



September 21, 2021

**IMM NOTIFICATION TO PJM MEMBERS  
OF DISCOVERY REQUEST PURSUANT TO  
OATT ATTACHMENT M–APPENDIX § I.B**

This notice is to advise PJM Members that the IMM has received the attached discovery request for information in a case now pending before the Maryland Public Service Commission. Member confidential information falls within the scope of the request.

Section I.B of Attachment M of the OATT provides: “[I]f the Market Monitoring Unit is required ... in the course of administrative or judicial proceedings, to disclose to third parties, information that is otherwise required to be maintained in confidence pursuant to the PJM Tariff, PJM Operating Agreement, Tariff, Attachment M or this Appendix, the Market Monitoring Unit may make disclosure of such information.” Section I.B further provides: “[A]s soon as the Market Monitoring Unit learns of the disclosure requirement and prior to making disclosure, the Market Monitoring Unit shall notify the affected Member or Members of the requirement and the terms thereof and the affected Member or Members may direct, at their sole discretion and cost, any challenge to or defense against the disclosure requirement.” Accordingly, the IMM has developed and circulated this notice.

The IMM requests that any Member intending to challenge or defend against the release of Member confidential information within the scope of the discovery request inform the IMM immediately, and no later than **Wednesday, September 27, 2021**. Communications pursuant to this notice should be sent to *MA@monitoringanalytics.com*.

J. Joseph Curran, III

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September 16, 2021

**VIA EMAIL**

Jeffrey Mayes, Esq.  
Monitoring Analytics, LLC  
2621 Van Buren Ave., Ste. 160  
Eagleville, Pennsylvania 19403

**Re: Maryland Public Service Commission Case No. 9271 – First Set of Data Requests to Monitoring Analytics, LLC, Acting in its Capacity as the Independent Market Monitor for PJM**

Dear Mr. Mayes:

Attached to this letter is the First Set of Data Requests to Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM in the above-captioned case. For each response, please state the question being answered followed by the response on the same page. For each separate answer, please identify the name and title of the principal person who supplied the information for the answers.

Please provide electronic copies of all responses within ten (10) business days (by September 30, 2021), or sooner if possible. All responses should be directed to: J. Joseph Curran, III ([jcurran@venable.com](mailto:jcurran@venable.com)) and Christopher S. Gunderson ([csgunderson@venable.com](mailto:csgunderson@venable.com)).

With respect each data request, the following definitions apply:

- “Commission” refers to the Maryland Public Service Commission.
- “BGE” refers to Baltimore Gas and Electric Company.
- “BGE LDA” refers to the BGE locational delivery area.
- “Exelon” refers to Exelon Corporation.
- “FERC” refers to the Federal Energy Regulatory Commission.
- “Market Monitor” refers to the Independent Market Monitor for PJM.
- “Merger Order” refers to Order No. 84698 issued in the above-captioned case.

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- “PJM” refers to PJM Interconnection, LLC.
- “Report” refers to the March 11, 2021 Report submitted by the Market Monitor to the Commission in the above-caption case.
- “IMM Settlement Agreement” refers to the agreement entered into by the Market Monitor and Exelon to the Commission on October 11, 2011 in the above-captioned case.

With respect to any data request asking for an explanation or opinion of the Market Monitor, please identify all facts or documents that form the basis for or otherwise support the explanation or opinion.

These requests are continuing in nature. Please update any responses as necessary to provide Exelon with the most current information available to the Market Monitor, its agents, attorneys, contractors, witnesses and/or consultants.

If you refuse to respond to any data request by reason of a claim of privilege, or for any other reason, state in writing the type of privilege claimed and the facts and circumstances you rely upon to support the claim of privilege or the reason for refusing to respond. With respect to requests for documents to which you refuse to respond by reason of a claim of privilege, identify each such document, including the date of the document, its subject matter, its recipient(s) and its sender(s), and state the basis for the claim.

If you need any clarification, have any questions, or anticipate any delay in responding, please contact me at the above phone number and/or email address.

Very truly yours,

/s/

J. Joseph Curran, III

*Attorney for Exelon Corporation*

Cc: Service List – Case No. 9271

**In The Matter of The Merger of Exelon Corporation and Constellation Energy Group, Inc.**

**Maryland PSC Case No. 9271**

**Exelon Corporation's Data Requests to Monitoring Analytics, LLC, Acting in its Capacity as the Independent Market Monitor for PJM ("Market Monitor")**

**September 16, 2021**

**DATA REQUESTS TO MONITORING ANALYTIC, LLC, ACTING IN ITS CAPACITY AS THE INDEPENDENT MARKET MONITOR FOR PJM ("MARKET MONITOR")**

- 1-1. In its role as the Market Monitor, please identify all actions the IMM takes if the IMM believes that a market participant or generation owner may have acted unlawfully to exercise market power in one of PJM's wholesale electric markets.
- 1-2. Since PJM's adoption of the Three Pivotal Supplier ("TPS") Test that evaluates a generation unit's or market participant's ability to exercise market power in the energy and capacity markets, please confirm whether the IMM has ever filed or initiated a complaint at FERC and/or with FERC's Office of Enforcement on the basis that a market participant has exercised unlawful market power with respect to a generating unit in PJM. Please state whether the market participant was Exelon. If not, please identify how many separate market participants for which the IMM has taken this action.
- 1-3. Since PJM's adoption of the TPS Test that evaluates a generation unit's or market participant's ability to exercise market power in the energy and capacity markets, please confirm whether the IMM has referred a matter for investigation to the FERC Office of Enforcement upon belief that a market participant exercising or had exercised unlawful market power with respect to a generating unit. If so, please identify when each referral was made and whether FERC took formal action against the market participant.
- 1-4. Please identify each generation owner and/or other market participant in PJM other than Exelon that is required to comply with the terms contained in Section 2(a) ("Capacity/Retirements") of the IMM Settlement Agreement. If Exelon is not the only generation owner or market participant, please identify each additional generation owner or market participant, as well as each requirement contained in Section 2(a) to which that generation owner or market participant is bound.
- 1-5. Please identify each generation owner and/or other market participant in PJM other than Exelon that is required to comply with the terms contained in Section 2(b) ("Energy market Offers") of the IMM Settlement Agreement. If Exelon is not the only generation owner or market participant, please identify each additional generation owner or market participant, as well as each requirement contained in Section 2(b) which that generation owner or market participant is bound.

- 1-6. Please identify each generation owner and/or other market participant in PJM other than Exelon that is required to comply with the terms contained in Section 2(c) (“Ancillary Services Offers”) of the Settlement Agreement. If Exelon is not the only generation owner or market participant, please identify each additional generation owner or market participant, as well as each requirement contained in Section 2(c) which that generation owner or market participant is bound.
- 1-7. On page 1 of the Report, the Market Monitor states that various factors “indicate a need to renew the settlement agreement and update the provisions based on changes in the PJM market.” Please identify each provision of the IMM Settlement Agreement that permits the Market Monitor to seek a modification to any terms of the IMM Settlement Agreement.
- 1-8. Please identify any provision of the Merger Order that authorizes the Market Monitor to seek the Commission’s approval to modify any terms or to include additional provisions to the IMM Settlement Agreement.
- 1-9. On page 10 of the Report, the Market Monitor recommend that, “under the continuation of the merger settlement agreement, Exelon be required to reach agreement with the Market Monitor on a natural gas fuel cost policy that passes the Market Monitor’s evaluation and is verifiable and systematic.” Please identify each generation owner in PJM that is required to obtain the Market Monitor’s approval of their fuel cost policies separate and apart from that of PJM.
- 1-10. On page 10 of the Report, the Market Monitor recommends that, “under the continuation of the merger settlement agreement, Exelon be required to reach agreement with the Market Monitor on a natural gas fuel cost policy that passes the Market Monitor’s evaluation and is verifiable and systematic.” Please confirm or deny whether the Federal Energy Regulatory Commission has ruled that the ultimate authority to accept or deny a fuel cost policy is retained by PJM.
- 1-11. On page 12 of the Report, the Market Monitor states that Table 1 (“Installed Capacity by Parent Company”) demonstrates that, during 2020, Exelon continues to own the largest share of generating capacity in PJM. Table 1 identifies Dominion Energy as owning and/or controlling 20,198.5 MW of installed capacity. Please confirm whether Dominion Energy is bound by any of the same requirements contained in Sections 2(a), 2(b), or 2(c) of the IMM Settlement Agreement. If so, please identify each requirement contained in Section 2(a), 2(b), and/or 2(c) by which Dominion Energy is bound.
- 1-12. On page 12 of the Report, Table 1 (“Installed Capacity by Parent Company”) identifies four “Parent Companies” in addition to Exelon and Dominion Energy. Please confirm whether any of those four parent companies are bound by the same requirements contained in Sections 2(a), 2(b), or 2(c) of the IMM Settlement Agreement. If so, please identify each requirement contained in Section 2(a), 2(b), and/or 2(c) by which each of those four parent companies is bound.

- 1-13. To the best of the Market Monitor’s knowledge, is any existing market participant or generating unit within PJM other than Exelon currently subject to a state-imposed requirement to offer into the PJM energy or capacity market in a particular manner? If the answer is yes, please list the state, the requirement, and the market participant/generating unit to which it applies.
- 1-14. If two states were to adopt conflicting requirements for a single market participant or generating unit to offer into the PJM markets and asked the Market Monitor to monitor and enforce those commitments, which commitment would the Market Monitor consider binding?
- 1-15. Does the Market Monitor agree that FERC has exclusive jurisdiction over the rules that govern generators’ participation in the PJM wholesale market?
- 1-16. **[BEGIN CONFIDENTIAL]** <redact> **[END CONFIDENTIAL]**
- 1-17. **[BEGIN CONFIDENTIAL]** <redact> **[END CONFIDENTIAL]**
- 1-18. **[BEGIN CONFIDENTIAL]** <redact> **[END CONFIDENTIAL]**
- 1-19. **[BEGIN CONFIDENTIAL]** <redact> **[END CONFIDENTIAL]**
- 1-20. **[BEGIN CONFIDENTIAL]** <redact> **[END CONFIDENTIAL]**
- 1-21. **[BEGIN CONFIDENTIAL]** <redact> **[END CONFIDENTIAL]**
- 1-22. On page 2 of the June 15, 2021 letter filed in the above-captioned case, the Market Monitor states that “Exelon is a pivotal supplier of capacity” in BGE’s LDA as defined by footnote 7 of the June 15, 2021 letter. In each of the RPM BRA auctions conducted since 2016:
- a. Please confirm whether there are other pivotal suppliers within BGE’s LDA. If so, please identify these pivotal suppliers.
  - b. If there are other pivotal suppliers within BGE’s LDA, please identify how much generation they own or control in the BGE LDA.
  - c. If there are other pivotal suppliers within BGE’s LDA, please identify whether they have failed the TPS test.
  - d. If there are other pivotal suppliers within BGE’s LDA, please identify whether they have the ability to exercise market power.
  - e. If there are other pivotal suppliers within BGE’s LDA, please identify whether they are bound by the same commitments contained in Sections 2(a), 2(b), and 2(c) of the Settlement Agreement. If so, please identify which other pivotal suppliers are bound by which commitments.

- f. If there were other pivotal suppliers within BGE's LDA in the 2022/2023 BRA, please confirm whether those suppliers offered any capacity resource located in the BGE LDA at a price higher than that of any Exelon's capacity resources located within the BGE LDA.
- 1-23. On page 4 of the August 16, 2021 letter filed in the above-captioned case, the Market Monitor states that "FERC approved of and included the same behavioral obligations for Exelon in its own order approving [the Exelon-Constellation] merger." Has the Market Monitor filed a request at FERC to extend and modify the Settlement Agreement? If not, why not?