

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

Public Service Commission of West Virginia	)	
	)	Docket No. EL23-45-000
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 8, 2023, by the Public Service Commission of West Virginia (“PSC WV”) (“Complaint”). The Complaint requests (at 2–3) that the Commission “direct PJM to allow all PJM state commissions..., and particularly the PSC WV as an *ex officio* member of the RTO to observe and attend the meetings between the PJM Liaison Committee and the PJM Board of Managers as required by PJM’s Operating Agreement, PJM business practices manuals, FERC orders and FERC rules, regulations and policies.” The Market Monitor agrees that PJM’s exclusion of state commissions, including the PSC WV, is in violation of PJM’s governance rules. The OA plainly provides that *ex officio* members, which includes the PSC

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<sup>1</sup> 18 CFR § 385.211 (2022).

<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”).

WV and any other state commission electing to nominate a representative, may attend meetings of standing committees, which includes the Liaison Committee.

The relief sought by the WV PSC should be granted in this proceeding.

## I. COMMENTS

### A. PJM's Actions Violate the OA.

PJM's refusal to permit the WV PSC to attend Liaison Committee meetings violates the OA because under the applicable rules the Liaison Committee is a standing committee and the WV PSC is an ex officio member entitled to attend meetings of standing committees.

#### 1. The Liaison Committee Is a Standing Committee.

Section 1 (Definitions—S–T) of the OA defines “Standing Committees” as “the Members Committee, the committees established and maintained under Operating Agreement, section 8.6, and *such other committees as the Members Committee may establish and maintain from time to time*” [emphasis added]. Section 8.6 of the OA is the only provision in the PJM governance rules that allows for the establishment of standing committees.<sup>3</sup> PJM is required to reauthorize committees that are not standing committees after two years, and it has not reauthorized the Liaison Committee.<sup>4</sup>

In addition, the Liaison Committee is a standing committee in accordance with the plain meaning of the term. The Liaison Committee is permanent, and scheduled to meet

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<sup>3</sup> Only standing committees are authorized to form other committees. OA § 8.6.3 provides: “The Standing Committees may form, select the membership, and oversee the activities, of such other committees, subcommittees, task forces, working groups or other bodies as it shall deem appropriate, to provide advice and recommendations to the Standing Committees or Office of the Interconnection.”

<sup>4</sup> See OA § 8.6.3.

regularly, continuously and indefinitely.<sup>5</sup> It cannot be argued that it is time limited or destined to become obsolete after a particular problem or issue is resolved.

## **2. The PSC WV Is an Ex Officio Member Permitted to Attend Standing Committee Meetings.**

Section 8.2.2. of the Operating Agreement provides:

FERC and any other federal agency with regulatory authority over a Member and *each* State electric utility regulatory commission with regulatory jurisdiction within the PJM Region, may nominate one representative to serve as an ex officio non-voting member on each of the Standing Committees (emphasis added).

PSC WV's status as an ex officio member is not disputed. As an ex officio member, PSC WV, and each other ex officio member, is entitled to nominate one representative to attend meetings of a standing committee. PSC WV is therefore entitled to attend Liaison Committee meetings. PJM's refusal to permit participation violates its OA.

### **B. PJM Actions Are Inconsistent with Commission Rules.**

The Complaint further shows (at 27 & *passim*) that PJM's actions do "not comport" with "its business practices manuals and Order Nos. 2000 and 719 to maintain open, transparent and independent governance for its Board and stakeholders." The arguments have merit, but are not necessary to support PSC WV's request because PJM's violations of the OA are clear. Nothing that PJM has stated in its communications with PSC WV overcome PJM's violation of the OA. PJM should be directed to implement the OA as filed.

## **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.

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<sup>5</sup> See, e.g., The Law Dictionary, Featuring Black's Law Dictionary, 2nd Ed. (defines "standing committee" as a "[c]ommittee charged with assigning work continuously." Merriam Webster defines "standing committee" to mean "a permanent committee especially of a legislative body."

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Respectfully submitted,



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Dated: March 28, 2023

## 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 28<sup>th</sup> day of March, 2023.



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