

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

Office of the People’s Counsel for the)	
District of Columbia, Delaware Division of)	Docket No. EL19-63-000
the Public Advocate, Citizens Utility Board,)	
Indiana Office of Utility Consumer)	
Counselor, Maryland Office of People’s)	
Counsel, Pennsylvania Office of Consumer)	
Advocate, West Virginia Consumer)	
Advocate Division, and PJM Industrial)	
Customer Coalition)	
v.)	
PJM Interconnection, L.L.C.)	
)	
Independent Market Monitor for PJM)	Docket No. EL19-47-000
v.)	
PJM Interconnection, L.L.C.)	(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,¹ Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (“Market Monitor”) for PJM Interconnection, L.L.C.² (“PJM”), submits this answer to the answer submitted by the PJM on May 3, 2019, in Docket No. EL19-63-000 (“PJM May 3rd

¹ 18 CFR §§ 385.212 & 385.213 (2018).

² 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”).

Answer”). The Market Monitor has already responded to most of the arguments raised by PJM in pleadings filed in Docket No. EL19-47, the Market Monitor’s complaint identifying the same market flaw. This answer responds only to PJM’s new argument regarding a potential search for solutions through the stakeholder process that has no merit and is inconsistent with the position taken by PJM in Docket No. EL19-47.

The PJM May 3rd Answer states:

PJM acknowledges that there may be possible alternative methods for determining a default MSOC. Therefore, PJM is seeking to re-engage with stakeholders on this issue at the upcoming May 15, 2019 Market Implementation Committee for additional consideration of a possible alternative default MSOC, such as ones suggested in the JCA Complaint and others submitted in response to the Market Monitor Complaint.

What PJM may do in the future in the stakeholder process is speculative and offers no basis upon which to resolve the complaints.

PJM has already attempted a stakeholder process that failed to address the issue. All of the issues raised in filings in this proceeding were already raised in the stakeholder process. PJM already had ample opportunity to address these issues in the stakeholder process but failed to do so. That PJM may renew discussion with stakeholders is not a basis to deny the relief requested in either the consumer advocates’ complaint (Docket No. EL19-63) or the Market Monitor’s complaint (Docket No. EL19-47). The significant market power mitigation issues identified in the complaints require immediate attention and corrective action should not be delayed further.

It is essential that the market seller offer cap be resolved before PJM runs another Base Residual Auction in order to ensure that market power is not exercised. PJM should not be permitted to further delay resolution of this issue.

In response to the Market Monitor’s complaint in Docket EL19-47, PJM attempted to defend the stakeholder process and the determination in that process to do nothing. PJM’s response in Docket No. EL19-63 suggests that PJM now recognizes that the determination to do nothing was mistaken. The range of options that PJM would consider in a

contemplated future stakeholder process still appears to exclude the Market Monitor’s proposal, which remains the best proposal to correct the calculation of the default Market Seller Offer Cap in PJM and the only proposal filed that corrects all the identified problems. PJM’s reference to “a possible alternative default MSOC, such as ones ... others submitted in response to the Market Monitor Complaint” apparently refers to the proposal submitted by market sellers on how best to mitigate market power.³ The Market Monitor has explained why the market sellers’ proposal is inadequate in its answer in Docket No. EL19-47.⁴

Because PJM’s new receptiveness to a renewed process does not respond to the complaint in Docket No. EL19-47, PJM does not provide any reason to deny the complaint or to refuse the relief requested by the Market Monitor.

The Market Monitor also disagrees with PJM’s assertion that a stakeholder process and a Section 205 filing are the best way to address the market power mitigation rules. As the Market Monitor recently argued in the rulemaking proceeding concerning market-based rate authorizations,⁵ proceedings under Section 206 are preferable because, upon a showing that the current rules are unjust and unreasonable, the Commission is empowered to select the best solution and is not required to defer to an inferior proposal simply because it has the support of the RTO. The Commission is not required to defer to the RTO and market participants who are subject to mitigation and who have an obvious conflict of interest when recommending market power mitigation rules.

³ See Comments of the Indicated Parties, Docket No. EL19-47-000 (April 15, 2019).

⁴ See Answer and Motion for Leave to Answer of the Independent Market Monitor for PJM (April 30, 2019) at 16–17.

⁵ See Comments of the Independent Market Monitor for PJM, *Refinements to Horizontal Market Power Analysis for Sellers in Certain Regional Transmission Organization and Independent System Operator Markets*, Docket No. RM19-2-000 (March 18, 2019); Answer and Motion for Leave to Answer of the Independent Market Monitor for PJM, Docket No. RM19-2-000 (May 22, 2019).

The conflict of interest explains why PJM's stakeholder process took no action on the current rules which fail to provide for adequate market power mitigation. PJM's explanation of the proposals that it intends to emphasize in the stakeholder process show that it will advocate an approach that fails to address the problem. PJM has had the opportunity in responding to the complaint to propose any approach it wishes. Any further delay would put the effective and competitive operation of the PJM capacity market at risk, would be administratively inefficient and would not be in the public interest. The Commission has the information necessary to effectively and efficiently address the issues raised in the Complaint. The Market Monitor requests that the Commission take this opportunity to timely reform PJM's ineffective market power mitigation rules in the capacity market.

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,



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Dated: May 24, 2019

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 24th day of May, 2019.



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