

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

PJM Interconnection, L.L.C.	)	Docket No. EL19-8-000
v.	)	
PJM Interconnection, L.L.C.	)	
	)	
PJM Interconnection, L.L.C.	)	Docket No. ER19-210-000
	)	(not consolidated)
	)	

**ANSWER AND MOTION FOR LEAVE TO ANSWER  
OF THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rules 212 and 213 of the Commission’s Rules and Regulations,<sup>1</sup> Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM<sup>2</sup> (“Market Monitor”), submits this answer to the comments submitted on December 7, 2018, by PJM (“December 7<sup>th</sup> Answer”), in which PJM claims that the definition of a competitive offer, short run marginal costs, is not relevant to determining the costs includable in energy market cost-based offers. PJM disregards that the point of calculating cost based offers is to ensure that they are competitive. PJM does not provide a consistent alternative standard for cost-based offers. PJM’s October 29<sup>th</sup> Filing fails to promote an

---

<sup>1</sup> 18 CFR §§ 385.212 & 385.213 (2018).

<sup>2</sup> Capitalized terms used herein and not otherwise defined have the meaning used in the PJM Open Access Transmission Tariff (“OATT”) or the PJM Operating Agreement (“OA”).

efficient market design that effectively mitigates market power. Accordingly, PJM's proposed revisions should not be approved.

In the December 7<sup>th</sup> Answer, PJM changes its position regarding the relationship between capacity market Avoidable Cost Rates and energy market cost-based offers by removing the option for Market Sellers to include maintenance costs in either market. The Market Monitor will not respond further to those arguments, now withdrawn.

In the December 7<sup>th</sup> Answer, PJM claims that short run marginal cost is not the standard for energy market cost-based offers. PJM's claim contradicts economic theory, Commission precedent, and past PJM filings. PJM fails to cite to any economics texts for its assertions. PJM's alternative variable cost standard, if extended to all components of energy market cost-based offers, would expand the allowable fuel related costs and labor costs included in energy market cost-based offers.

In the December 7<sup>th</sup> Answer, PJM argues that the lack of consensus in the stakeholder process requires PJM to file a proposal with the Commission that it finds just and reasonable. PJM has no such mandate.

All proposals, including the Market Monitor's proposal, receive equal weight as potential reforms if the Commission agrees that the Cost Development Guidelines are unjust and unreasonable.

## **I. ANSWER**

### **A. The Commission Has Recognized That Competitive Energy Market Offers Equal Short Run Marginal Costs.**

PJM claims that the "Commission has not accepted the distinction of short-run marginal costs versus other types of variable costs as relevant to whether a cost is recoverable in energy or capacity markets."<sup>3</sup> PJM is incorrect. First, PJM confuses the issue

---

<sup>3</sup> See PJM at 7.

by referring to cost recovery rather than the actual issue at hand, which is the inclusion of maintenance costs in cost-based energy market offers. Second, the Commission has repeatedly described, including yesterday, the competitive energy market offer level as short-run marginal cost and stated that cost-based energy market offers should equal the competitive level.<sup>4</sup>

In October 2014, the Commission published a report on RTO market power mitigation stating:

The mitigation procedures in the RTO and ISO energy markets, as set forth in the Commission-jurisdictional tariffs, are based on the premise that in a competitive wholesale electricity market, a resource's offer will be approximately equal to its short run marginal cost (including opportunity costs).<sup>5</sup>

In Order No. 831, the Commission emphasized the importance of energy market prices equal to short run marginal costs:

In the short run, LMPs that reflect the short-run marginal costs of production are particularly important during high price periods because they provide a signal to consumers to reduce consumption and a signal to suppliers to increase production or to offer new supplies to the market. In the long run, LMPs that reflect the short-run marginal cost of production are important because they inform investment decisions. Second, the reforms will give resources the opportunity to recover their short-run marginal costs, thereby encouraging resources to participate in RTO/ISO energy markets. Adequate investment in resources and resource participation in RTO/ISO energy markets ensure adequate and reliable energy for consumers. The benefits

---

<sup>4</sup> See, e.g., *Refinements to Horizontal Market Power Analysis for Sellers in Certain Regional Transmission Organization and Independent System Operator Markets*, Notice of Proposed Rulemaking, 165 FERC ¶ 61, 268 at P 28 (Dec. 20, 2018) (“In the event that a seller in an RTO/ISO market fails the RTO/ISO market power mitigation tests, that seller’s offer is mitigated to a reference level or cost-based offer, which represents the resource’s short-run marginal cost.”).

<sup>5</sup> “Staff Analysis of Energy Offer Mitigation in RTO and ISO Markets,” Price Formation in Organized Electricity Markets, Docket No. AD14-14 (October 2014) at 3.

summarized above and discussed in detail below would ultimately help to ensure just and reasonable rates.<sup>6</sup>

PJM has apparently, and without any stated reason, reversed its longstanding recognition of the definition of a competitive offer. In seeking to increase its energy offer cap in 2015, PJM itself claimed that in the PJM energy market “[c]ost-based offers are based on the short-run marginal cost of the applicable generation resource as explained in Schedule 2 of the Operating Agreement and PJM Manual 15.”<sup>7</sup>

In 2005, the Commission described short-run marginal cost as the standard for applying market power mitigation in PJM’s energy market:

Under PJM’s LMP pricing system, all generators that lack market power have an incentive to submit bids at their marginal costs, because any price above marginal cost will generate sufficient revenue to cover the unit’s operating costs and contribute to the recovery of the unit’s fixed costs.<sup>8</sup> This is the same incentive that exists in a competitive market, where competitors are expected to produce at the point where prices exceed their short-run marginal costs. When a unit bids above its marginal cost, that is evidence that the unit has some ability to control price, and hence, has market power. This principle has been used by PJM to determine those generators subject to mitigation.<sup>9</sup>

---

<sup>6</sup> *Offer Caps in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 831, 157 FERC ¶ 61,115 at P 5 (November 17, 2016) (“Order No. 831”).

<sup>7</sup> PJM Interconnection, L.L.C. Filing, Docket No. ER16-76-000 (October 14, 2015) at n.4.

<sup>8</sup> The Commission recognized that cost recovery is not dictated to one market or another in its footnote: “In the case of reasonably efficient generators, the market clearing price will be higher than the generator’s bid, which will provide an opportunity for the generator to recover its fixed costs. In addition, generators are compensated for providing capacity through PJM’s ICAP mechanism, which can also help to recover fixed costs.” *PJM Interconnection, L.L.C.*, 110 FERC ¶ 61,053 at P 25 n. 29 (2005).

<sup>9</sup> *PJM Interconnection, L.L.C.*, 110 FERC ¶ 61,053 at P 25 (2005).

## 1. The Commission's Reliance on the Concept of Short Run Marginal Cost Is Consistent with Economic Theory.

The Commission's prior orders and report are consistent with economic theory, which establishes that the competitive offer equals short run marginal cost, resulting in a perfectly competitive market equilibrium where prices equal the short run marginal cost of the marginal unit of production. It is well established that just and reasonable competitive locational marginal pricing requires participants to offer at marginal cost.<sup>10</sup> In discussing the nature of short run marginal costs, the Commission recognizes that short run marginal costs are short run marginal costs. Short run marginal cost is not defined as variable costs because the terms are not equivalent. PJM's proposal, which proposes to rely on the concept of variable costs, contradicts this precedent.<sup>11</sup>

---

<sup>10</sup> See, e.g., *Houlian Chen, Powhatan Energy Fund, LLC*, 151 FERC ¶ 61,179 at P 23 (2015) ("In calculating the cost of line loss, as part of LMP, PJM sets the price at marginal cost, rather than average cost..."); *Midwest Indep. Transmission Sys. Operator, Inc.*, 134 FERC ¶ 61,141 at P 83 (2011) ("[s]ince any such negative offer prices would reflect the resources marginal cost for producing energy, settling excessive energy credits at \$ 0 or at a non-negative market price instead of the resources negative offer prices would provide an incentive for Dispatchable Intermittent Resources to overproduce and gain revenues in excess of their marginal costs (e.g., via production tax credits)."); *Atlantic City Elec. Co., et al. v. PJM Interconnection, L.L.C.*, 115 FERC P 61,132 at P 22 (2006) ("Billing on the basis of marginal costs ensures that each customer pays the proper marginal cost price for the power it is purchasing."); *PJM Interconnection, L.L.C.*, 150 FERC ¶ 60,120 at P 35 (2015) ("this is consistent ... with the construct of the PJM market, in which LMPs reflect the marginal cost of production"); *Midcontinent Indep. Sys. Operator*, 149 FERC ¶ 61,225 at P 53 (2014) ("Under locational marginal pricing, all parties at a location pay the same marginal cost of serving the next increment of load."); *San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services, etc.*, 149 FERC ¶ 61,116 at P 7 (2014) ("To mitigate these transactions, the Commission used the Mitigated Market Clearing Price (MMCP). The MMCP serves as a proxy price based on the marginal cost of the most expensive unit dispatched to serve load in CAISO's real-time imbalance energy market.").

<sup>11</sup> PJM Answer at 8 ("As drafted in the Major Maintenance Filings and clarified above, only variable expenses that are directly related to the production of energy may be included in the energy market offer.").

As in the 2015 Southwest Power Pool (“SPP”) case, where SPP proposed to replace the term “short run marginal cost” with “variable cost” in its tariff, the RTO and generators do not draw on the applicable economic theory. As the SPP Market Monitoring Unit stated:

[The RTO and generators] fail to distinguish some important fundamental microeconomic concepts that are necessary for meaningful analysis of [the RTO’s] proposal, thereby confusing the subject under discussion. These concepts include short-run versus long-run timeframes, and related issues of short-run pricing versus long-run cost recovery...any microeconomic textbook would draw the short run versus long run timing distinction.<sup>12</sup>

A basic tenet of microeconomic theory holds that in the short run some costs are fixed, while others vary, and in the long run, all costs are variable.<sup>13</sup> Market efficiency in the short run has one necessary optimal pricing condition – that prices equal the short-run marginal cost of production. In the long run, market efficiency further requires that revenues, from all sources, support overall cost recovery.

It is widely recognized in electricity markets that, absent market power, centralized auctions with a uniform market clearing price construct provide strong incentives for suppliers to reveal their true short-run marginal cost of production through their offers. This optimal pricing rule is a short-run concept that aims to recover those costs incurred concurrent with the supply of the marginal unit of output. At that marginal point, the most efficient supplier’s megawatts (MWs) are chosen for dispatch by the pricing principle, without needing a reference to long-run total cost recovery. Thus, in this context, the short run is the time frame where the optimal pricing mechanism is implemented, whereas

---

<sup>12</sup> See, e.g., H.R. VARIAN, MICROECONOMIC ANALYSIS, at 2–3, 66 (W.W. Norton & Company, Inc. 1992); L. RITTENBERG, PHD, T. TREGARTHEN, PHD, PRINCIPLES OF MICROECONOMICS, v.2.0, at 8.1 (short-run production costs), 8.2 (long-run production costs), available at <[http://ocw.mit.edu/ans7870/14/14.01SC/MIT14\\_01SCF11\\_rtttext.pdf](http://ocw.mit.edu/ans7870/14/14.01SC/MIT14_01SCF11_rtttext.pdf)>.

<sup>13</sup> *Principles of Microeconomics* at 8.1.

the long run is the appropriate time frame for overall cost recovery.<sup>14</sup>

## 2. Regulation Through Competition Requires Competitive Pricing.

In the approximately three decades that the Commission has pursued its reform of the electric industry, the Commission's principal rationale for its effort has been the promise that the forces of competition can improve efficiency in the industry and lower prices for wholesale electric power.<sup>15</sup> The Commission's goal is not to deregulate, or to free market participants to conduct themselves as though they operated in an unregulated industry.<sup>16</sup> It follows that to any extent that market power rather than competitive forces are permitted to set the wholesale price of electricity, anywhere or for any time, it compromises the fundamental objective of restructuring for competition.<sup>17</sup>

Few have stated this goal as powerfully as Chairman Kelliher:

Our goal is perfect competition, textbook competition, competition that is so beautiful it would make an economist weep.

---

<sup>14</sup> The Southwest Power Pool Market Monitoring Unit's Motion for Leave to Answer and Answer, Docket No. ER15-2268-000 (September 15, 2015) at 4.

<sup>15</sup> See *Entergy Services, Inc.*, 58 FERC ¶61,234 at 61,753 (approving market-based rates for large wholesale power sales because rates set through competitive forces will result in cost savings to ratepayers); *Public Service Company of Indiana, Inc., Opinion No. 349*, 51 FERC ¶61,367 at 61,224–25 (stating that competitive pricing improves efficiency by creating incentives for full utilization of existing capacity and innovation), cited by Joseph T. Kelliher, "Market Manipulation, Market Power, and the Authority of the Federal Energy Regulatory Commission," *ENERGY L. J.*, Vol. 26, No. 1 at 9 n.40 (2005).

<sup>16</sup> See Kelliher, *Market Manipulation* at 11 (2005) ("It is important to note that the Commission's policy was never intended to deregulate wholesale power markets. Notwithstanding great debates that have taken place in the United States over deregulation, our economic markets are not truly unregulated in the sense that they are completely free from rules.").

<sup>17</sup> Cf. *Tejas Power Corp. v. FERC*, 908 F.2d 998, 1004 (D.C. Cir. 1990) ("In a competitive market, where neither buyer nor seller has significant market power, it is rational to assume that the terms of their voluntary exchange are reasonable, and specifically to infer that price is close to marginal cost, such that the seller makes only a normal return on its investment.").

I accept that we may not achieve that goal, and that perfect competition may not exist outside the textbook. In our pursuit of perfect competition we may fall short. But if so we will at least have achieved more perfect competition.

...

It is important to appreciate that U.S. wholesale competition policy was not inadvertent. It was a deliberate choice reflected in three major federal laws enacted over the past 30 years. The U.S. consciously embraced competition policy after the comprehensive failure of traditional regulation to assure security of supply at reasonable cost.<sup>18</sup>

The Commission is correct to rely upon the forces of competition to achieve its goals of lower wholesale electric power costs because competitive markets impose discipline upon suppliers.<sup>19</sup> To prosper in this environment, a supplier must eliminate inefficiency and strive for continual innovation and improvement.

The test of competition is not whether any particular resource is able to fully recover its costs. Competitive pricing does not guarantee that any or all suppliers will recover their costs for every investment and some suppliers may experience losses. Even cost of service regulation, which is the model on which some PJM states and public power entities still continue to rely for long term maintenance cost recovery and investment cost recovery, does not guarantee investors full recovery of costs. In a market, the only means to recover costs and earn profits is to become a more efficient supplier, to earn inframarginal rents, to participate in reserve markets, take advantage of the opportunity posed by scarcity when it

---

<sup>18</sup> Statement of Chairman Joseph T. Kelliher State of US Competitive Wholesale Power Markets CERAWEEK 2008—Quest for Security: Strategies for a New Energy Future (February 15, 2008).

<sup>19</sup> See ALFRED E. KAHN, *THE ECONOMICS OF REGULATION: PRINCIPLES AND INSTITUTIONS* at 326 (John Wiley & Sons, Inc. 1971) (“In a competitive industry, firms are motivated to produce efficiently—to find ways to cut production costs—by the hope of increased profits and by the fear that failure to keep costs low will cause more efficient firms to capture their customers by lowering price. In a regulated industry, the stick is usually unavailable.”).

occurs and to participate in capacity markets. To the extent that market power is tolerated, consumers are denied the promise of the lowest possible cost of electricity and the incentives for innovation and increased efficiency are muted and/or distorted. If the Commission intends to “rely on the interaction of supply and demand in all instances to ensure that prices are competitive and thus just and reasonable,”<sup>20</sup> then the preservation of competition and the attainment of just and reasonable prices are indistinguishable.

**3. PJM Incorrectly Argues That the Commission has Rejected the Market Monitor’s Arguments That Maintenance Costs and Labor Costs Are Not Included in Competitive Offers.**

PJM improperly relies on the Commission’s determination in the Offer Flexibility Order in arguing that the Commission has rejected the notion that maintenance and labor costs are inconsistent with competitive offers.<sup>21</sup> The Offer Flexibility Order did not address the definition of a competitive offer. The Offer Flexibility Order did not address the question of whether competitive offers include maintenance costs and labor costs. PJM’s filings in the offer flexibility docket did not attempt to change the definition of a competitive offer or the rules dictating which, if any, maintenance costs could be included in cost-based offers. In fact, the Commission cited the PJM Coalition stating “that it does not believe that [the offer flexibility] docket is the appropriate forum to debate the definition of short-run marginal cost in the context of energy production.”<sup>22</sup>

In the Offer Flexibility Order, the Commission required that PJM add terms to OA Schedule 2 clarifying existing components of cost-based offers. The existing components

---

<sup>20</sup> See *Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Design*, Notice of Proposed Rulemaking, 100 FERC ¶61,138 at P 390 (2002) (“Market Design Order”).

<sup>21</sup> PJM Answer at 7, citing *PJM Interconnection, L.L.C.*, 158 FERC ¶ 61,133 at PP 122–25 (2017) (“Offer Flexibility Order”).

<sup>22</sup> Offer Flexibility Order at P124.

included maintenance and labor costs. The Commission addressed the question of double recovery of maintenance costs in energy and capacity market cost-based offers. The Offer Flexibility Order rejected the Market Monitor's arguments that maintenance and labor should be excluded from cost-based offers citing the fact that OA Schedule 2(j)(iv) prohibits Market Sellers from including Maintenance Adders and Additional Labor Costs in capacity market Avoidable Cost Rates.<sup>23</sup> The Commission did not address whether maintenance and labor are short run marginal costs. The Commission only addressed the issue of double recovery between energy market cost-based offers and capacity market Avoidable Cost Rates.

In the instant docket, PJM has argued that the existing rules in OA Schedule 2 and the Cost Development Guidelines are unjust and unreasonable. The Offer Flexibility Order maintained that the components of cost in OA Schedule 2 and the Cost Development Guidelines were just and reasonable. If the Commission accepts PJM's Section 206 Filing, the components of cost in OA Schedule 2 and the reliance on the Cost Development Guidelines become unjust and unreasonable.

**B. PJM Does Not Provide a Consistent Alternative Standard for Costs.**

PJM disavows that short run marginal cost is the standard for energy market cost-based offers, but PJM lacks a consistent alternative standard. The October 29<sup>th</sup> Filing and the December 7<sup>th</sup> Answer do not provide a consistent alternative standard. Instead, PJM seeks to change the allowable maintenance costs in cost-based offers to variable costs without applying that standard consistently to all components of cost.

PJM argues that their proposal "would not allow a wide variety of other costs, such as fuel availability costs, labor costs, and administrative costs to be included in energy

---

<sup>23</sup> Offer Flexibility Order at P 125.

offers.”<sup>24</sup> PJM’s assertion is only correct if PJM applies different standards to different components of cost. PJM seeks to apply its variable cost standard, “variable costs directly attributable to the production of energy,” to maintenance costs.<sup>25</sup> However, PJM currently applies a short run marginal cost standard to fuel and emissions costs. PJM currently excludes most labor costs from cost-based offers. If PJM applies the variable cost standard to all components of cost-based offers, costs that PJM currently deems excludable would become allowable. For example, despite PJM’s protestations to the contrary, PJM’s proposed variable cost standard would demonstrably allow labor costs to be included in cost-based offers and gas balancing costs to be included in cost-based offers.

**1. PJM Currently Allows Some Labor Costs to Be Included in Cost-Based Offers.**

Labor costs are long run variable costs. PJM’s tariff includes a term called “Start Additional Labor Costs.” PJM defined these as “additional labor costs for startup required above normal station manning levels.”<sup>26</sup> This is a component that PJM allows to be included in the start-up cost. The same component is referenced in PJM Manual 15 (Cost Development Guidelines). These costs should not be includable in cost-based energy offers because they are not short run marginal costs.

PJM’s Manual 11 (Energy and Ancillary Services Market Operations) Attachment C (PJM Procedure for Cost Adjustment) describes the process in which a Market Seller can request reimbursement of staffing costs above normal station staffing levels. Attachment C of PJM’s Manual 11 states that staffing “costs that are not included in their cost-based start recovered through normal operations may be submitted to the PJM Market Settlements Department.” The Market Monitor disagrees with this approach because it allows after the

---

<sup>24</sup> See December 7<sup>th</sup> Answer at 8.

<sup>25</sup> See December 7<sup>th</sup> Answer at 10.

<sup>26</sup> See OATT § I.1 (Definitions).

fact cost recovery of costs that are not short run marginal costs and of costs above what was included in units' offers.

PJM's assertion that labor costs are not allowed is incorrect. PJM asserts that its proposal "would not allow a wide variety of other costs, such as fuel availability costs, labor costs, and administrative costs to be included in energy offers." PJM asserts that these costs would not be allowed because "only variable expenses that are directly related to the production of energy may be included in the energy market offer."<sup>27</sup> But PJM's approach cannot logically distinguish these costs. Under PJM's logic, fuel availability costs, labor costs, and administrative costs are variable costs on the same long run time frame for which maintenance costs are variable.

PJM currently allows some labor costs to be included in cost-based offers, and PJM allows labor costs in excess of what are included in the cost-based offer to be recovered through out of market, ex post payments. This is a real example of how PJM allows other variable costs that result from electricity production beyond maintenance costs. Other labor costs that vary with electricity production would be allowable in energy market cost-based offers under PJM's proposed variable cost standard.

## **2. PJM's Standard Would Allow Gas Balancing Costs to Be Included in Cost-Based Offers.**

Since PJM began reviewing and approving Fuel Cost Policies in 2017, PJM has followed the same standard as the Market Monitor, that only the short run marginal cost of fuel should be included in cost-based offers.

Under the variable cost standard, PJM could approve Fuel Cost Policies that include fuel costs that exceed the short run marginal cost of fuel and that are rejected by the Market Monitor for that reason.<sup>28</sup> For example, gas balancing costs incurred from nominating gas

---

<sup>27</sup> PJM Answer at 8.

<sup>28</sup> See December 7<sup>th</sup> Answer at 10.

and not consuming it are not short run marginal costs. In the short run, these costs decrease with electricity production. In the short run, when a generator increases its output, the gas that is not consumed decreases, therefore gas balancing costs decrease. In the long run, these costs increase with electricity production. In the long run, the more a generator cycles, the higher the probability that gas nominated will not be consumed, and therefore gas balancing costs increase.

Following the logic in its filing, PJM could allow generators to apply the same criteria that PJM allows for maintenance costs to gas balancing costs. PJM could argue that gas balancing costs are variable costs incurred as a result of electric production. If that were the criterion, PJM could allow generators to calculate gas balancing costs as the amount of gas balancing costs incurred over one, five or 20 years divided by the number of MWh produced, just as maintenance costs are treated.<sup>29</sup>

Despite PJM's assertions, this treatment is fully consistent with PJM's logic. This treatment further illustrates that PJM's approach has consequences unintended even by PJM and that PJM's approach is inconsistent with short run marginal cost.

**C. Market Sellers Should Not Be Allowed to Choose How to Allocate Costs to Incremental Energy, Start, and No Load Cost-Based Offers.**

PJM states that "Consistent with the status quo, Market Sellers can choose in which component of their energy market offers they wish to include their major maintenance and overhaul costs."<sup>30</sup> This treatment of maintenance costs is unlike the treatment of any other components of energy market cost-based offers in the PJM Market Rules. The Cost Development Guidelines specify that Market Sellers must separate fuel costs required for starting, no load, and incremental energy into the corresponding components of the three

---

<sup>29</sup> The method for calculating the twenty year average long run maintenance cost in Manual 15, Section 2.6 could apply to any long run variable cost.

<sup>30</sup> PJM Answer at 6-7.

part offer. Emissions costs are components of fuel costs and correspondingly enter the cost-based offer calculations. But unlike these other components of cost-based offers, maintenance costs cannot be directly traced to starts, run hours, or MWh, except by assumption, because maintenance costs are not short run marginal costs. Allowing Market Sellers discretion in the allocation of maintenance costs allows for the exercise of market power.

**D. Stakeholder Impasse Means That PJM’s Proposal Does Not Receive Deference Before the Commission.**

PJM’s proposal did not receive consensus support in the stakeholder process because it benefits one group of stakeholders at the expense of another. Order 2000 requires that PJM have a decision making process that does not subject PJM to undue influence by any member or group of likeminded members.<sup>31</sup> When PJM receives super majority or consensus support through a sector weighted vote, the filing receives deference as a Section 205 filing, because the process ensures that PJM’s decision is not solely determined by one group of likeminded members. In the October 29<sup>th</sup> Filing and the December 7<sup>th</sup> Answer, PJM advocates a proposal in the interest of one group of likeminded members, generators. All generators would benefit from the higher prices created by increased maintenance costs in energy market offers. The benefit is not restricted to the owners of CTs and CCs.

Reform to OA Schedule 2 and the Cost Development Guidelines is needed, but PJM’s proposal is not the just and reasonable solution. If the Commission agrees that the current rules are unjust and unreasonable, all proposals should receive equal consideration. That cost-based offers are not limited to short run marginal costs under the current rules is sufficient reason to find the current rules unjust and unreasonable. The Commission should find the treatment of maintenance costs under the PJM Market Rules to be unjust and unreasonable, without deference to PJM’s interpretation of the current rules or to PJM’s

---

<sup>31</sup> See Regional Transmission Organizations, 89 FERC ¶ 61,285, at 125. (“Order 2000”)

argument that owners of CTs and CCs receive differential treatment. The object is to correctly and consistently identify the costs that are includable in competitive, cost-based energy offers by all generation sources, regardless of generation technology. The correct inclusion of maintenance costs in cost-based offers should be determined with the goal of market efficiency and mitigation of market power, and not based solely on the interests of generators.

## II. MOTION FOR LEAVE TO ANSWER

The Commission's Rules of Practice and Procedure, 18 CFR § 385.213(a)(2), do not permit answers to answers or protests unless otherwise ordered by the decisional authority. The Commission has made exceptions, however, where an answer clarifies the issues or assists in creating a complete record.<sup>32</sup> In this answer, the Market Monitor provides the Commission with information useful to the Commission's decision-making process and which provides a more complete record. Accordingly, the Market Monitor respectfully requests that this answer be permitted.

---

<sup>32</sup> See, e.g., *PJM Interconnection, L.L.C.*, 119 FERC ¶61,318 at P 36 (2007) (accepted answer to answer that "provided information that assisted ... decision-making process"); *California Independent System Operator Corporation*, 110 FERC ¶ 61,007 (2005) (answer to answer permitted to assist Commission in decision-making process); *New Power Company v. PJM Interconnection, L.L.C.*, 98 FERC ¶ 61,208 (2002) (answer accepted to provide new factual and legal material to assist the Commission in decision-making process); *N.Y. Independent System Operator, Inc.*, 121 FERC ¶61,112 at P 4 (2007) (answer to protest accepted because it provided information that assisted the Commission in its decision-making process).

### III. CONCLUSION

The Market Monitor respectfully requests that the Commission afford due consideration to this answer as the Commission resolves the issues raised in this proceeding.

Respectfully submitted,



---

Jeffrey W. Mayes

Joseph E. Bowring  
Independent Market Monitor for PJM  
President  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8051  
*joseph.bowring@monitoringanalytics.com*

General Counsel  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8053  
*jeffrey.mayes@monitoringanalytics.com*

Catherine Tyler  
Senior Economist  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8050  
*catherine.tyler@monitoringanalytics.com*

Joel Romero Luna  
Senior Analyst  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8050  
*joel.luna@monitoringanalytics.com*

Dated: December 21, 2018

## 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 21<sup>st</sup> day of December, 2018.



---

Jeffrey W. Mayes

General Counsel

Monitoring Analytics, LLC

2621 Van Buren Avenue, Suite 160

Eagleville, Pennsylvania 19403

(610) 271-8053

*jeffrey.mayes@monitoringanalytics.com*