whether a Sell Offer is excessive to Attachment M–Appendix.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
<p>Offer Requirement for Capacity Resources</p>	<p>Attachment DD § 6.6 (b)</p>	<p>608A</p>	<p>Provides cross reference to Section II.C of the Attachment M-Appendix, which established the process pursuant to which Market Participants and the MMU discuss and seek to reach agreement</p>
<p>Offer Requirement for Capacity Resources</p>	<p>Attachment DD § 6.6 (c)</p>	<p>608A</p>	<p>Clarifies that Capacity Market Sellers must submit data and documentation costs under Section 6.7 of Attachment DD.</p>

<p>Offer Requirement for Capacity Resources</p>	<p>Attachment DD § 6.6 (d)</p>	<p>608A &609</p>	<p>This section is revised to clarify and coordinate actions taken by PJM in the event that the MMU determines that an offer from a Generation Capacity Resource includes an EFORD higher than the MMU considers appropriate and the inclusion of EFORD at that level impacts a Zonal Capacity Price. In that event, PJM is required to suspend a final clearing of the auction for 90 days to afford time for the Commission to rule on the matter and for the Market Participant to respond accordingly.</p> <p>A 90-day postponement does not pose any special hardship, as payments resulting from an RPM auction will not occur for up to three years. However, it is important for RPM to set prices based upon accurate EFORD levels.</p> <p>Consistent with Order No. 719, this proposal clarifies the MMU’s role and avoids subordinating it to the institutional objectives of the RTO.</p>
<p>Offer Requirement for Capacity Resources</p>	<p>Attachment DD § 6.6(f)</p>	<p>608A</p>	<p>Subsection (f) is revised to clarify that the Office of the Interconnection applies the criteria specified in Section 5.8 to Sell Offers and does not concurrently apply the criteria in Attachment M and Attachment M–Appendix.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>

<p>Offer Requirement for Capacity Resources</p>	<p>Attachment DD § 6.6(k)</p>	<p>609</p>	<p>This section is revised to clarify and coordinate actions taken by PJM in the event that the MMU determines that physical withholding of generation could impact a Zonal Capacity Price. In that event, PJM is required to suspend a final clearing of the auction for 90 days to afford time for the Commission to rule on the matter and for the Market Participant to respond accordingly.</p> <p>A 90-day postponement does not pose any special hardship, as payments resulting from an RPM auction will not occur for up to three years. However, it is important that withholding not affect prices in RPM auctions.</p> <p>Consistent with Order No. 719, this proposal clarifies the MMU’s role and avoids subordinating it to the institutional objectives of the RTO.</p>
<p>Revising Default ACR Values</p>	<p>Attachment DD § 6.7 (c)</p>	<p>611A</p>	<p>Provides for PJM to file revised default ACR values developed by the Market Monitor pursuant to the Attachment M-Appendix, but allows PJM to defer to the Market Monitor to support such values.</p> <p>This approach coordinates the independent market monitoring function with the RTO’s responsibility to amend the tariff subject to Commission regulation, and addresses PJM’s concern that views particular to the Market Monitor remain distinct. It also serves to protect the RTO from inappropriate and non-transparent pressure that could compromise its independence.</p>
<p>Process to Develop Unit-Specific ACR</p>	<p>Attachment DD § 6.7(d)</p>	<p>611A</p>	<p>Relocates criteria pursuant to which the Market Participants discuss and attempt to come to agreement with the MMU on the level of unit-specific Market Seller Offer Caps to the Attachment M-Appendix.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>

Data Submission– Eligibility for Retirement-Based ACR Defaults	Attachment DD § 6.7(e)	612	<p>Relocates process for determining eligibility for use of default retirement-based ACR rates to the Attachment M–Appendix.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
Criteria for Calculation ACR	Attachment DD §6.8	612	<p>Relocates objective criteria pursuant to which Market Participants and the MMU develop unit-specific Market Seller Offer Caps to the Attachment M–Appendix.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
Operating Reserves–Risk Premiums for Nuclear Units	Attachment K §1.7.17 (c)	345	<p>Relocates process whereby nuclear generation owners and the MMU discuss and attempt to agree on an appropriate risk premium for nuclear units not otherwise eligible to collect Operating Reserve Payments.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
Operating Reserves– Opportunity Cost Adjustment	Attachment K § 3.2.3(f-3)	380B	<p>Relocates process whereby Market Sellers and the MMU discuss and attempt to agree on an appropriate adjustment, if any, to operating reserve credits based on opportunity costs.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>

<p>Reactive Services– Opportunity Cost Adjustment</p>	<p>Attachment K § 3.2.3(h)</p>	<p>384B.03</p>	<p>Relocates process whereby Market Sellers and the MMU discuss and attempt to agree on an appropriate adjustment, if any, to reactive services payments based on opportunity costs.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
<p>FTR Forfeiture Rule</p>	<p>Attachment K § 5.2.1</p>	<p>395</p>	<p>Relocates the FTR forfeiture rule, an example of retrospective mitigation performed by the MMU, to the Attachment M-Appendix and provides a cross reference.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>
<p>Offer Price Caps</p>	<p>Attachment K § 6.4.2</p>	<p>402A-402A.01b</p>	<p>Relocates the process and objective criteria pursuant to which Market Participants and the MMU discuss and attempt to agree to offer caps in the energy markets to the Attachment M–Appendix and provides a cross reference.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>

<p>Parameter Limited Schedule Matrix</p>	<p>Attachment K § 6.6(d)</p>	<p>402A.01c</p>	<p>Provides for PJM to file revised default Parameter Limited Schedule Matrix values developed by the Market Monitor pursuant to the Attachment M-Appendix, but allows PJM to defer to the Market Monitor to support such values.</p> <p>This approach coordinates the independent market monitoring function with the RTO's responsibility to amend the tariff subject to Commission regulation, and addresses PJM's concern that views particular to the Market Monitor remain distinct. It also serves to protect the RTO from inappropriate and non-transparent pressure that could compromise its independence.</p>
<p>Parameter Limited Schedule Matrix</p>	<p>Attachment K § 6.6(e)</p>	<p>402A.01d</p>	<p>Provides for Market Participants to directly communicate requests for unit-specific exceptions to the values in the Parameter Limited Schedule Matrix (or determined by formula) without inefficiently and unnecessarily routing such requests through PJM.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies the role of the MMU in the process and avoids a wasteful and counter-productive duplication of functions.</p>
<p>Parameter Limited Schedule Matrix</p>	<p>Attachment K § 6.6(f)</p>	<p>402A.01d</p>	<p>Provides for the Market Monitoring Unit to perform review of PJM's grant of daily exception requests without the joint participation of PJM in such review of PJM's earlier actions.</p> <p>Clarifies that Market Participants may determine to submit parameter limited schedules that are inconsistent with the MMU's subsequent review, without a duplicative review performed by PJM.</p> <p>Consistent with the requirements of Order No. 719, this approach clarifies and codifies in one place the role of the MMU in the process, avoids a wasteful and counter-productive duplication of functions, and prevents subordination of the market monitoring function to other RTO institutional objectives.</p>

ATTACHMENT D

PJM Implementation of Prospective Mitigation

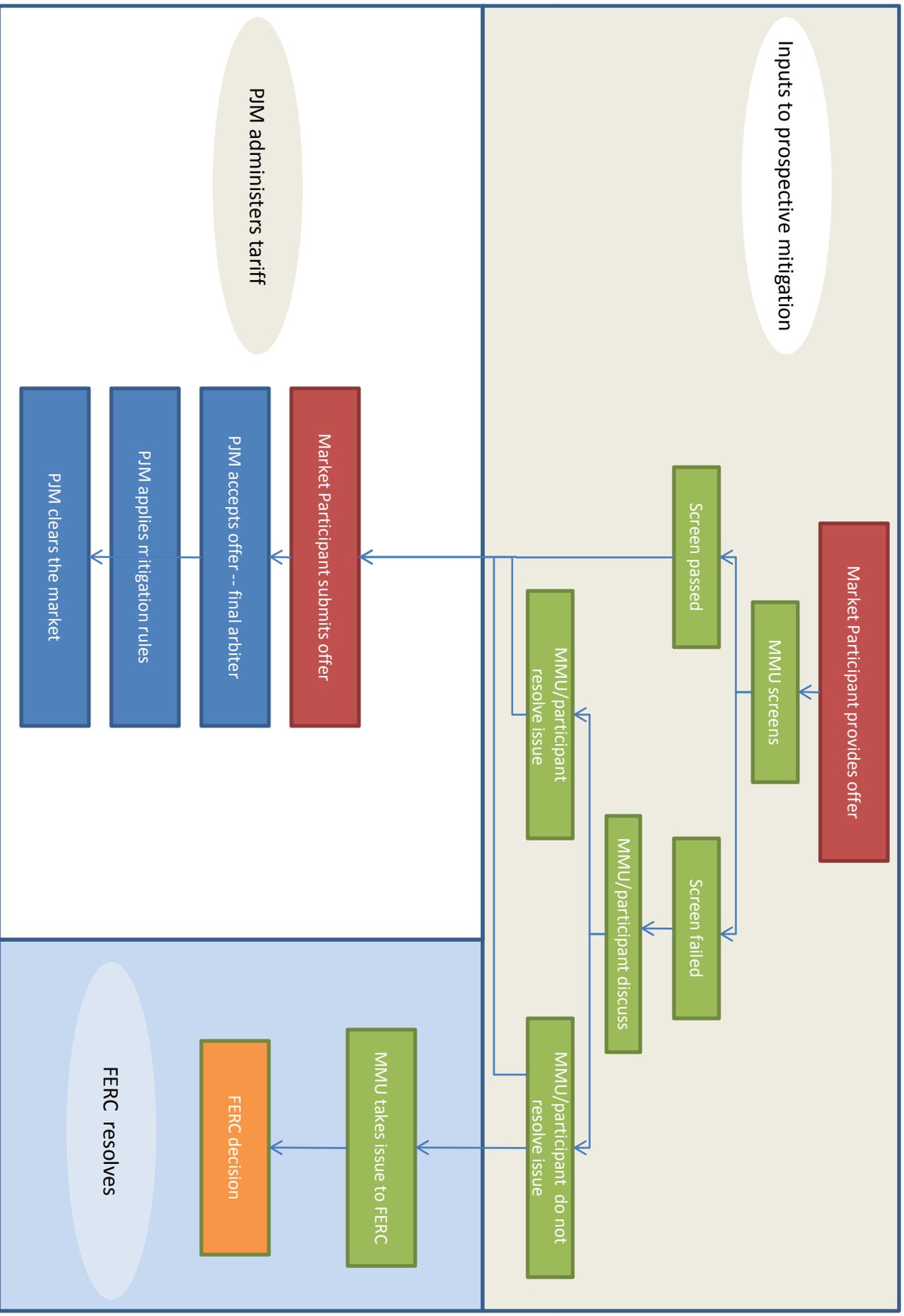
TF 719

April 2, 2009



Monitoring Analytics

PJM Implementation of Prospective Mitigation: Overview



MMU proposes defaults that PJM includes in § 205 filing

Inputs to prospective mitigation

MMU develops default methods with stakeholder input

MMU develops default values and provides to PJM

PJM administers tariff

PJM objects to values

PJM accepts values

PJM files both sets of values and PJM and MMU explain the basis for their proposals. Others may intervene

PJM files MMU proposal and the MMU explains its proposals. Others may intervene

FERC resolves

FERC decision