

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

Calpine Corporation, Dynegy Inc., Eastern	)	
Generation, LLC, Homer City Generation, L.P.,	)	Docket No. EL16-49-000
NRG Power Marketing LLC, GenOn Energy	)	
Management, LLC, Carroll County Energy	)	
LLC, C.P. Crane LLC, Essential Power, LLC,	)	
Essential Power OPP, LLC, Essential Power	)	
Rock Springs, LLC, Lakewood Cogeneration,	)	
L.P., GDF SUEZ Energy Marketing NA, Inc.,	)	
Oregon Clean Energy, LLC and Panda Power	)	
Generation Infrastructure Fund, LLC	)	
v.	)	
PJM Interconnection, L.L.C.	)	
	)	
PJM Interconnection, L.L.C.	)	Docket Nos. ER18-1314-000, -001
	)	
PJM Interconnection, L.L.C.	)	Docket No. EL18-178-000
	)	
	)	(Consolidated)
	)	
	)	

**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,<sup>1</sup> Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor

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<sup>1</sup> 18 CFR §§ 385.212 & 385.213 (2019).

("Market Monitor") for PJM ("PJM Interconnection, L.L.C."),<sup>2</sup> submits this answer to the answer filed by PJM on July 7, 2020 ("July 7<sup>th</sup> Answer"). The July 7<sup>th</sup> Answer responds to the comments filed by the Market Monitor on June 22, 2020 ("IMM Comments"). The IMM Comments identified issues with the second compliance filing submitted by PJM on June 1, 2020 ("Second Compliance Filing"), which was required by the order on rehearing and clarification issued April 16, 2020 ("April 16<sup>th</sup> Order").<sup>3</sup> This answer is needed to correct misstatements and mischaracterizations included in the July 7<sup>th</sup> Answer and to eliminate confusion. Accordingly, the Market Monitor requests that this answer be accepted in order to facilitate the decision making process and to ensure a complete and accurate record.

## I. ANSWER

### A. State Default Service Auctions

The Market Monitor's response to PJM stated that, in order to comply with the April 16<sup>th</sup> Order, the tariff should require that PJM and the Market Monitor regularly certify that the rules governing each state default service auction either meet or do not meet the Commission's standards subject to the Commission's authority to ensure that its intent is met.

In response, PJM simply asserts that "it is unnecessary for PJM and the Market Monitor to make the decision regarding whether a state default service auction meets the Commission's standards ..." PJM reasons that there are other ways to identify issues with state default service auctions. PJM and the Market Monitor could include a state default service auction in the list of programs that PJM and the Market Monitor jointly agree constitute a State Subsidy. In addition, any entity that believes a state default service

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<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> *PJM Interconnection, L.L.C. et al.*, 171 FERC ¶ 61,034.

auction does not meet the Commission's standards or intent is always free to raise it directly with the Commission.

While PJM apparently does recognize that state default service auctions may not meet the Commission's standards, PJM apparently does not want to be responsible for identifying the issues or making that recommendation to the Commission.

The Commission has made clear that this issue is significant. PJM's suggested approach of not directly addressing the issue raised by the Commission should be rejected and the Market Monitor's suggested approach, requiring an explicit review and recommendation, should be adopted. It is essential that the states know in advance the status of their auctions so that they can take appropriate steps to modify them if they so choose. Requiring market participants and states to wait to see whether PJM will state its opinion is inefficient and will create confusion and uncertainty.

#### **B. Reverting to New Status**

In the April 16<sup>th</sup> Order, in response to the Market Monitor's request for clarification, the Commission clarified "that resources that are not subject to the Capacity Performance must-offer requirement will be treated as new resources if they seek to re-enter the capacity market after choosing not to participate in a particular auction, including intermittent renewable resources."<sup>4</sup> In the Second Compliance Filing, PJM failed to comply with the Commission's directive by adding several qualifications to its proposed rule.

The first qualification that PJM attempts to defend in its July 7<sup>th</sup> Answer is the proposed loophole for FRR plan participation. For reasons the Market Monitor explains in Section E of this filing, not offering in an auction because of FRR plan participation and then reentering the RPM market at an unmitigated sell offer is exactly the type of situation the Commission meant to address with its clarification on this issue in the April 16<sup>th</sup> Order.

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<sup>4</sup> April 16<sup>th</sup> Order at P 60.

The second and third qualifications that PJM attempts to defend in its July 7<sup>th</sup> Answer are incorporated in the PJM proposal that the offer condition be satisfied by offering any part of a resource and the offer condition be limited to BRAs. PJM fails to explain why it should be assumed that the net costs of a resource that skips an auction have not changed. In fact, the Commission's directive in this matter implies the opposite. Without knowing the reason for a resource not participating in an RPM Auction, the Commission directed PJM to put this rule in place to safeguard the market.

PJM claims that tracking resource participation "would require substantial system changes," but fails to explain how tracking participation in Incremental Auctions would require any more effort than tracking participation in Base Residual Auctions or tracking bilateral transactions.<sup>5</sup> Tracking resource participation is a challenge that can be met straightforwardly. The assertion of technical difficulties is not supportable.

PJM also states that reverting a resource's status to new after not offering or not offering its full available capacity in any RPM auction would impose a must offer requirement on these resources.<sup>6</sup> PJM references the Commission's statement in the April 16<sup>th</sup> Order related to this issue but omits the sentence that directly addresses their argument.<sup>7</sup>

We reject Consumer Representatives' request to establish rules that do not require renewable resources to offer in back-to-back auctions. The December 2019 Order did not change the must-offer requirement; resources not subject to that requirement may still skip auctions, but they will face the appropriate mitigation.

As the Commission explained, the must offer requirement is not changed by implementing the rule that a resource's status is reverted to new after skipping an auction.

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<sup>5</sup> July 7<sup>th</sup> Answer at 9.

<sup>6</sup> July 7<sup>th</sup> Answer at 9–10.

<sup>7</sup> April 16<sup>th</sup> Order at P 61.

The Commission stated that resources skipping auctions would face appropriate mitigation when they reenter the RPM market. However, it is unreasonable that the satisfaction of the offer condition could be easily gamed by offering, for example, 0.1 MW of a 10.0 MW resource, as PJM has proposed.

### **C. Cleared Portion of a New Entry Capacity Resource**

In the April 16<sup>th</sup> Order, the Commission granted the Market Monitor's request for clarification that only the cleared portion of a resource is considered existing for Minimum Offer Price Rule ("MOPR") application purposes.<sup>8</sup> In the July 7<sup>th</sup> Answer, PJM states "that the Commission has set December 19, 2019 as a demarcation line" and claims that this is the rationale for its proposal to apply two definitions of clearing for MOPR application purposes.<sup>9</sup> The PJM compliance proposal limits the cleared portion application starting with the 2022/2023 Delivery Year. This means that an entire resource would be considered a Cleared Resource with State Subsidy if it cleared any MW quantity prior to the 2022/2023 Delivery Year but only the cleared portion of a resource would be considered a Cleared Capacity Resource with State Subsidy if it cleared for 2022/2023 Delivery Year or after. The Market Monitor reiterates that there is no logical rationale for apply two definitions of clearing. PJM's proposed definitions of New Entry Capacity Resource with State Subsidy to Cleared Capacity Resource with State Subsidy in the Second Compliance Filing do not comply with the Commission's directive in the April 16<sup>th</sup> Order and should be rejected.

### **D. Seasonal**

For reasons explained in the IMM Comments, the Market Monitor's view is that using a value other than the offered capacity and without seasonality considerations would inappropriately apply different definitions of the revenue requirement and MOPR floor

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<sup>8</sup> April 16<sup>th</sup> Order at P 398.

<sup>9</sup> July 7<sup>th</sup> Answer at 10.

offer price to those resources with RPM must offer requirements than to those resources without RPM must offer requirements. In the case where a portion of the capacity is committed outside the RPM market, it would be appropriate to prorate the costs and MW accordingly as it is known that the resource is recovering part of its capacity revenue elsewhere. In the case where there is no defined reason such as an export or FRR for a resource not offering its full capacity, it is appropriate to use the offered capacity in the denominator. The Market Monitor's approach does not conflict with the Commission's directive that the cleared portion of a New Entry Capacity Resource with State Subsidy becomes a Cleared Capacity Resource with State Subsidy.

The PJM approach of using the full capacity simply assumes, incorrectly and without evidence, that the resource would offer the remaining portion in an incremental auction or that the resource may receive capacity revenue elsewhere to cover its revenue requirement. PJM fails to address the fundamental concept of the revenue requirement and fails to explain why it is appropriate to speculate that the unoffered capacity will receive capacity revenue elsewhere to cover its revenue requirement.

#### **E. Fixed Resource Requirement ("FRR") Revenues**

PJM's proposal to exclude FRR revenues from the definition of State Subsidy ignores the compensation mechanism of FRR plans and categorically and incorrectly assumes that resources in FRR plans are not compensated through cost of service. Excluding FRR related revenues from the definition of State Subsidy is an obvious loophole that would undermine the effectiveness of the MOPR. The assertion that the FRR option exists in the OATT and therefore cannot be a subsidy is not a substantive or credible assertion. The logic of FRR plans makes it clear that they are a vehicle for State Subsidies. FRR plans are, by definition, forms of cost of service ratemaking. The revenues under FRR plans are explicitly not capacity market revenues but are defined through negotiations with state authorities. FRRs are created for the purpose of permitting states to pay resources more than the capacity market clearing price. For those not convinced by logic, examination of prior and proposed

FRR plans makes clear that FRR plans have been, can be and will be the vehicle for the provision of subsidies to capacity resources.

#### **F. Demand Resources**

Contrary to PJM's assertion, it should not be considered an administrative burden to register customers in the same zip code to the same registration. As a basic point, demand side resources are not exempt from administrative burdens. All market participants have the administrative burdens associated with participating in PJM markets with all the associated complex rules and requirements. There are unquestionably administrative burdens associated with being a capacity resource in PJM markets. All generators have to identify their exact location and provide metering information to PJM. As part of their business and in order to participate in the PJM Capacity Market, all Curtailment Service Providers ("CSPs") must know where their customers are located, which includes knowing the zip code of the customer. It is an appropriate administrative burden to register customers within the same zip code. CSPs have been exempt from providing the actual nodal location of each resource which imposes an inappropriate and unacceptable administrative burden on PJM in operating a nodal market. CSPs should be required to provide the locations of their customers if they wish to participate in the PJM Capacity Market.

All capacity resources have a physical location. All capacity resources should be required to provide that location to PJM, as do generation resources, in order to respond to nodal prices and location specific system constraints. Exempting demand resources from this fundamental requirement to participate as a capacity resource in a nodal market is unjust and unreasonable. All capacity resources should, at a minimum, register the resource providing capacity at the specific location. This is a requirement for all market participants and is not a special administrative burden for CSPs. Nodal markets cannot function without the location of resources. Zip codes are already too large an area as they could encompass resources that both help and hurt a constraint. Allowing demand resources to register

residential customers across zip codes is inconsistent with participation in a nodal market. It incorrectly suggests that residential demand side resources are somehow less significant than other demand resources that must be identified by zip code. PJM mischaracterizes the goal as operational flexibility. While it clearly provides more operational flexibility to be able to dispatch demand resources on a more granular level, the more fundamental point is that accurate information about the location of demand resources is core to a nodal market.

### **G. Replacement Capacity**

In the April 16<sup>th</sup> Order, the Commission responded to the Market Monitor's request for clarification regarding replacement capacity transactions involving state subsidized resources.<sup>10</sup> The Market Monitor continues to seek clarification that replacement capacity restrictions for state subsidized resources include transactions within a portfolio as well as bilateral transactions.<sup>11</sup> The Market Monitor identified issues with the PJM compliance proposal if the Commission orders that the restrictions on subsidized resources serving as replacement capacity apply only in the case of bilateral transactions.<sup>12</sup>

As explained in the IMM Comments, the definition of the bilateral transaction type used in PJM's capacity application is not equivalent to the Commission's definition of bilateral. PJM proposed to apply the replacement transaction restrictions only to bilateral transactions that are one year or less. Instead of addressing the data definition issues or systemically reviewing all replacements that use state subsidized resources, PJM acknowledges that its compliance proposal would allow some replacement transactions to

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<sup>10</sup> April 16<sup>th</sup> Order at P 400.

<sup>11</sup> Request for Clarification of the Independent Market Monitor for PJM, Docket No. EL16-49-002 (May 15, 2020).

<sup>12</sup> IMM Comments at 8-10.



bypass the Commission's directive by saying that they would "not likely" meet the Commission's definition.<sup>13</sup> PJM's filing on this issue should be rejected for these reasons.

#### **H. Generation Attribute Tracking System ("GATS") Data**

PJM states (at 17–18): "PJM confirms that all data obtained from PJM-EIS to ensure that voluntary RECs are not retired for state compliance requirements will be made available to the Market Monitor." PJM offers to provide only the data PJM claims to rely on directly and not the full set of data that PJM has control over and access to. The Market Monitor, and potentially the Commission, needs access to all of the data available to PJM in order to independently review compliance and to understand PJM's conclusions. If PJM is going to rely on data from its wholly controlled subsidiary to review compliance with the PJM Market Rules, then PJM needs to direct its subsidiary to make the full data set available to the Market Monitor so that it can perform its market monitoring function. PJM provides no reason for denying complete access to the Market Monitor.

#### **I. Joint Consumer Advocates' Request for Greater Flexibility in Updating Planning Parameters**

The Market Monitor agrees that PJM should be able to update planning parameters closer to the capacity market auctions if there are significant changes to the parameters in order to ensure that the capacity auction correctly reflects the actual economic fundamentals. For example, the forward looking energy and ancillary services offset should be updated as close to the auction as possible.

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<sup>13</sup> July 7<sup>th</sup> Answer at 16.

## 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 answers or protests 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.<sup>14</sup> 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.

## 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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Jeffrey W. Mayes

Joseph E. Bowring  
Independent Market Monitor for PJM  
President  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403

General Counsel  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403

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<sup>14</sup> 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).

(610) 271-8051  
*joseph.bowring@monitoringanalytics.com*

Alexandra Salaneck  
Senior Analyst  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8050  
*alexandra.salaneck@monitoringanalytics.com*

(610) 271-8053  
*jeffrey.mayes@monitoringanalytics.com*

Skyler Marzewski  
Analyst  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8050  
*skyler.marzewski@monitoringanalytics.com*

Dated: July 23, 2020

## 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 23<sup>rd</sup> day of July, 2020.



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Jeffrey W. Mayes

General Counsel

Monitoring Analytics, LLC

2621 Van Buren Avenue, Suite 160

Eagleville, Pennsylvania 19403

(610) 271-8053

*jeffrey.mayes@monitoringanalytics.com*