This is a joint statement by PJM and its Independent Market Monitor ("IMM") to clarify our position on the identified "double counting" issue related to the measurement and verification of compliance by demand side resources with emergency requests for interruption. The double counting issue was considered by the Markets and Reliability on November 17, 2010. Approval of rule changes to address this issue was deferred until May 2011, to allow stakeholders additional time to consider alternatives. However, both PJM and the IMM believe that Curtailment Service Providers (CSPs) that exploit the current market rules by double counting the compliance of demand side resources, are engaging in market manipulation that results in overpayment for curtailments and may ultimately jeopardize reliability. PJM staff has received questions from CSPs as to whether this behavior is permitted for the upcoming 2011/2012 Delivery Year given the stakeholder deferral of a vote on specific rule changes. PJM and IMM issue this statement to ensure that the PJM and IMM position is clear, and that all CSPs understand that this behavior is inappropriate and unacceptable and that future occurrences could result in referrals to the FERC Office of Enforcement.

The double counting issue

A customer's contribution to its LSE's wholesale capacity obligation, and thus, its LSE's capacity charge, is determined by its peak load contribution (PLC), or consumption during the five coincident peak hours in the prior year. A customer may have an incentive to reduce consumption during these peak hours either through a retail rate contract that is directly linked to the wholesale market, as is the case for many large customers, or through an LSE program. In either case, the customer may actively reduce its peak consumption, and thus its contribution to the LSE's PLC and wholesale capacity obligation for the following year, in response to an incentive independent of the PJM Load Response Programs.

A customer can also register as a capacity resource in the Load Management (LM) Program and receive credit for the amount of capacity it is willing to curtail in a given delivery year. The amount that can be registered in the Program is limited to the customer's PLC for the current year.

As a result, a customer cannot include its managed peak load reductions as part of its participation in the LM Program. The maximum amount of load reduction that can be registered and credited in the Program must therefore be less than the amount of load that can be reduced by the participant. This is appropriate because the customer has already reduced its capacity payments through its own actions to reduce PLC directly.

However, if this customer elects the Guaranteed Load Drop (GLD) measurement and verification option of the LM Program, it is possible that the customer will show substantial over compliance during an Emergency LM event. The over compliance results from the fact that the GLD option defines compliance as the reduction in real time consumption, which is measured by comparing actual consumption to a baseline load estimate, which is based on recent days. The baseline load may include full load levels rather than managed load levels. The reduction observed for compliance will show the full reduction capability of the customer, including the load that the customer reduced to manage its PLC. When this occurs, the reduction observed for compliance will be significantly higher than the amount nominated in the LM Program.

Although the customer itself does not receive any additional capacity benefit, a CSP is permitted to use this apparent over compliance to offset underperforming resources in its portfolio. The result is that the CSP is paid twice for a single load reduction, thus double counting the value of the compliance. It is no more appropriate to permit the CSP to credit this apparent over compliance against underperforming parts of its portfolio that it is to permit the customer to receive credit for this apparent over compliance. It is not performance under the LM Program and should not be treated as such.

The following example illustrates the issue:

1. 5,000 kW PLC (10/11 Delivery Year) – PLC represents how much capacity has been purchased for customer to ensure reliability. Since the customer actively reduces load during the peaks ("peak shaver") the PLC is significantly lower than normal amount of load for the customer, which is 28,000 kW.
2. 4,000 kW Nominated Installed Capacity – CSP commitment for quantity of customer load reduction when PJM needs during an emergency. The nominated amount may not exceed the PLC based on current market rules.
3. Real time estimated load reduction = 25,000 kW measured as the difference between a baseline estimate based on recent days, 28,000 kW, less actual consumption during the event, or 3,000 kW.
4. 21,000 kW over compliance – CSP resource will be deemed to have met nominated Installed Capacity commitment of 4,000 kW AND also receive an additional 21,000 kW of over compliance credit which may be used to offset resources within the zone than did not perform.

In addition to substantially overstating the demand side savings and overpaying CSPs, this behavior also provides a non-competitive advantage to CSPs in attracting customers. A CSP that is aware of this Program discrepancy may identify large customers with managed PLCs and offer such customers out of market revenues for any load reduction in excess of the nominated amount. This is profitable because once such a customer has been procured, the CSP has the ability to sign up customers in the same zone with no or only limited ability to reduce load when called upon and receive capacity revenues based on the apparent over compliance of the customers with managed PLCs. Conversely, a CSP that is acting competitively and in the spirit of the Program will only commit each customer to attainable load reductions and will have no basis for overpaying customers with managed PLCs.

Stakeholder Process

PJM raised this issue at the 4/22/10 Load Management Task Force (LMTF) meeting. This issue was discussed at length at the LMTF at six meetings. Four different proposals were developed and three proposals were escalated to the MIC for endorsement. Extensive examples were developed and discussed to ensure a common understanding on the issue and the proposed solutions. The MIC overwhelmingly (79 percent) endorsed the PJM proposal at the September 2010 meeting and therefore escalated such proposal to the MRC. The issue and proposed solution were introduced at the October MRC and up for endorsement at the November MRC. The MRC decided to defer specific rule changes related to this item until May 2011, to provide additional time for stakeholders' consideration. This item was also incorporated in the material introduced at the November MC and the MC was updated that this item was deferred by the MRC.