

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

Independent Market Monitor for PJM	)	Docket No. EL24-___-000
	)	
v.	)	
	)	
PJM Interconnection, L.L.C.	)	
	)	

**COMPLAINT REQUESTING FAST TRACK PROCESSING  
OF THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rule 206 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> files this Complaint Requesting Fast Track Processing against PJM (“Complaint”). In this Complaint, the Market Monitor requests that the Commission find that the rules for determining penalty rates for Performance Assessment Intervals (“PAI”) in the Reliability Pricing Model (“RPM”) rules under the Capacity Performance (“CP”) approach are unjust and unreasonable and should be replaced.<sup>3</sup> The

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<sup>1</sup> 18 CFR § 385.206 (2023).

<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> The Complaint should be granted even if the Commission approves some or all of the proposed revisions filed in Docket Nos. ER24-98 and ER24-99 because those proposals fail to correct the flawed rules for penalty rates that are the subject of the Complaint. However, the Complaint and request for fast track processing are intended to provide a viable path forward to conduct the planned BRAs on the current schedule if the proposals in Docket Nos. ER24-98 and ER24-99 are recognized as unsupported, not just and reasonable, and are rejected.

current PJM capacity market rules set penalties at levels that are excessive and that interfere with the efficient and competitive operation of PJM markets. Recent experience with Winter Storm Elliott and the resultant extreme penalties combined with confusion about the application of penalties demonstrate that the penalty structure is unjust and unreasonable. Multiple examples are documented in the multiple complaints filed with and now pending before the Commission.<sup>4</sup>

The Market Monitor proposes replacement rules that would set penalties at just and reasonable levels while leaving the rest of the capacity market structure unaffected and providing time for PJM and stakeholders to consider broader market design changes. The proposed replacement rules are simple and limited. The penalty rate would be based on the value of capacity as determined in the PJM Capacity Market, the capacity market clearing price. The stop loss would be 1.5 times the capacity market revenue. The proposed penalty rate and stop loss provisions are just and reasonable because they are defined by the value of capacity as determined in the PJM Capacity Market, because they are simple and clear, because they can be easily understood by market participants, because they can be easily implemented by PJM, because the defined penalties are proportional to the payments received for capacity, because they reduce the risk to the PJM markets, because they minimize

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<sup>4</sup> See Essential Power OPP, LLC v. PJM Interconnection, L.L.C., Docket No. EL23-53-000; Aurora Generation, LLC v. PJM Interconnection, L.L.C., Docket No. EL23-54-000; Coalition of PJM Capacity Resources v. PJM Interconnection, L.L.C., Docket No. EL23-55-000; Talen Energy Marketing, LLC v. PJM Interconnection, L.L.C., Docket No. EL23-56-000; Lee County Generating Station, LLC v. PJM Interconnection, L.L.C., Docket No. EL23-57-000; SunEnergy1, LLC v. PJM Interconnection, L.L.C., Docket No. EL23-58-000; Lincoln Generating Facility, LLC v. PJM Interconnection, L.L.C., Docket No. EL23-59-000; Parkway Generating Keys Energy Center LLC v. PJM Interconnection, L.L.C., Docket No. EL23-60-000; Old Dominion Electric Cooperative v. PJM Interconnection, L.L.C., Docket No. EL23-61-000; Energy Harbor LLC v. PJM Interconnection, L.L.C., Docket No. EL23-63-000; Calpine Corporation v. PJM Interconnection, L.L.C., Docket No. EL23-66-000; Invenergy Nelson LLC v. PJM Interconnection, L.L.C., Docket No. EL23-67-000; East Kentucky Power Cooperative, Inc. v. PJM Interconnection, L.L.C., Docket No. EL23-74-000; CPV Maryland, LLC, and Competitive Power Venture Holdings, LP v. PJM Interconnection, L.L.C., Docket No. EL23-75-000; Parkway Generation Operating LLC et al. v. PJM Interconnection, L.L.C., Docket No. EL23-77-000 (Not Consolidated).

the risk of protracted litigation for each PAI event, and because they would create certainty for market participants for the next two auctions at a time when PJM capacity markets need a period of stability and certainty. The proposed replacement rules are designed to be simple and clear so that they can be implemented in the next two RPM Base Residual Auctions (“BRA”), for the 2025/2026 and the 2026/2027 Delivery Years.

The replacement rules would apply a penalty rate equal to the capacity market clearing price on a dollars per MW-year basis, divided by the number of intervals in 30 hours, for each interval that a resource is unavailable, up to a stop loss based on 1.5 times market revenue.

The Market Monitor requests fast track processing because the identified flaw in the current rules is extreme but not complicated, the proposed solution is simple, there is a need for participants to know the applicable penalty rules prior to PJM conducting the next scheduled BRAs, and there is significant value for market efficiency and stability in proceeding with the planned BRAs without disruption or delay. This proposal would permit the next two BRAs to proceed as currently scheduled, would permit stakeholders more time to consider additional potential changes to the capacity market design, and would eliminate the artificial time pressure to decide on a massive, complex pair of PJM filings in Docket Nos. ER24-98 and ER24-99 that would change basic elements of the capacity market without adequate time for stakeholder or regulatory review.<sup>5</sup>

## **I. COMPLAINT**

### **A. The Current Rules Set Excessive, Unjust and Unreasonable Penalty Rates.**

Section 10A of Attachment DD to the OATT states the rules for charges for nonperformance and credits for performance. In summary, the penalty rate is based on the

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<sup>5</sup> See Docket Nos. ER24-98 and ER24-99.

net cost of new entry (Net CONE). More formally, penalties (non-performance charges) are determined under the formula, applied to each nonperforming resource:

$$\text{Non-Performance Charge} = \text{Performance Shortfall} * \text{Non-Performance Charge Rate}$$

Where

For Capacity Performance Resources and Seasonal Capacity Performance Resources, the Non-Performance Charge Rate = (Net Cost of New Entry (stated in terms of installed capacity) for the LDA and Delivery Year for which such calculation is performed \* (the number of days in the Delivery Year / 30) / (the number of Real-Time Settlement Intervals in an hour).

Section 10A also includes a stop loss provision, capping charges at:

1.5 times the Net Cost of New Entry times the megawatts of Unforced Capacity committed by such resource or such PRD Provider times the number of days in the Delivery Year.<sup>6</sup>

The experience during Winter Storm Elliott demonstrates that the penalty rate is excessive. PJM estimated that total penalties were \$1.8 billion for an event that totaled less than 24 hours.<sup>7</sup> The penalties, as calculated by PJM, would require affected generators to pay penalties equivalent to two to four times their total annual capacity payments. PJM also created additional uncertainty because PJM's calculation of the exact amount of penalties and associated bonus payments changed in the period following Elliott as PJM's interpretation of the rules changed. The excessive penalties put generators at risk of cash flow and liquidity

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<sup>6</sup> OATT Attachment DD § 10A(f).

<sup>7</sup> See PJM, Winter Storm Elliott Event Analysis and Recommendation Report (July 17, 2023) at 2, which can be accessed at: <<https://www.pjm.com/-/media/library/reports-notice/special-reports/2023/20230717-winter-storm-elliott-event-analysis-and-recommendation-report.ashx>>.

issues, default and bankruptcy.<sup>8</sup> PJM filed to extend the deadlines for payment to help prevent additional generator defaults, and the Commission approved extension of the payment schedule by order issued April 3, 2023.<sup>9</sup> In its filing, PJM clarified the extreme risk imposed on the PJM markets by the current penalty rate.<sup>10</sup> PJM repeatedly referenced cash flow and liquidity issues, the resultant risk of default and the overall risk to the PJM markets.<sup>11</sup>

PJM's statement about the risks to the overall market is significant:

Additionally, and more importantly, a default of a Member triggered by the non-payment of Non-Performance Charges creates a reliability risk for the PJM load. This is because it is possible that a defaulting PJM Member may no longer honor prior capacity commitments for the previously committed Capacity Resource. As a result, PJM may not be able to rely on such previously committed Capacity Resources as capacity for the remainder of the Delivery Year. Consequently, such Member defaults increase the risk that PJM may not have sufficient capacity to meet peak load conditions for the remainder of the Delivery Year. In addition, exacerbating the liquidity issues caused by the timing of the underlying event can potentially drive premature retirements, which then translates into potentially higher capacity costs for customers in the next capacity auction. As a result, it is in the best interest of both suppliers and load interests to allow Non-Performance Charges to be invoiced over a longer period of time to minimize the risk of Member defaults.<sup>12</sup>

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<sup>8</sup> See *PJM Interconnection, L.L.C.*, 183 FERC ¶ 61,001 at PP 12–13 (“The potentially unprecedented magnitude of Non-Performance Charge presents significant cash-flow and liquidity concerns for many PJM Members who will owe Non-Performance Charges.”).

<sup>9</sup> See *PJM Interconnection, L.L.C.*, 183 FERC ¶ 61,001 at P 8 (“PJM clarifies that absent acceptance of this filing, there is a ‘high likelihood’ of member defaults”).

<sup>10</sup> *Id.*, citing PJM filing, ER22-1038-000 (February 2, 2023) at 12.

<sup>11</sup> See *id.*

<sup>12</sup> *Id.* at 7–8.

PJM now has 15 complaints pending against it that seek to reduce or eliminate penalties assessed during Winter Storm Elliott based on a range of issues about how PJM interpreted the existing rules. PJM nominally defended its actions related to determining the existence of PAI, associated penalties, and acceptable excuses. Yet PJM implicitly agreed that the combination of high penalties and unclear rules made the results of nonperformance assessments during Winter Storm Elliott unworkable when, after multiple detailed and extensive complaints were filed at the Commission raising specific questions about PJM's implementation of the PAI rules, PJM proposed to immediately begin settlement judge proceedings and, after actively participating in those proceedings, entered into and filed a settlement agreement.<sup>13</sup> In PJM's request for settlement judge proceedings, PJM again recognized the significant disruptions to and risk to PJM's markets created by the potential litigation over PJM's implementation of the PAI rules.

PJM's statement in that filing is a good summary:

At the same time, however, PJM recognizes the potential benefits of a prompt resolution, to the extent possible, of the disputed assessment of these charges. These disputes, considering the complaint, rehearing, and appeal processes, could hang over the PJM market for years, affecting Market Participants' conduct in ways that may be irreparable and not always desirable. The capacity market also is designed in large measure to signal the need for new Capacity Resource investment, and the expectations of the financial and investment community accordingly are an important backdrop to the operation of this market. Timely, consensual resolution of these disputes thus could, potentially, help support the long-term health of the resource adequacy construct in the PJM Region.

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<sup>13</sup> See Motion of PJM Interconnection, L.L.C. for Establishment of Settlement Judge Procedures, Docket No. EL23-53-000, et al. (April 14, 2023) ("PJM Motion"); *PJM Interconnection, LLC*, ER23-2975-000, Offer of Settlement in the Winter Storm Elliott Complaints: *Essential Power OPP, LLC v. PJM Interconnection, L.L.C.*, Docket No. EL23-53-000, et al. (September 9, 2023)

There is value to a prompt resolution of these heavily contested Non-Performance Charges, leaving some amount of room for a principled resolution of the disputes, in a manner that does not lead to market disruption, defaults, bankruptcies, and the physical loss of assets.<sup>14</sup>

The proposed settlement demonstrates that the rules are unenforceable, vague, and unverifiable as written and therefore unjust and unreasonable. In addition, the rules create an unsupportable and unreasonable risk of default and potentially bankruptcy for generators and the associated risk of protracted litigation that also demonstrates the rules to be unjust and unreasonable. While markets can deal with episodic and uncorrelated bankruptcies, rules that, as part of their normal functioning, create bankruptcy risk across a range of generators simultaneously as the result of a single event lasting less than 24 hours are not just and reasonable. Such rules put the reliability of PJM in its current form at risk.

Not only are the existing penalty rates excessive, but the actual implementation is not clear to market participants. Rules that participants and stakeholders know can and will be applied in verifiable ways are important for well functioning markets. It is unjust and unreasonable to have very large penalties depend on rules that are not completely clear and transparent and verifiable after the fact, by market participants and by regulators.

It would be unjust and unreasonable to expose market participants including generators and customers, PJM, and regulators to the risk of one or more additional Winter Storm Elliott type events during the period from June 1, 2025, through May 31, 2027.

A reduced penalty rate can and should be applied to the BRAs for the 2025/2026 and 2026/2027 Delivery Years.

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<sup>14</sup> PJM Motion at 4-5.

## **B. A Majority of Stakeholders Support Just and Reasonable Penalty Rate Rules.**

At the Special Members Committee–CP Penalty Rate stakeholder meeting convened on May 11, 2023, stakeholders approved a proposal sponsored by AMP and supported by the Market Monitor that included (i) a provision reducing the penalty rate and the stop loss and (ii) a revised PAI definition.<sup>15</sup> The AMP proposal would have replaced the existing penalty rate, equal to the Net Cost of New Entry divided by the number of intervals in 30 hours, with a penalty rate equal to the Base Residual Auction clearing price divided by the number of intervals in 30 hours. The stakeholder approved provision would have replaced the current excessive penalty rate with a penalty rate directly tied to the market value of capacity, the capacity market clearing price.<sup>16</sup> The AMP proposal received a stakeholder weighted vote of 3,489 out of 5,0, or 69.8 percent.<sup>17</sup>

On May 30, 2023, PJM filed the revised PAI definition component of the reform package.<sup>18</sup> PJM unilaterally decided not to include the penalty rate reduction provision of the reform package approved by stakeholders based on the unsupported assertion that the reduction would pose a risk to reliability.<sup>19</sup>

The Market Monitor filed comments supporting the revised PAI definition and recommending that the Commission open a Section 206 proceeding to address the missing component, the need for a revised penalty rate. By order issued July 28, 2023, the Commission

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<sup>15</sup> See Attachment A-1.

<sup>16</sup> *Id.*

<sup>17</sup> See Attachment A-2.

<sup>18</sup> PJM Filing, Docket No. ER23-1996.

<sup>19</sup> See *id.* at 1–2 n.4.



approved the May 30<sup>th</sup> Filing.<sup>20</sup> The Commission declined to initiate its own investigation under Section 206 because it anticipated an additional filing by PJM.<sup>21</sup>

At a special meeting of the Members Committee-Critical Issue Fast Path (CIFP) on August 23, 2023, PJM stakeholders completed Stage 4 of the Critical Issue Fast Path – Resource Adequacy process with a vote on 18 proposals for capacity market reforms, including the Market Monitor Proposal (also sponsored by AMP, JPower and East Kentucky Power Cooperative).

The only changes to the status quo included in the Market Monitor proposal, defined in the matrix for the Stage 4 meeting, were changes to the penalty rate and the stop loss:

- Non-Performance Charge: Capacity market clearing price in place of Net CONE.<sup>22</sup>
- Non-Performance Charge Rate: For 2025/2026 and 2026/2027 Delivery Years, for Capacity Performance Resources and Seasonal Capacity Performance Resources, the Non-Performance Charge Rate = (Base Residual Auction clearing price for the LDA and Delivery Year for which such calculation is performed \* (the number of days in the Delivery Year / 30) / (the number of Real-Time Settlement Intervals in an hour)).<sup>23</sup>
- Stop-Loss for Non-Performance Charges: For 2025/2026 and 2026/2027 Delivery Years, the Non-Performance Charges for each Capacity Performance Resource (including Locational UCAP from such a resource) and each PRD Provider for a Delivery Year shall not exceed a Non-Performance Charge Limit

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<sup>20</sup> PJM Interconnection, L.L.C., 184 FERC ¶ 61,058.

<sup>21</sup> *Id.* at P 43.

<sup>22</sup> See CIFP RA Matrix (August 23, 2023), which can be accessed at: <<https://www.pjm.com/-/media/committees-groups/committees/mc/2023/20230823-special/item-01---20230823-cifp-ra-matrix-all-kwa-cifp-stage-4.ashx>>.

<sup>23</sup> *Id.*

equal to 1.5 times the Base Residual Auction clearing price for the applicable LDA and Delivery Year times the megawatts of Unforced Capacity committed by such resource or such PRD Provider times the number of days in the Delivery Year. The Non-Performance Charges for each Seasonal Capacity Performance Resource for a Delivery Year shall not exceed a Non-Performance Charge Limit equal to 1.5 times the Base Residual Auction clearing price for the applicable LDA and Delivery Year times the megawatts of Unforced Capacity committed by such resource times the number of days in the season applicable to such resource.<sup>24</sup>

- RPM Auction Timing: Status Quo. BRA for 25/26 to be run under this proposal as soon as possible, given required pre auction activities. BRA for 26/27 to be run no later than December 2024.<sup>25</sup>

The Market Monitor Proposal received a stakeholder weighted vote of 2.801.<sup>26</sup> The Market Monitor proposal was the only proposal to receive more than 50 percent support.<sup>27</sup>

PJM submitted its proposals to redefine key elements of the capacity market design on October 13, 2023, and consideration of those proposals is now pending in Dockets Nos. ER24-98 and ER24-99. The PJM proposals have not been supported as just and reasonable, and should not be approved for reasons to be explained in protests to be filed in those proceedings.

The recent filing in Docket No. ER24-99 presented a second opportunity for PJM to correct the unjust and unreasonable calculation of the nonperformance charges using language vetted and supported by a majority of stakeholders. PJM did not file that solution.

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *See* Attachment B.

<sup>27</sup> *Id.*

PJM did propose to tighten the stop loss provision, capping charges at “1.5 times the RPM Base Residual Auction clearing price times the number of days in the Delivery Year for the applicable Delivery Year and for the LDA where the resource resides, times the megawatts of Unforced Capacity committed by such resource or such PRD Provider, where such megawatts shall be based on the maximum Unforced Capacity committed up through the end of the month in which the PAI occurs, times the number of days in the Delivery Year.”<sup>28</sup> PJM proposed a similar stop loss for seasonal capacity resources. The proposed changes to the stop loss provision would not prevent excessive nonperformance penalties.

Because PJM has repeatedly failed to propose rules that would correct its flawed market design, this Complaint is necessary to remove the flawed rules for penalty rates in the existing rules, adopt just and reasonable replacement rules, and maintain the existing schedule for RPM auctions.

### **C. The Proposed Just and Reasonable Replacement Penalty Rate Rules.**

In this Complaint, the Market Monitor proposes replacement penalty rate rules that have the support of a majority of stakeholders in the PJM stakeholder process and are just and reasonable.

The incentive/penalty issue is core to capacity market design. Abstract discussions of incentives and penalties led some to the conclusion that if high prices provide incentives at times, then even higher prices or extreme penalties are even better incentives. One of the lessons of the winter storms Uri and Elliott, in very different market designs, is that extreme prices and penalties do not have the intended incentive effect and do have a destructive effect, in the energy market and in the capacity market. There is no reason to create uncertainty for generators about expected behavior. There is no reason to bankrupt generators or force generators into early retirement. There is no reason to bankrupt customers or impose impossible bills on customers. There is no reason to create lengthy litigation. That is not the

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<sup>28</sup> Proposed revised OATT Attachment DD § 10A(f-1).

basis for a reasonable, sustainable, stable design consistent with investment incentives and customer confidence.

The use of capacity market penalties rather than energy market incentives creates risk. This risk is not risk that is fundamental to the operation of a wholesale power market. This is risk created by the CP design in order, in concept, to provide an incentive to produce energy during high demand hours that is even higher than the energy market incentive. When that artificial risk is included in capacity market prices, customers pay to cover it. The problem is that the incentives did not work, but the risk was incorporated in capacity market prices.

A just and reasonable penalty rate, holding the rest of the capacity market design unchanged, would equal the capacity market clearing price for each interval that a resource is unavailable, up to a stop loss based on 1.5 times the resource's total capacity market revenue for the applicable delivery year.

The following revisions to Section 10A(e) of Attachment DD to the OATT would implement the Market Monitor's proposed replacement rules:

Non-Performance Charge = Performance Shortfall \* Non-Performance Charge Rate

Where

For Capacity Performance Resources and Seasonal Capacity Performance Resources, the Non-Performance Charge Rate = ~~(Net Cost of New Entry (stated in terms of installed capacity) for the LDA and Delivery Year for which such calculation is performed~~Weighted Average Resource Clearing Price applicable to the resource \* (the number of days in the Delivery Year / 30) / (the number of Real-Time Settlement Intervals in an hour).

The stop loss provision in Section 10A(f) should be revised as follows:

The Non-Performance Charges for each Capacity Performance Resource (including Locational UCAP from such a resource) and each PRD Provider for a Delivery Year shall not exceed a Non-Performance Charge Limit equal to 1.5 times the ~~Net Cost of New Entry~~Weighted Average Resource Clearing Price applicable to the resource times the megawatts of Unforced Capacity committed by such resource or such PRD Provider times the number of days

in the Delivery Year. All references to Net Cost of New Entry in this section 10A shall be to the Net Cost of New Entry for the LDA and Delivery Year for which the calculation is performed. The total Non-Performance Charges for each Base Capacity Resource (including Locational UCAP from such a resource) for a Delivery Year shall not exceed a NonPerformance Charge Limit equal to the total payments due such Capacity Resource or Locational UCAP under Tariff, Attachment DD, section 5.14 for such Delivery Year. The NonPerformance Charges for each Seasonal Capacity Performance Resource for a Delivery Year shall not exceed a Non-Performance Charge Limit equal to 1.5 times the Net Cost of New Entry times the megawatts of Unforced Capacity committed by such resource times the number of days in the season applicable to such resource.

The simple changes provided here are sufficient to set penalty rates at just and reasonable levels.

This complaint requests that the Commission direct PJM to modify the penalty rate and the stop loss level and run the BRA in June 2024 for the 2025/2026 Delivery Year, and a BRA on or before December 2024 for the 2026/2027 Delivery Year using these changes to the penalty provisions. The BRA for 2027/2028 would be run on or before June 2025, based on a PJM filing in mid 2024 and auction preparation work beginning in January 2025.

The proposed timeline would still not leave a lot of time to do it right, but it is doable. Attempting to file and get approval of significant changes to the capacity market design for implementation by December 12, 2023, and prior to the 2027/2028 BRA is not practical and creates the risk of mistakes and unintended consequences. PJM markets need stability and predictability in order to create a positive investment climate and create confidence in the markets for all market participants. The Market Monitor's proposed replacement penalty rate properly balances the need for performance incentives with the need to avoid imposing excessive risks on sellers that may ultimately become excessive rates for consumers. The proposed replacement penalty rate is linked to the value of capacity as defined by the PJM Capacity Market. This means that a seller is at risk for maximum penalties equal to 1.5 times its revenues from capacity sales. This means that, consistent with basic principles of

commercial law, sellers forfeit payment for capacity that is not delivered.<sup>29</sup> The proposed replacement rules contribute to a competitive and efficient market design, and are just and reasonable, and could remain in place indefinitely.

The requested changes will provide stakeholders the additional time needed to thoroughly review proposals that would more broadly modify the capacity market design so that any such modifications could be implemented in the BRA for the 2027/2028 Delivery Year, expected to be run in June 2025.

## **II. REQUEST FOR FAST TRACK PROCESSING**

The Market Monitor respectfully requests fast track processing under Rule 206(h),<sup>30</sup> so that the Commission can act on this Complaint and direct implementation of rules for just and reasonable penalty rates while maintaining the current contemplated schedule for BRAs for the 2025/2026 and 2026/2027 Delivery Years.

## **III. RULE 206 REQUIREMENTS**

### **A. Rule 206(b)(1): Action or Inaction Alleged To Violate Statutory Standards or Regulatory Requirements**

See Section I.

### **B. Rule 206(b)(2): Legal Bases for Complaint**

See Section I.

### **C. Rules 206(b)(3) and 206(b)(4): Issues Presented as They Relate to the Complainant and Quantification of Financial Impact on Complainant**

See Section I.

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<sup>29</sup> Cf. UCC § 2-301 (General Obligations of Parties) (“The obligation of the seller is to transfer and deliver and that of the buyer is to accept and pay in accordance with the contract.”).

<sup>30</sup> 18 CFR § 285.206(h).

#### **D. Rule 206(b)(5): Nonfinancial Impacts on Complainant**

See Section I.

#### **E. Rule 206(b)(6): Related Proceedings**

Certain issues and proposals raised in filings submitted by PJM in Dockets Nos. ER24-98 and ER24-99 are related to the issues raised in this complaint. As explained in Section I, 15 complaints are pending, in Docket No. EL23-53, et al., related to excessive penalties from Winter Storm Elliott. The Market Monitor is not aware of any other pending proceedings that are directly related to the issues raised in this Complaint.

#### **F. Rule 206(b)(7): Specific Relief Requested**

The Complaint seeks a finding by the Commission that the Section 10A of Attachment DD to OATT sets penalties at unjust and unreasonable levels and provides for a stop loss at an unjust and unreasonable limit. The Complaint seeks to correct the flawed rules with proposed revisions, supported by a majority of PJM stakeholders, that set penalties at just and reasonable levels and a stop loss at a just and reasonable limit.

#### **G. Rule 206(b)(8): Documents that Support the Complaint**

This pleading and its Attachments support the Complaint.

#### **H. Rule 206(b)(9): Dispute Resolution**

The Market Monitor has not contacted the Enforcement Hotline or Dispute Resolution Service or made use of the tariff based dispute resolution mechanisms. Such mechanisms are neither intended nor appropriate for resolving disputes of this nature.

#### **I. Rule 206(b)(10): Form of Notice**

A form of notice suitable for publication in the Federal Register is included below.

#### **J. Rule 206(c): Service on Respondent**

The Market Monitor certifies that copies of this Complaint were served by email on Respondent.

#### IV. COMMUNICATIONS

All communications with respect to this pleading and in connection with this proceeding should be addressed to the following:

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#### V. CONCLUSION

The Market Monitor respectfully requests that the Commission grant this Complaint.

Respectfully submitted,



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Jeffrey W. Mayes

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Dated: November 7, 2023

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<sup>31</sup> Designated to receive service.

<sup>32</sup> Designated to receive service.



UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Independent Market Monitor for PJM	)	
	)	
v.	)	Docket No. EL24-___-000
	)	
PJM Interconnection, L.L.C.	)	
	)	

NOTICE OF COMPLAINT

( \_\_\_, 2023)

Take notice that on November 7, 2023, pursuant to section 206 of the Rules and Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR § 385.206 (2011), Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (Complainant) filed a formal complaint against PJM Interconnection, L.L.C. (Respondent) requesting that the Commission find that the Section 10A of Attachment DD to OATT sets penalties at unjust and unreasonable levels and provides for a stop loss at an unjust and unreasonable limit, and that the Commission direct Respondent to correct the flawed rules with proposed revisions, supported by a majority of PJM stakeholders, that set penalties at just and reasonable levels and a stop loss at a just and reasonable limit.

The Complainant states that copies of the complaint were served on representatives of the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent’s answer and all interventions, or protests must be filed on or before the comment date. The Respondent’s answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the “eLibrary” link and is available for review in the Commission’s Public Reference Room in Washington, DC. There is an “eSubscription” link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on \_\_\_, 2023.

Kimberly D. Bose, Secretary

# **ATTACHMENT A-1**

# **ATTACHMENT A-2**

# **ATTACHMENT B**