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Technical Conference – Federal Energy Regulatory Commission  
Review of Market Monitoring Policies  
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1. Good morning. I appreciate the opportunity to participate in today's Technical Conference on the Review of Market Monitoring Policies.
2. The PJM MMU performs a number of functions in assisting the Commission in enhancing the competitiveness of PJM markets. Based both on the PJM tariff and the Commission's Policy Statement, the PJM MMU monitors compliance with market rules, identifies actual or potential flaws in the market rules, identifies potential anticompetitive behavior and provides comprehensive market analysis. Based on this analysis, the MMU recommends rule changes, identifies market participants who may be violating the PJM tariff or FERC rules, provides support to PJM in the administration of the tariff and provides analysis of market performance and issues. The MMU, in addition to monitoring market participants, also monitors PJM. The actions of PJM may also have significant impacts on market performance.
3. The MMU also regularly communicates both formally and informally with market participants from all market sectors from generators to loads to state regulators. Market participants rely upon the MMU for objective analysis of markets. That objective analysis helps provide confidence to all market participants that competitive markets are working and that issues will be identified when they arise.
4. The role of market monitors has been clearly defined by the Commission. Enforcement authority lies with the Commission as does the authority to require changes in participant behavior and the authority to implement or modify market rules. The role of market monitors is advisory and informational.
5. Representatives of the PJM MMU meet regularly with FERC staff from the Office of Enforcement and other parts of the Commission. I believe that it would be beneficial for the MMU to also meet regularly with senior staff from the Office of Enforcement and other interested Commission staff to provide status reports on monitoring activities, market issues and pending issues and also to get feedback from the OE about the interests of the Commission and how the MMU could be of additional assistance. While relatively informal contacts are critical, I believe that more structured interactions could also be helpful to the Commission. In addition, I believe that it would be beneficial if the MMU provided more structured reports or presentations on a regular basis to staff, based on Commission and staff requirements.
6. I believe that it would also be beneficial to initiate and sustain an ongoing discussion among all monitors and Commission staff about theoretical and practical approaches to the definition and mitigation of market power. Systematic discussion and review of

approaches and results can contribute to continued improvements in monitoring and mitigation practices.

7. In order to effectively assist the Commission, the MMU needs resources. In particular, the MMU needs staff resources, IT resources, hardware resources, data resources and the ability to call on external expertise when needed. In order to be effective, the MMU needs diverse staff expertise including engineering, economics and database management as well as hands on expertise in all aspects of the industry from transmission through generation.
8. In order to effectively assist the Commission, the MMU needs independence. I would define that as independence from market participants and independence from the RTO. It is clear that market participants have varied financial interests and that the MMU must be independent from market participants. It is equally clear that the MMU must be independent from PJM. While PJM is itself independent from market participants, PJM as an organization has specific interests which may differ, at times, from the MMU objective of providing objective, critical evaluations of markets, of market participants and of PJM itself. While PJM has a variety of objectives, the MMU has only one objective, to assist the Commission in enhancing the competitiveness of RTO markets.
9. Ultimately, only the Commission can define the level of independence that it believes necessary for market monitors to perform the functions defined by the Commission and assist in enhancing the competitiveness of RTO markets. Only the Commission can ensure that the desired level of independence is achieved.
10. Given the experience of the MMU at PJM, I believe that the MMU needs stronger assurance that the MMU is independent from PJM management so that the Commission and market participants can be assured that MMU analysis and recommendations are independent. PJM has made it clear that, from management's perspective, the market monitor is first an employee of PJM with all the duties of an employee including obeying management orders, i.e. following the chain of command. I do not believe that this is consistent with independence of market monitoring or with meeting the tariff defined objectives of market monitoring. PJM management has taken a series of actions towards the MMU which I believe are inconsistent with independence and with the objectives of the MMU as defined in the tariff. As examples, these include ordering me to modify the State of the Market Report, preventing me from making a presentation to a membership committee on the exemption of certain interfaces from mitigation when PJM management disagreed with my analysis and delaying the release of an MMU report regarding the regulation market based on management disagreements with our conclusions.
11. Based on my experience, it is not possible, as a practical matter, to maintain the independence of the MMU while leaving the control of personnel decisions, including hiring, firing, reviews and promotions with RTO management. It is not possible to maintain the independence of the MMU while leaving the control of the budget with RTO management, including the ability to fund specific analytical projects or to hire

consultants. It is not possible to maintain the independence of the MMU if RTO management has the authority to prevent the MMU from collecting and maintaining information and data in the manner required to meet the MMU's objectives. It is not possible to maintain the independence of the MMU under the current system of reporting and accountability. It is not possible for the MMU to meet its responsibilities to the Commission without independence.

12. Very recently, the issue of independence and, in fact, the viability of the PJM MMU, have reached very significant proportions at PJM. Last week, Mr. Harris, CEO of PJM, informed the MMU staff that it was PJM management's view that, in order to ensure independence, the MMU function would be best provided by an external consultant rather than the current MMU. At that meeting, Mr. Harris informed MMU staff that there were lots of open positions in other divisions at PJM for which they are qualified and that they could apply for. Mr. Harris stated that PJM would be removing the MMU's data base from the MMU and transferring it elsewhere in PJM. Not surprisingly, these statements from the CEO had a negative impact on the morale of the MMU staff, although staff continues to focus on our monitoring responsibilities. In addition, PJM management has aggressively attempted to hire key MMU staff away. A job description was posted this week that precisely matches the market monitoring duties of one of the MMU supervisors, a person with specific, virtually irreplaceable monitoring skills and knowledge developed both in prior jobs and while working at the MMU. PJM does not perform these functions. Another job was posted on Monday consistent with the credentials of the MMU's junior analysts with a required application date of Friday. Unless PJM management takes a constructive approach to maintaining the current MMU until the Commission has time to make a decision about the appropriate structure to ensure independence as you define it, PJM's actions threaten the existence of the current MMU.
13. While these issues may appear to be an internal personnel matter entirely within the purview of PJM management, that view does not reflect the fact that the MMU is ultimately responsible to the Commission, based on the tariff. Nor does that view reflect the possibility of independence. If PJM management is permitted to remove the current MMU without cause and in response to the MMU doing its job, then the potential for independent market monitoring will be severely damaged.
14. PJM management has informed me that PJM does not want the MMU to replace experienced staff with new hires but that we should hire consultants. I have informed management that the use of replacement consultants will not work and that the effect of their actions, taken together, will be to substantially weaken the ability of the MMU to fulfill our responsibilities to the Commission and to the markets. I believe that if PJM management continues on its current path with respect to the MMU, within a very short time we will not have adequate resources to meet our tariff defined responsibilities. I also believe that if PJM management continues on its current path, within a very short time we will not be able to collect and maintain information as we are required to do under the tariff.

15. It is my view that the optimal structure for an MMU is to be on site at the RTO with regular interactions with RTO management and staff but not reporting to RTO management. The MMU would be staffed by full time employees with a range of skill sets who understand that their job is a full time job that will not end after two or three years. There are very substantial benefits to being on site including access to and regular interactions with RTO staff from all areas including markets, operations, planning and IT. The MMU must be able to collect and maintain information and data in order to analyze the markets, independently of the RTO. The tariff requires this. Real markets cannot be understood without a detailed understanding of market data. The volume and complexity of the required data is significant. In addition, data must be analyzed and intermediate metrics created and those metrics analyzed in turn.
16. Thank you for the opportunity to discuss these critical issues with you today.