

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

Independent Market Monitor for PJM)	
)	Docket No. EL19-47-000
v.)	
PJM Interconnection, L.L.C.)	
)	
)	
Office of the People’s Counsel for District of)	Docket No. EL19-63-000
Columbia, Delaware Division of 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,)	
PJM Industrial Customer Coalition)	
)	
v.)	
PJM Interconnection, L.L.C.)	
)	
)	
PJM Interconnection, L.L.C.)	Docket No. ER21-2444-000
)	

**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

¹ 18 CFR §§ 385.212 & 385.213 (2021).

("Market Monitor") for PJM Interconnection, L.L.C.² ("PJM"), submits this answer to the answer of PJM, filed October 14, 2021, to the Market Monitor's motion for clarification filed October 12, 2021 ("Motion").

In the Motion, the Market Monitor seeks clarification of the order issued in this proceeding September 2, 2021 ("September 2nd Order"), that RGGI costs are not properly included in the offer caps of certain units located in Pennsylvania. Pennsylvania does not currently participate in RGGI. The requested clarification should be granted

I. ANSWER

The Market Monitor's request is straightforward. Pennsylvania has taken significant steps toward joining the Regional Greenhouse Gas Initiative ("RGGI"), but has not yet officially joined. The issue is whether the costs of RGGI emissions allowances are includable as costs in the calculation of the net revenue offset for capacity market offer caps for Pennsylvania emitting resources given that it is not known whether these costs will be incurred. These cost are not known and not verifiable at this time and to include them would not be consistent with the tariff, and also would not be consistent with prior net revenue offset calculations used in the MOPR and MSOC determinations.

The PJM Answer contributes nothing to the record regarding the motion for clarification submitted to the Commission by the Market Monitor. PJM is conflating the uncertainty about the emission allowance price level with the uncertainty about whether there are emissions allowances required at all. The uncertainty about emission price levels has nothing to do with the requested clarification. The tariff language PJM cites pertains to costs that are currently incurred. The standard is that if the emission allowance is applicable at the time of the determination or if there is an established effective date after which the allowance will be required, and there is no uncertainty regarding the effective date, the cost

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").

for emission allowances would be included. The Market Monitor believes this to be the correct implementation of the tariff and seeks clarification from the Commission on this point. PJM asserts (at 2) that the Market Monitor would require “the Commission to speculate on the future actions that may or may not be taken by the Pennsylvania legislature.” That is not correct. PJM’s objection to the Market Monitor’s request for clarification makes clear that PJM is ready and willing to speculate without the Commission’s decision. The Market Monitor requests clarification from the Commission because, despite PJM’s assertions, the tariff language does not permit inclusion of RGGI costs, and does not permit PJM to speculate about whether such costs may exist in the future.

PJM includes a number of statements about the uncertainty of costs that contradict their overall position, that are inconsistent and that are in some cases incorrect. PJM states (at 2):

Thus, the mere fact that the certain costs, such as emission allowances, may not be known with absolute certainty should not, in and of itself, render such costs invalid so long as estimates of such costs are reasonable and based on conditions known at the time the unit-specific Net ACR is calculated.

PJM fails to note that the conditions “known at the time the unit-specific net ACR is calculated” are that Pennsylvania is not in RGGI. In addition, PJM continues to confuse estimates about the level of RGGI prices (the costs of emissions allowances) with uncertainty about whether such costs will be incurred, regardless of the level.

PJM also states (at 4):

PJM recognizes that purely speculative costs should not be included in the determination of the offset. In this case, however, the issue is not whether these costs are purely speculative—rather the issue is whether it is reasonable to foresee, three years forward, that emission allowance costs could well be incurred and therefore impact the level of the E&AS Offset for generation resources located in Pennsylvania. Legitimate emission allowance costs that are reasonably foreseeable and likely to be incurred during the actual Delivery Year should be includable in

calculating a resource's Net E&AS Offset (and ultimately in the calculation of the Net ACR).

PJM appears to introduce a new term, purely speculative, which is apparently different from the term speculative, although the definitions are not stated clearly. PJM's standard here appears to be whether it is "reasonable to foresee" that a cost "could well be incurred." This standard is not clear, is not operational and requires subjective interpretation. This standard is not in the tariff and PJM does not cite to the tariff. PJM states (at 6):

The mere fact that the legislature *could* try to undo the Governor's actions should not, in and of itself, prevent a Capacity Market Seller from including reasonably expected emission allowance costs in the calculation of the Net E&AS Offset under these circumstances.

By the same token, denial of these costs based on what the Pennsylvania legislature *might do* at some point in the future would itself substitute unverifiable speculation in lieu of a standard which focuses on what costs are reasonably foreseeable based on what is known at the time of the unit-specific Net ACR review.

PJM appears to not want to rely on uncertain facts, but nonetheless suggests that PJM's views of what might happen are apparently verifiable speculation.³ PJM's views are apparently based on what PJM asserts is reasonably foreseeable, another undefined term, while disagreement is characterized as unverifiable speculation. This standard is not defined, is not in the tariff and PJM does not cite to the tariff.

Ultimately, the emission allowance costs associated with RGGI should be includable in a Net E&AS Offset calculation so long as a Capacity Market Seller reasonably believes that such costs will be incurred during the Delivery Year associated with the relevant

³ PJM ignores the fact that a concurrent resolution (S.C.R.R.R. 1/H.C.R.R.R. 1) disapproving the rules necessary for the participation in RGGI has issued from the relevant Pennsylvania House and Senate Committees and will be voted on later this month.

RPM Auction and provides a reasonable estimate of the emission allowance costs associated with RGGI.

PJM's final test is that if a generation owner "reasonably believes" that costs will be incurred, it is ok to include the costs in the calculation of forward looking net revenues. This new standard, introduced at the end of PJM's filing, substitutes generation owner judgment for tariff rules and is inconsistent with the existing tariff language. This standard is not defined, is not in the tariff and PJM does not cite to the tariff.

The Market Monitor was very clear in the Motion for Clarification that there is uncertainty about whether Pennsylvania emitting resources will incur RGGI costs in the delivery year associated with the next BRA. No party knows what will happen in the delivery year. The Market Monitor does not propose to substitute its judgment for the tariff rules. The only guide available is the tariff and the tariff language is unambiguous.

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 a request for rehearing 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.⁴ 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.

⁴ 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,



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Dated: October 20, 2021

CERTIFICATE OF SERVICE

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

Dated at Eagleville, Pennsylvania, this 20th day of October, 2021.



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