



correct. The June 8<sup>th</sup> Answer does not address the question of whether the proposed approach is correct. The June 8<sup>th</sup> Answer does not address the fact that use of the CRF formula makes the use of the correct state tax rates easy and efficient. That is another reason to use the formula. There is no reason that each project cannot use the correct state corporate income tax rate with the formula so that the CRF for any particular project can be calculated clearly and accurately.

No seller pays the average state tax rate. Each seller pays taxes based on the particular jurisdiction where its facility is located. Including the correct rate and not an incorrect rate is necessary for accuracy. PJM does not explain why using the incorrect state tax rates is acceptable or why it meets the Section 205 standard of review.

Properly accounting for each state's tax rate is manageable. The tariff can state the formula and list the required inputs.

The June 8<sup>th</sup> Answer clarifies that PJM's position is that the CRF rate, once applied in year one, should not change for the life of the investment. This approach produces an incorrect result for the reasons explained in the Market Monitor's Answer. Briefly stated, if the tax rates actually applicable to the asset change, the correct CRF changes. The tariff does not require the use of an incorrect tax rate, but if PJM believes that it does, the tariff language should be clarified.

The June 8<sup>th</sup> Answer states (at 6):

This is because Tariff, Attachment DD, section 6.8(a) states: "For any given Project Investment, a Capacity Market Seller may make a one-time election to recover such investment using: (i) the highest CRF and associated recovery schedule to which it is entitled; or (ii) the next highest CRF and associated recovery schedule."

The June 8<sup>th</sup> Answer misreads the tariff. The Capacity Market Seller elects the highest CRF and associated recovery schedule. The tariff does not state or imply that the CRF cannot be changed when the inputs to the CRF change. For example, the affected unit

owners are not entitled to a windfall when the tax rate increases and should not be subject to a penalty when the tax rate increases.

## 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>5</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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President

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<sup>5</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).

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Dated: July 1, 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 1<sup>st</sup> day of July, 2021.



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