

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

Standards for Business Practices and	)	Docket No. RM05-5-020
Communication Protocols for Public	)	
Utilities	)	
	)	

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

Pursuant to a notice of proposed rulemaking issued April 19, 2012 (“NOPR”), Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (“Market Monitor”), submits these comments on the Commission’s proposal “to amend its regulations to incorporate by reference the business practice standards adopted by the Wholesale Electric Quadrant of the North American Energy Standards Board (“NAESB”) that pertain to the measurement and verification of demand response and energy efficiency resources participating in organized wholesale electricity markets.”<sup>1</sup> Incorporation of the NAESB standards is more likely to create confusion than resolve it, particularly with respect to measurement and verification of demand resources providing capacity. Adoption of NAESB standards without substantive

---

<sup>1</sup> *Standards for Business Practices and Communication Protocols for Public Utilities*, 139 FERC ¶ 61,041. The NAESB standards are the NAESB WEQ Final Action Ratified March 21, 2011 (“NAESB WEQ–DSM-EE Programs”). Capitalized terms used herein and not otherwise defined have the meaning specified in the NAESB WEQ–DSM-EE Programs.

revision has the potential to reopen and confuse the issue of double counting in PJM that was only recently resolved.<sup>2</sup> No proponent of such adoption has presented a detailed comparison of the NAESB standards to the PJM standards, for example, with evidence that the NAESB standards represent an improvement over the PJM standards.

## I. COMMENTS

The need for a blanket and formal incorporation of the NAESB standards into RTOs has not been established. Attempting to apply common measurement and verification standards in all RTOs in spite of the significant differences among each of the RTOs' programs is likely to increase rather than lessen confusion about the applicable standards and their underlying rationale. In addition, incorporation of the NAESB standards will result in discarding the years of effort that have been invested in the current approaches to measurement and verification, rather than building on those efforts.

One example of how confusion will increase concerns the NAESB standards for the measurement and verification of capacity. The Commission, PJM, PJM stakeholders and the Market Monitor recently completed a prolonged effort to clarify the measurement and verification of demand resources in PJM capacity market in a manner that prevents gaming, ensures efficient pricing of capacity, ensures comparability of

---

<sup>2</sup> See Docket No. ER11-3322-000.

capacity with alternative resources and sets accurate resource adequacy objectives.<sup>3</sup> Essential to resolving the double counting issue was ensuring that “Peak Load Contribution” (“PLC”) or its equivalent is the fundamental metric against which reductions in the use of capacity are measured and verified. The NAESB standards, if incorporated unchanged into the Commission’s Rules, appear to conflict with and undermine the clear recognition of this fundamental metric in PJM’s market rules.

If the Commission does proceed with some incorporation of the NAESB standards, the Market Monitor recommends that the Commission specifically decline to incorporate the NAESB measurement and verification standards that apply to capacity service. NAESB standards in their current form do not clearly and consistently require measurement and verification of capacity service provided in response to an emergency or dispatch notice of a system operator on the basis of whether the resource is operating at or below its PLC. Without such clarification, the NAESB standards applicable to capacity will serve only to reintroduce the confusion that the Commission recently resolved in the double counting matter.<sup>4</sup> Blanket incorporation of the NAESB standards on measurement and verification of capacity in PJM’s market rules would reintroduce the potential for mismeasurement of capacity savings in PJM, rather than adding clarity.

---

<sup>3</sup> *Id.*

<sup>4</sup> *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,108 (November 4, 2011).

The NAESB standards define “Capacity Service” to mean, “A type of Demand Response service in which Demand Resources are obligated to control demand over a defined period of time measured in MW.”<sup>5</sup> This definition does not adequately and appropriately represent the capacity product provided by demand resources in the organized wholesale power markets, and in particular wholesale power markets like PJM that include a capacity market. When a customer in PJM sells capacity in the Demand Response market the customer is agreeing to not use capacity when that capacity is needed by customers who did pay for it. The customer agrees to reduce its use of capacity below the level that it would otherwise have had to purchase (PLC).

NAESB’s definition of “Capacity Service” is inadequate and inappropriate because it is not clear that “control demand” means, as it should, a customer’s maintaining or reducing its load to a level which is less than its PLC. A customer operating above its PLC does not provide capacity.

If the Commission chooses to incorporate NAESB standards into its rules, then the Market Monitor recommends that the Commission clarify that “Capacity Service” necessarily means achieving a reduction to a level at or below a resource’s PLC in order to prevent confusion in the industry and to avoid inefficient market rules.

---

<sup>5</sup> NAESB WEQ–DSM-EE Programs at 3.

The NAESB standards further compound the confusion about the meaning of “Capacity Service” by including a range of approaches for the measurement and verification of Capacity Service.<sup>6</sup> The NAESB standards outline five such approaches: Maximum Base Load, Meter Before/Meter After, Baseline Type-I, Baseline Type-II, and Metering Generator Output.<sup>7</sup> These five approaches are the same set of approaches that NAESB applies to measure and verify “Energy Service.”<sup>8</sup> The first of these, Maximum Base Load, evaluates the ability of a resource to operate at or below a target load level.<sup>9</sup> All of the other approaches attempt to measure actions of a resource during real-time to reduce its load in response to an emergency or other dispatch notice.<sup>10</sup> The NAESB standards do not appear to distinguish between energy and capacity reductions and do not appear to be based on an understanding of, for example, PJM market rules.

The adoption of the NAESB standards for capacity will cause confusion, create inefficient market rules, and provide an opportunity for gaming and market manipulation damaging to the integrity of the organized wholesale markets and to the

---

<sup>6</sup> NAESB WEQ–DSM-EE Programs at 13.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 6.

<sup>10</sup> *Id.* at 3 & 7.

development of an efficient mechanism for participation by demand-side resources in those markets.

This concern is not hypothetical. Confusion over the nature of capacity, the difference between measurement and verification of capacity and the measurement and verification of energy, were obstacles to the efforts of PJM and the Market Monitor to prevent gaming in PJM's capacity market, the Reliability Pricing Model ("RPM"). The Commission, PJM, PJM stakeholders and the Market Monitor spent significant time and effort in Docket No. ER12-3322, which was established in response to PJM's filing to put rules in place that prevent "double counting" reductions associated with peak shaving as reductions relevant to compliance with capacity obligations. In that proceeding, defenders of "double counting" practices cited NAESB standards and the Commission's incorporation by reference of those rules as justification for their actions.<sup>11</sup> If the NAESB standards at issue here had had the color of law, they could have complicated the Commission's ability to address the double counting issue even after it recognized a compelling need to do so. Incorporating these flawed rules into the Commission's Rules risks reintroducing confusion about how to measure and verify compliance from

---

<sup>11</sup> See Protest of EnerNOC, Inc. in Docket No. 11-3322-000 (April 28, 2011) at 9, 23–25 & 30.

Demand Resources in PJM.<sup>12</sup> Support for incorporating NAESB standards into the Commission's rules is lacking. The NAESB standards are flawed because they do not attempt to distinguish metrics appropriate to energy demand from metrics appropriate for capacity demand. Adoption of the NAESB proposed rules on capacity creates the potential to reverse some or all of the Commission's achievements in clarifying the measurement and verification rules in PJM and denying attempts to exploit alleged ambiguity in those rules to engage in double counting.

The Market Monitor also recommends that the Commission take whatever steps are necessary so that any standards incorporated into its rules are published in full in the Federal Register. NAESB standards are only available to dues paying members or under special restricted access arrangements. The Commission has incorporated restricted-access rules set by private industry standards organizations in the past,<sup>13</sup> but this practice seems out of step with at least the spirit of the Administrative Procedures Act.<sup>14</sup> The public should have unhindered access to the applicable laws. The need is more acute here, when many of the participants in demand response programs are not

---

<sup>12</sup> OATT PJM Emergency Load Response Program ("A load reduction will only be recognized for capacity compliance if the metered load multiplied by the loss factor is less than the current Delivery Year peak load contribution.").

<sup>13</sup> See, e.g., *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-F, 131 FERC ¶ 61,022 (April 15, 2010).

<sup>14</sup> 5 U.S.C. § 552; see Department Justice, Attorney General's Manual on the Administrative Procedures Act (1947).

directly involved in the electric industry and may be relatively unfamiliar with electric industry laws and regulations.

## II. CONCLUSION

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

Respectfully submitted,



---

Jeffrey W. Mayes

Joseph E. Bowring  
Independent Market Monitor for PJM  
President  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Valley Forge Corporate Center  
Eagleville, Pennsylvania 19403  
(610)-271-8051  
*joseph.bowring@monitoringanalytics.com*

General Counsel  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Valley Forge Corporate Center  
Eagleville, Pennsylvania 19403  
(610) 271-8053  
*jeffrey.mayes@monitoringanalytics.com*

Dated: July 30, 2012