

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

Jackson Generation, LLC	)	Docket No. EL21-62-000,
	)	EL21-63-000
v.	)	
	)	
PJM Interconnection, L.L.C.	)	
	)	

**COMMENTS OF THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rule 211 of the Commission’s Rules and Regulations,<sup>1</sup> Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (“Market Monitor”) for PJM Interconnection, L.L.C. (“PJM”),<sup>2</sup> submits these comments responding to the complaint filed March 31, 2021, by Jackson Generation, LLC (“Jackson”) against PJM (“Complaint”).<sup>3</sup> The Complaint requests that the Commission direct PJM to change PJM’s calculation of its unit specific offer floor under the Minimum Offer Price Rule (“MOPR”) which is part of PJM’s Reliability Pricing Model (“RPM”) rules. Specifically, Jackson objects to PJM’s inclusion of sunk costs and the use of a 20 year asset life, and requests a sunk cost offset and the use of a longer asset life. PJM made the correct determination and correctly applied the market rules. Jackson’s arguments have no merit. The relief requested in the Complaint should be denied.

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<sup>1</sup> 18 CFR § 385.211 (2020).

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

<sup>3</sup> The Complaint includes at Attachment A an Affidavit of Paul M. Sotkiewicz, Ph.D (“Sotkiewicz Affidavit”).

## I. COMMENTS

### A. PJM Correctly Included Sunk Costs.

The sections of the OATT cited by Jackson make clear the purpose of the unit specific exception process under the provisions of the MOPR. Section 5.14(h)(5) states the relevant sell offer is permissible “because it is consistent with the competitive, cost-based, fixed, net cost of new entry, were the resource to rely solely on revenues from PJM-administered markets.” Section 5.14(h)(5)(ii) states that a unit-specific exception must include “documentation to support the fixed development, construction, operation, and maintenance costs of the planned generation resource.” Section 5.14(h)(5)(iii) requires that the request for a unit-specific exception be “based on competitive cost advantages” compared to the default costs, including “competitive cost advantages resulting from the Capacity Market Seller’s business model, financial condition, tax status, access to capital or other similar conditions affecting the applicant’s costs.” The tariff requires that the requested costs be “consistent with the standards of this subsection.”

Jackson fails to support its requested level of project capital costs consistent with the stated purpose of the MOPR floor price and the standards of subsection 5.14(h)(5). Jackson requests that the review process simply ignore some of the project costs despite the explicitly stated requirement to include the fixed development and construction costs. The reason cited by Jackson is that the costs have been incurred.<sup>4</sup> The costs are thus sunk. Expended costs are clearly sunk. But if Jackson’s argument were to be followed to its logical conclusion, any resource wishing to receive a unit-specific MOPR exception would simply apply for the exception after it had completed construction. In that case, all the costs would be sunk and the relevant MOPR floor price would be zero. The result of accepting Jackson’s argument would be to create a loophole in the MOPR rule that could easily be taken

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<sup>4</sup> Sotkiewicz Affidavit at ¶ 31.

advantage of by all resources, and effectively eliminate the applicability of MOPR. It is not a competitive cost advantage to have already incurred the capital costs of an investment.

Jackson makes much of the fact (at 15–16) that section 5.14(h)(5)(ii) includes a requirement that the supporting documentation “shall identify and support any sunk costs that the Capacity Market Seller has reflected as a reduction to its Sell Offer.” Jackson ignores the obvious flaw in its logic that while the tariff requires documentation of any such request, the tariff does not permit the subtraction of sunk costs if not consistent with the standards of the subsection which require a competitive offer. The rules do not allow, and never have allowed, participants to include sunk costs as a matter of right and do not require PJM to include them in its determinations when not consistent with the standards of the subsection.

Jackson offers no support for excluding sunk costs other than the unsurprising point that dollars have been spent as the project is developed. That fact does not make the competitive offer lower. That fact does not change the basic economics of the project. Jackson makes no effort to explain why ignoring a significant portion of its project costs is consistent with a competitive offer. Jackson simply requests that the level of investment made up to a defined date be omitted from the project costs.

Given that Jackson states emphatically that the Manuals cannot contradict the tariff, there is no reason to address Jackson’s lengthy disquisition on the different versions of Manual 18. The Manual 18 language is fully consistent with the tariff and states PJM’s views about the standards of the subsection.

#### **B. PJM Correctly Used a 20 Year Asset Life.**

As in the case of sunk costs, Jackson fails to provide any reason to use its requested asset life in the calculation of the MOPR floor that is consistent with the stated purpose of the MOPR floor price and the standards of subsection 5.14(h)(5). Jackson requests that the review process simply apply a longer asset life to its asset, thus arbitrarily reducing the MOPR floor.

It is not a competitive cost advantage to simply apply a longer asset life in the calculation.

Manual 18, version 47 states:

The financial modeling assumptions for calculating Cost of New Entry for Generation Capacity Resources and generation-backed Demand Resources shall be: (i) nominal levelization of gross costs, (ii) asset life of twenty years, (iii) no residual value, (iv) all project costs included with no sunk costs excluded, (v) use first year revenues (which may include revenues from the sale of renewable energy credits for purposes other than state-mandated or state-sponsored programs), and (vi) weighted average cost of capital based on the actual cost of capital for the entity proposing to build the Capacity Resource.

The Manual codifies the longstanding practice of the Market Monitor and PJM in using standard modeling assumptions in order to prevent the use of arbitrary assumptions for the purpose of artificially reducing the relevant MOPR floor. The fact that version 47 of Manual 18 was not approved by the MRC until January 27, 2021, when it was approved unanimously, is irrelevant.<sup>5</sup> The identical MOPR language had been approved unanimously at the MIC meeting of January 12, 2021.<sup>6 7</sup> Regardless, the Manual language is the current rule and it is fully consistent with the tariff. PJM's determinations on the Jackson project are consistent with and carry out the purposes of the applicable tariff provisions and both versions of the manual provisions. Not only have these assumptions

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<sup>5</sup> See "Consent Agenda A – Draft Minutes – MRC – 1.27.2021", in the meeting materials for the Markets & Reliability Committee, (February 24, 2021) <<https://pjm.com/committees-and-groups/committees/mrc>>.

<sup>6</sup> See "Item 2C – MOPR Manual 18 Revisions – Redline," in the meeting materials for the PJM Market Implementation Committee, (January 12, 2021) <<https://pjm.com/committees-and-groups/committees/mic>>.

<sup>7</sup> See "Item 1 – Draft Minutes – MIC – 1.12.2021," in the meeting materials for the PJM Market Implementation Committee, (February 10, 2021) <<https://pjm.com/committees-and-groups/committees/mic>>.

been in long use by the Market Monitor and PJM, but the same assumptions are used in the development of technology specific default values for gas fired CTs and CCs, and are also used in PJM's Triennial and Quadrennial Review processes for defining the gross cost of new entry for a gas fired CT for use in defining the demand curve (VRR curve) in the PJM Capacity Market.

The Manual then states:

Notwithstanding the foregoing, a Capacity Market Seller of a New Entry Capacity Resource with State Subsidy that seeks to utilize an asset life other than twenty years (but no greater than 35 years) shall provide evidence to support the use of a different asset life, including but not limited to, the asset life term for such resource as utilized in the Capacity Market Seller's financial accounting (e.g., independently audited financial statements).

This language explicitly applies only to new capacity resources with state subsidy and therefore does not apply to Jackson.

Jackson cannot and does not point to any tariff or manual language that explicitly contemplates an asset life longer than 20 years for use in MOPR floors for gas fired resources.

Jackson cannot and does not point to any evidence that PJM has used an asset life of longer than 20 years. The Market Monitor has been consistent from the beginning of MOPR reviews in using the same set of assumptions for the calculation of MOPR floors for all resources.

The Commission's orders on MOPR (the "December 2019 Order," the "April 2020 Order" and the "October 2020 Order") make clear that a 20 year asset life is the default and that the reason is to ensure that all comparable resources are evaluated on a comparable basis.<sup>8</sup>

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<sup>8</sup> See *Calpine Corp. v. PJM Interconnection, L.L.C., et al.*, 169 FERC ¶ 61,239 (2019) ("December 2019 Order"), *order on reh'g and clarification*, 171 FERC ¶ 61,035 ("April 2020 Order"), *order on compliance, etc.*, 173 FERC ¶ 61,061 ("October 2020 Order").

The December 2019 Order states (at P 153):

We agree with PJM that the proposed 20-year asset life is appropriate. [footnote omitted] We also agree with PJM that default MOPR values should maintain the same basic financial assumptions, such as the 20-year asset life, across resource types. The Commission has previously determined that standardized inputs are a simplifying tool appropriate for determining default offer price floors,<sup>302</sup> and we reaffirm that it is reasonable to maintain these basic financial assumptions for default offer price floors in the capacity market to ensure resource offers are evaluated on a comparable basis. Therefore, we find 20 years to be an appropriately conservative estimate.

The April 2020 Order states (at P 290):

As we found in the December 2019 Order, default offer price floors should maintain the same basic financial assumptions, such as the 20-year asset life, across resource types. [footnote omitted] The Commission has previously determined that standardized inputs are a simplifying tool appropriate for determining default offer price floors, [footnote omitted] and we reaffirm that it is reasonable to maintain these basic financial assumptions for default offer price floors in the capacity market to ensure resource offers are evaluated on a comparable basis.

The October 2020 Order (at PP 281–282) accepts PJM’s proposal to consider a longer asset life for a resource with a state subsidy but does not make the same determination for gas fired units with no state subsidy.

### **C. Privileged Information.**

Jackson Witness Sotkiewicz makes statements in his testimony based on his inside knowledge of the details of the MOPR offer review process at PJM from 2012 through 2015.<sup>9</sup> Such statements disclose information that should be kept confidential, are inappropriate and may violate confidentiality obligations under PJM’s governing documents, the PJM market rules, and PJM’s code of conduct.

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<sup>9</sup> See Complaint at 24; Sotkiewicz Affidavit at ¶¶ 33–35.

The Witness asserts that he relies on PJM precedent and admits that his last involvement in these matters was in 2015, but fails to acknowledge that this means he has no information about relevant PJM precedent. Witness Sotkiewicz's statements about PJM policy are obsolete, do not reflect PJM's position and should be disregarded in resolving this matter.

As to sunk costs, Witness Sotkiewicz references one "notable" case where he "permitted" the use of sunk costs.<sup>10</sup> The fact that the Witness acknowledges that the cited case was unique, the fact that the case occurred in 2012, and the fact that the Witness asserts no relationship between what the Witness identifies as the notably unique circumstances and the facts about the Jackson situation are all reasons to give zero weight to the assertions of the Witness on the issue of sunk costs. The Witness does not assert that it was PJM policy to accept sunk costs.

As to asset life, Witness Sotkiewicz references two out of the many cases that were reviewed by the Market Monitor for MOPR compliance, cases that occurred in 2012 or before, but fails to state whether he knows what the final offers were or what asset life they incorporated or what the distinguishing characteristics were. The Witness does not assert that it was PJM policy to accept longer asset lives. Again, this vague and unsubstantiated testimony should be given zero weight on the issue of asset life.

Witness Sotkiewicz states that Jackson has been unable to replicate the value computed by the Market Monitor and notes that the Market Monitor value "defies economic logic" because it differs significantly from the prior MOPR determination for the same project.<sup>11</sup> The Market Monitor CONE model is publicly available and is identical to the model used by PJM to determine the MOPR default offer floor values. There are clear reasons why the MOPR floor price for the Jackson project increased this year compared to

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<sup>10</sup> *Id.* at ¶¶ 30–32.

<sup>11</sup> *Id.* at ¶ 15.

the prior calculation. As the Witness is aware, the value of key cost and revenue parameters changed significantly. The parameters were provided by the Jackson project in both cases. There is no mystery about why the MOPR floor value increased. Both calculations by the Market Monitor use a 20 year asset life and include all project costs, including sunk costs.

## II. CONCLUSION

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

Respectfully submitted,



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Dated: April 12, 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 12<sup>th</sup> day of April, 2021.



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