

**Bowring, Joseph**

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**From:** Bowring, Joseph  
**Sent:** Tuesday, April 12, 2005 4:14 PM  
**To:** Zibelman, Audrey A.  
**Subject:** Regulation

I got your voice mail and on that basis will proceed to get our report filed.  
I trust we will have a chance to do a debrief upon your return.  
Hope you are having fun.  
- Joe

**Bowring, Joseph**

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**From:** Hinton, Jim  
**Sent:** Wednesday, April 13, 2005 9:19 AM  
**To:** Bowring, Joseph; Pfirrmann, Karl; Kormos, M.J.  
**Subject:** Regulation

Does not seem to be a big deal for Dominion if its cost based for now.

Jim

## Bowring, Joseph

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**From:** Bowring, Joseph  
**Sent:** Friday, April 15, 2005 8:02 AM  
**To:** 'zibela@pjm.com'  
**Subject:** RE: HEAD'S UP RE: YESTERDAY'S FERC MEETING

Ok - use my cell to max chances of contact.  
Mobile: 610-659-0843

-----Original Message-----

From: zibela@pjm.com [mailto:zibela@pjm.com]  
Sent: Friday, April 15, 2005 1:21 AM  
To: bowrij@pjm.com; pfirrk@pjm.com  
Subject: Re: HEAD'S UP RE: YESTERDAY'S FERC MEETING

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Joe - I will try to reach you today. In the meantime please talk to Karl re AEP. He has already spoken with them and can fill you in. I get back on Monday let's wait until after then to file anything. Thanks, Audrey

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-----Original Message-----

From: bowrij@pjm.com <bowrij@pjm.com>  
To: zibela@pjm.com <zibela@pjm.com>  
Sent: Thu Apr 14 19:54:25 2005  
Subject: Re: HEAD'S UP RE: YESTERDAY'S FERC MEETING

Let me know when is convenient

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-----Original Message-----

From: zibela@pjm.com <zibela@pjm.com>  
To: bowrij@pjm.com <bowrij@pjm.com>  
Sent: Thu Apr 14 12:16:39 2005  
Subject: Fw: HEAD'S UP RE: YESTERDAY'S FERC MEETING

Call me re this

-----

-----Original Message-----

From: Glazer, Craig <glazec@pjmexch01.pjm.com>  
To: Cabinet Team Members <cab\_team\_mem@pjmexch01.pjm.com>  
CC: Miller, W. Scott III <milles@pjmexch01.pjm.com>; Duane, Vincent P. <duanev@pjmexch01.pjm.com>  
Sent: Thu Apr 14 10:42:07 2005  
Subject: HEAD'S UP RE: YESTERDAY'S FERC MEETING

I wanted to make you aware that at yesterday's FERC meeting, Joe Bowring as well as David Patton made presentations re: their respective state of the market reports. I understand that the issue of the regulation market was raised by the Commissioners and Joe indicated his "preliminary concerns" about the lack of bidding in that market and indicated he would be filing a report with FERC on it. Later in the day, I encouraged Joe Hartsoe of AEP to talk with Joe Bowring directly so we would have some accurate information as to what is occurring with regard to AEP's actions or inactions in that market rather than proceeding on speculation. I thought this would be helpful information so we could have an informed discussion on this topic on Monday.

I am expecting Steve Pincus to provide a full report of the meeting (I was at Congressional mark-up and unable to attend) but wanted to get this head's up to you all in case you get any calls.

Let me know what else you need to know.

CRAIG GLAZER  
Vice President--Government Policy  
PJM Interconnection, L.L.C.  
Suite 600  
1200 G Street, N.W.  
Washington, D.C. 20005  
202-423-4743 (cell)  
202-393-7756 (office messages)  
202-393-7741 (fax)  
GLAZEC@PJM.COM

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## Bowring, Joseph

---

**From:** Bowring, Joseph  
**Sent:** Friday, April 15, 2005 6:18 PM  
**To:** dehorton@aep.com'  
**Subject:** RE: Did you really say....

I am still here if you have time to discuss.  
I did not make that statement.  
Call my cell.

Joseph E. Bowring  
Market Monitor  
PJM Interconnection  
955 Jefferson Ave  
Valley Forge Corporate Center  
Norristown, PA 19403-2497  
Phone: 610-666-4536  
Fax: 610-666-4762  
Mobile: 610-659-0843

-----Original Message-----

From: dehorton@aep.com [mailto:dehorton@aep.com]  
Sent: Friday, April 15, 2005 10:03 AM  
To: bowrij@pjm.com  
Subject: Did you really say....

....that AEP does not offer into the regulation market? I heard this third hand. But the information that I got was that you said in front of the FERC conference that AEP did not offer into the Regulation market, and you were preparing a report on this. I've got to think this was a mis-quote.

My apologies in advance, but I need to check this out.

Dana E. Horton  
614-583-7502 (office)  
8-220-7502 (audinet)  
614-563-4228 (cell)

**Bowring, Joseph**

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**From:** Bowring, Joseph  
**Sent:** Saturday, April 16, 2005 2:15 PM  
**To:** Glazer, Craig  
**Cc:** Kormos, M.J.  
**Subject:** RE: REGULATION MARKET ISSUE?

The three pivotal supplier test was applied to determine if excess supply was adequate to warrant ignoring the results of the market share and HHI tests. For Dominion, our analysis looks at both the situation where 100% of potentially available regulation is in the market and the situation where 60% of potentially available regulation is in the market. The results are similar. Dominion owns about 75% of all regulation capability in their area. So, while excess is relevant, the ownership shares of regulation can offset any given level of excess. E.g. take a monopolist in a market with substantial excess. That excess is not going to make the monopolist behave more competitively.

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I think the right approach is to reexamine the situation with real data after there is a single unified western regulation market to determine whether it makes sense to go to market-based rates or perhaps market-based rates with either tighter mitigation or a tighter mitigation trigger than in the east.

-----Original Message-----

**From:** Glazer, Craig  
**Sent:** Saturday, April 16, 2005 10:42 AM  
**To:** Bowring, Joseph  
**Cc:** Kormos, M.J.  
**Subject:** REGULATION MARKET ISSUE?

Joe: I am understanding that you applied the 3-pivotal supplier test to the regulation market which I believe is appropriate and consistent with our approach. I was wondering if you applied the test to the universe of available regulation in the PJM west region or just what was bid into the market? This may be the disconnect, at least in my mind. Clearly different results will occur. How did you determine the total amount of available regulation if you used that number? Mike: How would you determine that number (total amount available in PJM West) for purposes of analyzing market share. I understand that the issue is not one of the total amount available but the ownership shares of regulation.

On a procedural front, I do think there's also an issue of what's new from what was presented previously to FERC. They previously decided 2-2 to let the market go into effect. It is true that you promised them a report so its most likely appropriate to file such a report and see what they do.

Let me know what I'm missing on the above.

Thanks.

Craig

**Bowring, Joseph**

---

**From:** Kormos, M.J.  
**Sent:** Saturday, April 16, 2005 9:03 PM  
**To:** Glazer, Craig; Bowring, Joseph  
**Subject:** RE: REGULATION MARKET ISSUE?

Craig,

Actually I do believe this is about total excess amount not market share. That was the basis of our Sept filing and we cited a number of FERC orders stating that large excess can mitigate market share. My concern is that I believe hourly eligible numbers are not an accurate representation not only of what actually exists but also what COULD be used in a market to counter any inappropriate behavior. I think it is reasonable that in a market that has 4 times the capacity and is cost based that only 2 times the amount bother to bid in on a hourly basis. This doesn't mean it doesn't exist or would be available under different market conditions. I think we need to expand our analysis to either include all the capability or more rationally exclude capacity if we feel it is unable to compete.

-----Original Message-----

**From:** Glazer, Craig  
**Sent:** Saturday, April 16, 2005 10:42 AM  
**To:** Bowring, Joseph  
**Cc:** Kormos, M.J.  
**Subject:** REGULATION MARKET ISSUE?

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On a procedural front, I do think there's also an issue of what's new from what was presented previously to FERC. They previously decided 2-2 to let the market go into effect. It is true that you promised them a report so its most likely appropriate to file such a report and see what they do.

Let me know what I'm missing on the above.

Thanks.

Craig

**Bowring, Joseph**

---

**From:** Bowring, Joseph

**Sent:** Sunday, April 17, 2005 7:41 AM

**To:** Zibelman, Audrey A.; Kormos, M.J.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim; Duane, Vincent P.; Ott, Andy

**Subject:** Regulation

I have attached most current draft of regulation declaration. Final version this evening or early tomorrow AM.  
Please circulate further as appropriate.

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**Bowring, Joseph**

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**From:** Glazer, Craig  
**Sent:** Monday, April 18, 2005 5:57 PM  
**To:** Bowring, Joseph  
**Cc:** Duane, Vincent P.; 'Barry SPECTOR'  
**Subject:** FW: GLAZER COMMENTS ON regulation affidavit attached

See my comments at the very end of the affidavit. I welcome your feedback.

**CRAIG GLAZER**  
**Vice President--Government Policy**  
**PJM Interconnection, L.L.C.**  
**Suite 600**  
**1200 G Street, N.W.**  
**Washington, D.C. 20005**  
**202-423-4743 (cell)**  
**202-393-7756 (office messages)**  
**202-393-7741 (fax)**  
**GLAZEC@PJM.COM**

## **Bowring, Joseph**

---

**From:** Bowring, Joseph  
**Sent:** Monday, April 18, 2005 7:19 PM  
**To:** 'duanev@pjm.com'; bowrij@pjm.com; Bumgarner@wrightlaw.com  
**Cc:** SPECTOR@wrightlaw.com  
**Subject:** RE: Regulation declaration

Every draft is for all to see. I thought we were at the tweaks stage. I will circulate widely when I hear back from Carrie and Barry. Three pivotal measures the extent to which supply is owned by dominant suppliers. My example - if there is 400% excess but a single supplier - that doesn't affect market power at all - still have monopoly pricing. Same logic applies to small groups of dominant suppliers. That is exactly what is measured by three pivotal. I understand your comment - it seems as if the more excess, the more likely to be competitive. That is only true if the excess is owned by someone other than the three dominant suppliers.

-----Original Message-----

---

**From:** duanev@pjm.com [mailto:duanev@pjm.com]  
**Sent:** Monday, April 18, 2005 4:40 PM  
**To:** bowrij@pjm.com; Bumgarner@wrightlaw.com  
**Cc:** SPECTOR@wrightlaw.com  
**Subject:** RE: Regulation declaration

Joe, are you comfortable we are not weakening our position stated in other contexts that the 3 pivotal supplier test is valid and not overly restrictive? If we can have a situation where there is 400% excess supply and yet the test is failed 95 percent of the hours, maybe we are inadvertently saying something about the conservatism of the 3 pivotal supplier test?

Even if the supply is only 200% excess, because you're not counting all theoretical supply options in each hour, that still suggests to me that the 3 pivotal test might be too stringent. How do we reconcile? Or are you comfortable that a real economist (i.e., not me) would not have no problem digesting these two points?

Also, on an different but related matter, based on conversations I've had with Audrey and others, I think there is still not a consensus with the sorts of recommendations you are making at the close of the declaration. Are you ready to distribute this draft to Mike, Karl, etc.?

-----Original Message-----

**From:** bowrij@pjm.com [mailto:bowrij@pjm.com]  
**Sent:** Monday, April 18, 2005 4:20 PM  
**To:** Bumgarner@wrightlaw.com; bowrij@pjm.com; duanev@pjm.com  
**Cc:** SPECTOR@wrightlaw.com  
**Subject:** RE: Regulation declaration

See attached.

-----Original Message-----

**From:** CARRIE BUMGARNER [mailto:Bumgarner@wrightlaw.com]  
**Sent:** Monday, April 18, 2005 1:39 PM  
**To:** bowrij@pjm.com; duanev@pjm.com  
**Cc:** Barry SPECTOR  
**Subject:** Regulation declaration

Attached are some suggested edits to the regulation declaration. These edits are mainly "clean up" items such as making the use of certain terms consistent, adding citations, and

differentiating between the PJM Western regulation market and the PJM Western/South regulation market. Please feel free to call to discuss.

Carrie

Carrie L. Bumgarner  
Wright & Talisman, P.C.  
Washington, D.C. 20005  
Phone: (202) 393-1200  
Fax: (202) 393-1240  
bumgarner@wrightlaw.com

**Bowring, Joseph**

---

**From:** Duane, Vincent P.  
**Sent:** Monday, April 18, 2005 10:27 PM  
**To:** Bowring, Joseph; Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Cc:** Glazer, Craig  
**Subject:** RE: Regulation

This draft has not been considered in the organization beyond Legal and Craig, so it could be off the mark.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Monday, April 18, 2005 10:25 PM  
**To:** Duane, Vincent P.; Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Cc:** Glazer, Craig  
**Subject:** RE: Regulation

Can you share the draft?

-----Original Message-----

**From:** Duane, Vincent P.  
**Sent:** Monday, April 18, 2005 10:23 PM  
**To:** Bowring, Joseph; Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Cc:** Glazer, Craig  
**Subject:** RE: Regulation

Joe, I have a draft transmittal letter that I will deliver in the morning for your review. I am working currently under the direction that PJM does not support the recommendations in the closing paragraphs of your declaration. The draft transmittal will say that, unless of course I get different instruction. Please stay tuned.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Monday, April 18, 2005 7:23 PM  
**To:** Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Cc:** Glazer, Craig; Duane, Vincent P.  
**Subject:** Regulation

Please advise as to:

- Any proposed edits
- Preparation of brief cover letter
- Filing strategy -- I would like to file tomorrow.
- Anything else?

thanks,  
Joe

**Bowring, Joseph**

---

**From:** Bowring, Joseph  
**Sent:** Tuesday, April 19, 2005 6:56 AM  
**To:** Glazer, Craig  
**Cc:** Duane, Vincent P.; 'Barry SPECTOR'  
**Subject:** RE: GLAZER COMMENTS ON regulation affidavit attached

Craig,

I have incorporated most of your suggestions.

I don't agree that this shows three pivotal to be misleading. Rather it shows that three pivotal can be used as an analytical tool to evaluate excess supply.

I will send out a revision shortly.

Am awaiting editing from W&T, but will send near final prior to that editing.

Let me know what you think.

---

Thanks for reviewing this.

Available by cell.

- Joe

-----Original Message-----

**From:** Glazer, Craig  
**Sent:** Monday, April 18, 2005 5:57 PM  
**To:** Bowring, Joseph  
**Cc:** Duane, Vincent P.; 'Barry SPECTOR'  
**Subject:** FW: GLAZER COMMENTS ON regulation affidavit attached

See my comments at the very end of the affidavit. I welcome your feedback.

**CRAIG GLAZER**

**Vice President--Government Policy**

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**Washington, D.C. 20005**

**202-423-4743 (cell)**

**202-393-7756 (office messages)**

**202-393-7741 (fax)**

**GLAZEC@PJM.COM**

## Bowring, Joseph

---

**From:** Zibelman, Audrey A.  
**Sent:** Tuesday, April 19, 2005 7:07 AM  
**To:** Bowring, Joseph  
**Subject:** FW: Regulation declaration



Draft April 2005  
Regulation Fi...



update let  
v.1\_2.doc (35 KB)

Please see me re this

-----Original Message-----

From: Duane, Vincent P.  
Sent: Monday, April 18, 2005 10:20 PM  
To: Kormos, M.J.  
Cc: Zibelman, Audrey A.; Hagele, Jack; Glazer, Craig  
Subject: FW: Regulation declaration

---

Mike, this is the affidavit Joe wants to file. He wants to do so tomorrow. It has all the recommendations at the end that I thought y'all had agreed with him should be removed. Having anticipated that this could turn out this way, I have attached a proposed W&T transmittal that would make clear that PJM does not endorse the recommendations.

Joe is asking to review the transmittal. I intend to share it with him in the morning. At that point, I expect you and he will have to come to agreement on how PJM wants to handle this filing.

-----Original Message-----

From: bowrij@pjm.com [mailto:bowrij@pjm.com]  
Sent: Monday, April 18, 2005 7:19 PM  
To: duanev@pjm.com; bowrij@pjm.com; Bumgarner@wrightlaw.com  
Cc: SPECTOR@wrightlaw.com  
Subject: RE: Regulation declaration

Every draft is for all to see. I thought we were at the tweaks stage. I will circulate widely when I hear back from Carrie and Barry. Three pivotal measures the extent to which supply is owned by dominant suppliers. My example - if there is 400% excess but a single supplier - that doesn't affect market power at all - still have monopoly pricing. Same logic applies to small groups of dominant suppliers. That is exactly what is measured by three pivotal. I understand your comment - it seems as if the more excess, the more likely to be competitive. That is only true if the excess is owned by someone other than the three dominant suppliers.

-----Original Message-----

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Sent: Monday, April 18, 2005 4:40 PM  
To: bowrij@pjm.com; Bumgarner@wrightlaw.com  
Cc: SPECTOR@wrightlaw.com  
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Even if the supply is only 200% excess, because you're not counting all theoretical supply

options in each hour, that still suggests to me that the 3 pivotal test might be too stringent. How do we reconcile? Or are you comfortable that a real economist (i.e., not me) would not have no problem digesting these two points?

Also, on an different but related matter, based on conversations I've had with Audrey and others, I think there is still not a consensus with the sorts of recommendations you are making at the close of the declaration. Are you ready to distribute this draft to Mike, Karl, etc.?

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See attached.

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Cc: Barry SPECTOR  
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Attached are some suggested edits to the regulation declaration. These edits are mainly "clean up" items such as making the use of certain terms consistent, adding citations, and differentiating between the PJM Western regulation market and the PJM Western/South regulation market. Please feel free to call to discuss.

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Carrie L. Bumgarner  
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Phone: (202) 393-1200  
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bumgarner@wrightlaw.com

**Bowring, Joseph**

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**Sent:** Tuesday, April 19, 2005 7:15 AM  
**To:** Zibelman, Audrey A.; Glazer, Craig; Kormos, M.J.; Pfirrmann, Karl; Hinton, Jim  
**Cc:** Duane, Vincent P.; Barry Spector (spector@wrightlaw.com)  
**Subject:** Regulation

I have attached a revised version of the declaration in which I take Craig's suggestions of presenting the facts but not making an explicit recommendation about market based rates.  
Please let me know what you think.

---

## **Bowring, Joseph**

---

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**Sent:** Tuesday, April 19, 2005 7:18 AM  
**To:** Zibelman, Audrey A.  
**Subject:** RE: Regulation declaration

I am out of office - called but got voice mail.  
Please call my cell.  
Mobile: 610-659-0843

As you can see by my email this AM, I reviewed Craig's recommendations this morning and accepted them. I spoke with him last night as well.

-----Original Message-----

From: Zibelman, Audrey A.  
Sent: Tuesday, April 19, 2005 7:07 AM  
To: Bowring, Joseph  
Subject: FW: Regulation declaration

Please see me re this

-----Original Message-----

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Cc: SPECTOR@wrightlaw.com  
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Carrie

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Washington, D.C. 20005  
Phone: (202) 393-1200  
Fax: (202) 393-1240  
bumgarner@wrightlaw.com

**Bowring, Joseph**

---

**From:** Zibelman, Audrey A.  
**Sent:** Tuesday, April 19, 2005 7:26 AM  
**To:** Bowring, Joseph; Glazer, Craig; Kormos, M.J.; Pfirrmann, Karl; Hinton, Jim  
**Cc:** Duane, Vincent P.; 'Barry Spector (spector@wrightlaw.com)'  
**Subject:** RE: Regulation

All - I want to make sure that our conclusions are sensible in light of what we previously filed and also that we do not have any underlying disagreement on the facts. I will be in a bit later - but will want to get your assurances that this approach is consistent with our discussion yesterday

-----Original Message-----

---

**From:** Bowring, Joseph  
**Sent:** Tuesday, April 19, 2005 7:15 AM  
**To:** Zibelman, Audrey A.; Glazer, Craig; Kormos, M.J.; Pfirrmann, Karl; Hinton, Jim  
**Cc:** Duane, Vincent P.; Barry Spector (spector@wrightlaw.com)  
**Subject:** Regulation

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Please let me know what you think.

## Bowring, Joseph

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**From:** Barry SPECTOR [SPECTOR@wrightlaw.com]  
**Sent:** Tuesday, April 19, 2005 8:31 AM  
**To:** bowrij@pjm.com; glazec@pjm.com; duanev@pjmexch01.pjm.com; CARRIE BUMGARNER  
**Subject:** Re: Regulation

In view of the deletion of a recommendation, I think you should delete the final paragraph.

>>> <bowrij@pjm.com> 4/19 8:32 am >>>

I will fix the par numbering - there is an extra number.

I spoke with Barry re confidentiality. His advice (tell me if I am correct) is that there is no need to redact the document. I am fine with that recommendation as long as you are also. Let me know.

-----Original Message-----

**From:** Duane, Vincent P.  
**Sent:** Tuesday, April 19, 2005 8:17 AM  
**To:** Bowring, Joseph; Barry Spector (spector@wrightlaw.com); Carrie Bumgarner (bumgarner@wrightlaw.com)  
**Subject:** RE: Regulation

You either have accidentally deleted a paragraph 51 or we need to renumber.

Will we be seeking confidential treatment for some aspects of this declaration (discussions of market share in various regions, for example)? Our draft cover letter (which may well change in other material respects) will need to request confidential treatment if this is the case.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Tuesday, April 19, 2005 8:09 AM  
**To:** Barry Spector (spector@wrightlaw.com); Carrie Bumgarner (bumgarner@wrightlaw.com)  
**Cc:** Duane, Vincent P.  
**Subject:** Regulation

I have attached the most recent version, modified only to pick up some of Carrie's earlier edits that I had missed. Please let me know if you plan to do a further edit this AM.

Need to verify proper names of regulation markets - we have been using our SOM terms.

Thanks

## **Bowring, Joseph**

---

**From:** Bowring, Joseph  
**Sent:** Tuesday, April 19, 2005 9:26 AM  
**To:** 'Barry SPECTOR'; bowrij@pjm.com; glazec@pjm.com; Duane, Vincent P.; CARRIE BUMGARNER  
**Subject:** RE: Regulation

Done

-----Original Message-----

From: Barry SPECTOR [mailto:SPECTOR@wrightlaw.com]  
Sent: Tuesday, April 19, 2005 8:53 AM  
To: bowrij@pjm.com; glazec@pjm.com; duanev@pjmexch01.pjm.com; CARRIE BUMGARNER  
Subject: Re: Regulation

~~In view of the deletion of a recommendation, I think you should delete the final paragraph.~~

>>> <bowrij@pjm.com> 4/19 8:32 am >>>  
I will fix the par numbering - there is an extra number.

I spoke with Barry re confidentiality. His advice (tell me if I am correct) is that there is no need to redact the document. I am fine with that recommendation as long as you are also. Let me know.

-----Original Message-----

From: Duane, Vincent P.  
Sent: Tuesday, April 19, 2005 8:17 AM  
To: Bowring, Joseph; Barry Spector (spector@wrightlaw.com); Carrie Bumgarner (bumgarner@wrightlaw.com)  
Subject: RE: Regulation

You either have accidentally deleted a paragraph 51 or we need to renumber.

Will we be seeking confidential treatment for some aspects of this declaration (discussions of market share in various regions, for example)? Our draft cover letter (which may well change in other material respects) will need to request confidential treatment if this is the case.

-----Original Message-----

From: Bowring, Joseph  
Sent: Tuesday, April 19, 2005 8:09 AM  
To: Barry Spector (spector@wrightlaw.com); Carrie Bumgarner (bumgarner@wrightlaw.com)  
Cc: Duane, Vincent P.  
Subject: Regulation

I have attached the most recent version, modified only to pick up some of Carrie's earlier edits that I had missed. Please let me know if you plan to do a further edit this AM.

Need to verify proper names of regulation markets - we have been using our SOM terms.

Thanks



**Bowring, Joseph**

---

**From:** Kormos, M.J.  
**Sent:** Tuesday, April 19, 2005 11:38 AM  
**To:** Bowring, Joseph; Zibelman, Audrey A.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim  
**Cc:** Duane, Vincent P.; 'Barry Spector (spector@wrightlaw.com)'  
**Subject:** RE: Regulation

Here are my comments (embedded in document) based on a quick but hopefully thorough review. I am still very trouble that the analysis is done at the two extremes (although more at the hourly level then anything else) without at least some caveat as to if the use of historic hourly bids in a cost based market flush with excess capability is a good representation of what would happen if market power was attempted in the future.

-----Original Message-----

---

**From:** Bowring, Joseph  
**Sent:** Tuesday, April 19, 2005 7:15 AM  
**To:** Zibelman, Audrey A.; Glazer, Craig; Kormos, M.J.; Pfirrmann, Karl; Hinton, Jim  
**Cc:** Duane, Vincent P.; Barry Spector (spector@wrightlaw.com)  
**Subject:** Regulation

I have attached a revised version of the declaration in which I take Craig's suggestions of presenting the facts but not making an explicit recommendation about market based rates.  
Please let me know what you think.

**Bowring, Joseph**

---

**From:** Duane, Vincent P.  
**Sent:** Tuesday, April 19, 2005 12:24 PM  
**To:** Bowring, Joseph; Glazer, Craig; 'Barry SPECTOR'  
**Subject:** Regulation Declaration

Per telephone conversation with Mike, he remains uncomfortable with the factual assumptions underlying Joe's analysis. He made mention, by way of example, that the regulation requirement number used by Joe reflects an atypically high number used on a past occasion by the system operator for only a limited duration based on an operating concern. As such, he believes it would be misleading to use this number generally as establishing regulation demand.

Spoke with Audrey in person as she was heading out. She informed the declaration cannot be filed until Joe, Andy and Mike agree on the right facts and assumptions underpinning the analysis. Joe, expect a call today from Audrey.

---

**Bowring, Joseph**

---

**From:** Bowring, Joseph  
**Sent:** Tuesday, April 19, 2005 9:48 PM  
**To:** Kormos, M.J.; Zibelman, Audrey A.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim; Ott, Andy  
**Cc:** Duane, Vincent P.; 'Barry Spector (spector@wrightlaw.com)'  
**Subject:** RE: Regulation

Mike,

Based on our conversation, I think I answered the basic factual questions you posed.

Dropped in a fn about testing.

Deleted par 58.

The only additional piece of analysis that we are performing is to look at the sensitivity of the pivotal supplier results to the use of actual regulation demand, including the 150 MW adder put in place by PJM during the period in order to meet CPS targets. (We have added 100 MW again as of last Friday.)

Was there anything else on the analytical side?

Give me a call on cell whenever you read this - I left a message on your cell also.

- Joe

Joseph E. Bowring  
Market Monitor  
PJM Interconnection  
955 Jefferson Ave  
Valley Forge Corporate Center  
Norristown, PA 19403-2497  
Phone: 610-666-4536  
Fax: 610-666-4762  
Mobile: 610-659-0843

-----Original Message-----

**From:** Kormos, M.J.  
**Sent:** Tuesday, April 19, 2005 11:38 AM  
**To:** Bowring, Joseph; Zibelman, Audrey A.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim  
**Cc:** Duane, Vincent P.; 'Barry Spector (spector@wrightlaw.com)'  
**Subject:** RE: Regulation

Here are my comments (embedded in document) based on a quick but hopefully thorough review. I am still very trouble that the analysis is done at the two extremes (although more at the hourly level than anything else) without at least some caveat as to if the use of historic hourly bids in a cost based market flush with excess capability is a good representation of what would happen if market power was attempted in the future.

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**From:** Bowring, Joseph  
**Sent:** Tuesday, April 19, 2005 7:15 AM  
**To:** Zibelman, Audrey A.; Glazer, Craig; Kormos, M.J.; Pfirrmann, Karl; Hinton, Jim  
**Cc:** Duane, Vincent P.; Barry Spector (spector@wrightlaw.com)  
**Subject:** Regulation

I have attached a revised version of the declaration in which I take Craig's suggestions of presenting the facts but not making an explicit recommendation about market based rates.  
Please let me know what you think.

## Bowring, Joseph

---

**From:** Duane, Vincent P.  
**Sent:** Wednesday, April 20, 2005 8:33 AM  
**To:** Kormos, M.J.; Bowring, Joseph; Zibelman, Audrey A.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim; Ott, Andy  
**Cc:** 'spector@wrightlaw.com'  
**Subject:** RE: Regulation



Regulation Filing  
0419.doc (11...

This is a version (perhaps not his most recent) but one Joe circulated to the lawyers at 10pm last night.

-----Original Message-----

**From:** Kormos, M.J.  
**Sent:** Wednesday, April 20, 2005 8:02 AM  
**To:** Kormos, M.J.; Bowring, Joseph; Zibelman, Audrey A.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim; Ott, Andy  
**Cc:** Duane, Vincent P.; 'spector@wrightlaw.com'  
**Subject:** RE: Regulation

I just realized there is no document, as we discussed I still wish to see the revisions as well as the additional analysis before determining if the "factual" questions I had are answered. I will wait for the next draft or please ask Paul to come by so he understands my questions.

-----Original Message-----

**From:** Kormos, M.J.  
**Sent:** Wednesday, April 20, 2005 6:33 AM  
**To:** Bowring, Joseph; Kormos, M.J.; Zibelman, Audrey A.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim; Ott, Andy  
**Cc:** Duane, Vincent P.; 'spector@wrightlaw.com'  
**Subject:** Re: Regulation

I will look at it this morning and get back to you  
-----

-----Original Message-----

**From:** Bowring, Joseph <bowrij@pjmexch01.pjm.com>  
**To:** Kormos, M.J. <kormosmj@pjmexch01.pjm.com>; Zibelman, Audrey A. <zibela@pjmexch01.pjm.com>; Glazer, Craig <glazec@pjmexch01.pjm.com>; Pfirrmann, Karl <pfirrk@pjmexch01.pjm.com>; Hinton, Jim <hintoj@pjmexch01.pjm.com>; Ott, Andy <ott@pjmexch01.pjm.com>  
**CC:** Duane, Vincent P. <duanev@pjmexch01.pjm.com>; 'Barry Spector (spector@wrightlaw.com)' <spector@wrightlaw.com>  
**Sent:** Tue Apr 19 21:50:19 2005  
**Subject:** RE: Regulation

Mike,

Based on our conversation, I think I answered the basic factual questions you posed. Dropped in a fn about testing. Deleted par 58. The only additional piece of analysis that we are performing is to look at the sensitivity of the pivotal supplier results to the use of actual regulation demand, including the 150 MW adder put in place by PJM during the period in order to meet CPS targets. (We have added 100 MW again as of last Friday.) Was there anything else on the analytical side? Give me a call on cell whenever you read this - I left a message on your cell also.

- Joe

Joseph E. Bowring  
Market Monitor  
PJM Interconnection  
955 Jefferson Ave  
Valley Forge Corporate Center  
Norristown, PA 19403-2497  
Phone: 610-666-4536  
Fax: 610-666-4762  
Mobile: 610-659-0843

-----Original Message-----

From: Kormos, M.J.  
Sent: Tuesday, April 19, 2005 11:38 AM  
To: Bowring, Joseph; Zibelman, Audrey A.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim  
Cc: Duane, Vincent P.; 'Barry Spector (spector@wrightlaw.com)'  
Subject: RE: Regulation

Here are my comments (embedded in document) based on a quick but hopefully thorough review. I am still very trouble that the analysis is done at the two extremes (although more at the hourly level then anything else) without at least some caveat as to if the use of historic hourly bids in a cost based market flush with excess capability is a good representation of what would happen if market power was attempted in the future.

-----Original Message-----

From: Bowring, Joseph  
Sent: Tuesday, April 19, 2005 7:15 AM  
To: Zibelman, Audrey A.; Glazer, Craig; Kormos, M.J.; Pfirrmann, Karl; Hinton, Jim  
Cc: Duane, Vincent P.; Barry Spector (spector@wrightlaw.com)  
Subject: Regulation

I have attached a revised version of the declaration in which I take Craig's suggestions of presenting the facts but not making an explicit recommendation about market based rates. Please let me know what you think.

**Bowring, Joseph**

---

**From:** Kormos, M.J.  
**Sent:** Wednesday, April 20, 2005 9:26 AM  
**To:** Bowring, Joseph; Zibelman, Audrey A.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim; Ott, Andy  
**Cc:** Duane, Vincent P.; 'Barry Spector (spector@wrightlaw.com)'  
**Subject:** RE: Regulation

Joe,

To try and further understand the issue I will try and give you a small and crude example as to why I still think we have not looked at the facts in enough ways to provide all the information so a conclusion could be drawn. I have asked performance to give me a list of all the units that have in fact entered a bid to PJM in the western region at some point (attached spreadsheet). I realize it might not all be bid in every day or every hour, but I believe we should not discount the fact that in the extremes (3 largest owners don't bid) this regulation could reasonable be expected to be available and bid in and PJM could start units if required. Based on this data the following totals are:

Dominion (at 60% capacity)	687
AEP	660
Dayton	282
AETS	210
Other Virginia (60%)	198
EMMT	180
Exgen	177
Orion	25
CESLP	10
<b>Total</b>	<b>2429</b>

This total is far from 100% capacity (actually closer to 60%) and only includes units that actually bid (there are actually more units that could bid but so far only have only entered a 0 in the capacity including AETS share of Bath County which I did not include). Based on this simple crude calculation the top three largest suppliers have 1629 MW of capability leaving the remaining 6 companies with 800MW of capability which is more then the expected peak requirement of 755 MW which would lead me to believe we could cover our entire requirement every hour at significantly less then 100% participation. This is quite in contrast with your numbers that show if you remove the largest 3 suppliers (with Dominion at 100%) we do not have enough excess in 95% of the hours.

Differences such as this and the ability to look at the actual results in a number of different ways and get surprisingly different results is why I still think we have not laid out all the "facts" yet.

Mike

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Tuesday, April 19, 2005 9:50 PM  
**To:** Kormos, M.J.; Zibelman, Audrey A.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim; Ott, Andy  
**Cc:** Duane, Vincent P.; 'Barry Spector (spector@wrightlaw.com)'  
**Subject:** RE: Regulation

Mike,

Based on our conversation, I think I answered the basic factual questions you posed.  
Dropped in a fn about testing.  
Deleted par 58.

The only additional piece of analysis that we are performing is to look at the sensitivity of the pivotal supplier results to the use of actual regulation demand, including the 150 MW adder put in place by PJM during the period in order to meet CPS targets. (We have added 100 MW again as of last Friday.)  
Was there anything else on the analytical side?  
Give me a call on cell whenever you read this - I left a message on your cell also.  
- Joe

Joseph E. Bowring  
Market Monitor  
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955 Jefferson Ave  
Valley Forge Corporate Center  
Norristown, PA 19403-2497  
Phone: 610-666-4536  
Fax: 610-666-4762  
Mobile: 610-659-0843

---

-----Original Message-----

**From:** Kormos, M.J.  
**Sent:** Tuesday, April 19, 2005 11:38 AM  
**To:** Bowring, Joseph; Zibelman, Audrey A.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim  
**Cc:** Duane, Vincent P.; 'Barry Spector (spector@wrightlaw.com)'  
**Subject:** RE: Regulation

Here are my comments (embedded in document) based on a quick but hopefully thorough review. I am still very trouble that the analysis is done at the two extremes (although more at the hourly level than anything else) without at least some caveat as to if the use of historic hourly bids in a cost based market flush with excess capability is a good representation of what would happen if market power was attempted in the future.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Tuesday, April 19, 2005 7:15 AM  
**To:** Zibelman, Audrey A.; Glazer, Craig; Kormos, M.J.; Pfirrmann, Karl; Hinton, Jim  
**Cc:** Duane, Vincent P.; Barry Spector (spector@wrightlaw.com)  
**Subject:** Regulation

I have attached a revised version of the declaration in which I take Craig's suggestions of presenting the facts but not making an explicit recommendation about market based rates. Please let me know what you think.

## Bowring, Joseph

---

**From:** CARRIE L. BUMGARNER [mailto:bumgarner@wrightlaw.com]  
**Sent:** Wednesday, April 20, 2005 2:28 PM  
**To:** scheip@pjm.com  
**Cc:** duanev@pjm.com; bowring@pjm.com; Claire Brennan; Barry SPETOR  
**Subject:** Re: PJM West Regulation Market filing



Bowring Declaration  
4-20-2005....

Paul and Joe,

Attached is a revised version of Joe's regulation affidavit. This version adds cites and clean up edits to the version Joe sent this morning. It also has shaded information that would appear to be confidential. The revisions Joe sent this morning and our edits are shown in redline. Feel free to call to discuss.

Carrie

>>> <scheip@pjm.com> 4/20/2005 2:28 PM >>>  
Carrie,

Joe Bowring asked that I pass along a status update regarding the subject filing. The MMU is in the process of responding to internal stakeholder comments and should have a draft ready for you by tomorrow (Thursday) morning. If you have any questions, please feel free to contact myself or Joe.

Thank You,

Paul

Paul G. Scheidecker  
PJM Interconnection, L.L.C.  
Market Monitoring Unit  
610.666.4487

Carrie L. Bumgarner  
Wright & Talisman, P.C.  
Washington, D.C. 20005  
Phone: (202) 393-1200  
Fax: (202) 393-1240  
bumgarner@wrightlaw.com

**Bowring, Joseph**

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**From:** Bowring, Joseph  
**Sent:** Thursday, April 21, 2005 9:06 PM  
**To:** Duane, Vincent P.; Glazer, Craig; Kormos, M.J.; Pfirrmann, Karl; Hinton, Jim; Zibelman, Audrey A.  
**Cc:** Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Subject:** Regulation Declaration

I have attached the most recent draft based on a conversation with Mike and Audrey this afternoon. Only the most recent changes are shown in redline. This will be filed tomorrow morning. Please let me know if you have any further comments.

Thanks to all for your comments and your contributions to sharpening the analysis.

---

Please circulate further as appropriate.

## Bowring, Joseph

---

**From:** Kormos, M.J.  
**Sent:** Thursday, April 21, 2005 9:48 PM  
**To:** Bowring, Joseph  
**Subject:** RE: Regulation Declaration

Look at my email you only did it at the peak. Every other hour we need significantly less the 98% of the excess. And quite frankly at the peak we should have 100% anyway - we run everything so it is really what I was after.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Thursday, April 21, 2005 9:44 PM  
**To:** Kormos, M.J.  
**Subject:** RE: Regulation Declaration

---

What do you mean by the sensitivity on the excess? Did you see par 45 and 57?

-----Original Message-----

**From:** Kormos, M.J.  
**Sent:** Thursday, April 21, 2005 9:36 PM  
**To:** Bowring, Joseph; Duane, Vincent P.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim; Zibelman, Audrey A.  
**Cc:** Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Subject:** RE: Regulation Declaration

We crossed emails - You missed at least one critical piece from our conversation (the sensitivity on the excess). I have included the email for the others not originally in it. Maybe we can file tomorrow and we can try and resolve my questions, but I still have at least a couple. I will read this further tomorrow and can mark it up or just talk (but that seems dangerous)

-----Original Msage-----

**From:** Bowring, Joseph  
**Sent:** Thursday, April 21, 2005 9:06 PM  
**To:** Duane, Vincent P.; Glazer, Craig; Kormos, M.J.; Pfirrmann, Karl; Hinton, Jim; Zibelman, Audrey A.  
**Cc:** Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Subject:** Regulation Declaration

I have attached the most recent draft based on a conversation with Mike and Audrey this afternoon. Only the most recent changes are shown in redline. This will be filed tomorrow morning. Please let me know if you have any further comments.  
Thanks to all for your comments and your contributions to sharpening the analysis.

Please circulate further as appropriate.

**Bowring, Joseph**

---

**From:** Kormos, M.J.  
**Sent:** Friday, April 22, 2005 10:11 AM  
**To:** Bowring, Joseph; Duane, Vincent P.; Glazer, Craig; Pfirrmann, Karl; Hinton, Jim; Zibelman, Audrey A.; Ott, Andy  
**Cc:** Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Subject:** RE: Regulation Declaration

Since I have been unsuccessful to convince Joe to do additional analysis using something other than hourly offered, I have made changes I feel are important to so readers understand the nature of the analysis actual done and any potential limiting issues. I also struck a couple of statements that made conclusions that I feel are unnecessary or not yet substantiated. I still am attempting to validate some data used and rectify some of the discrepancies from the September filing and this one.

---

See what you can live with Joe.

Mike

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Thursday, April 21, 2005 9:06 PM  
**To:** Duane, Vincent P.; Glazer, Craig; Kormos, M.J.; Pfirrmann, Karl; Hinton, Jim; Zibelman, Audrey A.  
**Cc:** Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Subject:** Regulation Declaration

I have attached the most recent draft based on a conversation with Mike and Audrey this afternoon. Only the most recent changes are shown in redline. This will be filed tomorrow morning. Please let me know if you have any further comments.

Thanks to all for your comments and your contributions to sharpening the analysis.

Please circulate further as appropriate.

## Bowring, Joseph

---

**From:** Bowring, Joseph  
**Sent:** Friday, April 22, 2005 2:04 PM  
**To:** Kormos, M.J.; Zibelman, Audrey A.  
**Cc:** Pfirrmann, Karl; Ott, Andy  
**Subject:** RE: West Regulation Market - Breakpoint test

I will send out the next/final iteration shortly.  
Unless you have any new issues.

-----Original Message-----

From: Kormos, M.J.  
Sent: Friday, April 22, 2005 2:03 PM  
To: Bowring, Joseph; Zibelman, Audrey A.  
Cc: Pfirrmann, Karl; Ott, Andy  
Subject: RE: West Regulation Market - Breakpoint test

---

Does that mean you have accepted all my changes?

-----Original Message-----

From: Bowring, Joseph  
Sent: Friday, April 22, 2005 2:02 PM  
To: Zibelman, Audrey A.; Kormos, M.J.  
Cc: Pfirrmann, Karl; Ott, Andy  
Subject: RE: West Regulation Market - Breakpoint test

Filing today - last edits under way.

-----Original Message-----

From: Zibelman, Audrey A.  
Sent: Friday, April 22, 2005 1:55 PM  
To: Kormos, M.J.; Bowring, Joseph  
Cc: Pfirrmann, Karl; Ott, Andy  
Subject: Re: West Regulation Market - Breakpoint test

So where are we?

-----Original Message-----

From: Kormos, M.J. <kormosmj@pjmexch01.pjm.com>  
To: Bowring, Joseph <bowrij@pjmexch01.pjm.com>  
CC: Zibelman, Audrey A. <zibela@pjmexch01.pjm.com>; Pfirrmann, Karl  
<pfirrk@pjmexch01.pjm.com>; Ott, Andy <ott@pjmexch01.pjm.com>  
Sent: Thu Apr 21 21:51:41 2005  
Subject: RE: West Regulation Market - Breakpoint test

We can agree to disagree - I am going to bed

-----Original Message-----

From: Bowring, Joseph  
Sent: Thursday, April 21, 2005 9:47 PM  
To: Kormos, M.J.  
Cc: Zibelman, Audrey A.; Pfirrmann, Karl; Ott, Andy  
Subject: RE: West Regulation Market - Breakpoint test

See my comments in context below.

-----Original Message-----

From: Kormos, M.J.  
Sent: Thursday, April 21, 2005 9:29 PM  
To: Bowring, Joseph  
Cc: Zibelman, Audrey A.; Pfirrmann, Karl; Ott, Andy  
Subject: RE: West Regulation Market - Breakpoint test

Joe,

A couple of a questions. Your testimony says there is an additional 330 MW of regulation in Virginia that is non-dominion, but you show no separate line for it in your numbers. I assume some of it is might be AETs share of Bath but it doesn't all add up. Also the numbers from Emrkts show bids from Orion (25) and CLPS (10) but you don't show anything for them. Your original analysis also showed capacity for Duke (255 MW) , Buckeye (50 mw) and Neshkoro Power (4Mw) what happened to them?

I also wanted to be clear up the percentage number I wanted was not at the peak. Even your numbers as written show that while we need 90+ participation at the peak load (which shouldn't be a stretch since we are running everything) on average we need only 571 / 769 or 74% based on your numbers (that doesn't have any of the above adders). And I still think your 571 number (which would say the average load in the west/south is 57,000 or PJM's average is close to 114,000 MW) is way to high because of the additional regulation. If you assume the average regulation requirement is more like 450 MW then the percentage would drop to 58% of the available needs to be bid in for the bottom 3 players (this doesn't seem like such a stretch). If you add in any of the regulation I pointed out above it is even less. If you start looking at some of the minimum loads its even less need to be available. We should really see that is there a relationship between requirement which is tied to load and generation that would be available based on the load. If you have enough at the peak and you assume the relationship between regulation available and load is proportional then it says you should have enough in all hours.

Mike - the logic above doesn't hold. The FERC market power tests require a look at a variety of load conditions, including peak load, and consider MBR not supported if the market power tests are failed at any one load condition. The 571 number is the actual demand for regulation, taken from PJM market data. The number is 504 (see testimony) without the increased regulation requirement. Our results certainly show that there are some hours during which the three pivotal supplier test is passed, but that is not the point.

Also I would suggest you look at the bottom three players because they seem to bid in a lot more of their totals - Dayton seems to have bid it all in at least at some point, Edison has bid in 85% and Exgen 65% (again at least at some point). I think this is significant when looking at the pivotal suppliers and might make your highly unlikely statement moot (particularly at the peak loads it seems high likely)

Mike - I don't think you have looked at the most recent draft (I sent it about 30 minutes ago)

I would also like to understand the difference from the September analysis (where we could pull the top 5 suppliers and still meet the obligation) to your current one that says 90%+ of the hours we cant even pull the top three. It is a big change that is not well documented.

I think the analysis is well documented. The primary difference is that we looked at actual data - exactly the same analysis as in the SOM.

Sorry I am making your life difficult but the sooner I understand why we see it different the sooner we can resolve it. Any data you can provide like this is helpful.

Happy to answer your questions but we need to end this process. The document must be filed tomorrow.

-----Original Message-----

From: Bowring, Joseph  
Sent: Thursday, April 21, 2005 5:54 PM  
To: Kormos, M.J.

Subject: FW: West Regulation Market - Breakpoint test

shows three pivotal supplier analysis with 100% of capability

---

## **Bowring, Joseph**

---

**From:** Bowring, Joseph  
**Sent:** Friday, April 22, 2005 2:50 PM  
**To:** Zibelman, Audrey A.; Duane, Vincent P.; 'bumgarner@wrightlaw.com'; 'spector@wrightlaw.com'  
**Cc:** Kormos, M.J.  
**Subject:** RE: Regulation

Please give me a call. Or let me know where I can call you. We need to proceed.

-----Original Message-----

**From:** Zibelman, Audrey A.  
**Sent:** Friday, April 22, 2005 2:49 PM  
**To:** Bowring, Joseph; Duane, Vincent P.; 'bumgarner@wrightlaw.com'; 'spector@wrightlaw.com'  
**Cc:** Kormos, M.J.  
**Subject:** Re: Regulation

---

Joe how have you resollved the issues mike and Andy raised -i will want to talk to you before we file

-----Original Message-----

**From:** Bowring, Joseph <bowrij@pjmexch01.pjm.com>  
**To:** Duane, Vincent P. <duanev@pjmexch01.pjm.com>; Carrie Bumgarner (bumgarner@wrightlaw.com) <bumgarner@wrightlaw.com>; Barry Spector (spector@wrightlaw.com) <spector@wrightlaw.com>  
**CC:** Zibelman, Audrey A. <zibela@pjmexch01.pjm.com>; Kormos, M.J. <kormosmj@pjmexch01.pjm.com>  
**Sent:** Fri Apr 22 14:40:22 2005  
**Subject:** Regulation

Vince,

Do you have a final cover letter for the regulation declaration? I will be ready in about 20 minutes. Thanks, Joe

## **Bowring, Joseph**

---

**From:** Zibelman, Audrey A.  
**Sent:** Friday, April 22, 2005 2:49 PM  
**To:** Bowring, Joseph; Duane, Vincent P.; 'bumgarner@wrightlaw.com'; 'spector@wrightlaw.com'  
**Cc:** Kormos, M.J.  
**Subject:** Re: Regulation

Joe how have you resollved the issues mike and Andy raised -i will want to talk to you before we file

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To: Duane, Vincent P. <duanev@pjmexch01.pjm.com>; Carrie Bumgarner (bumgarner@wrightlaw.com) <bumgarner@wrightlaw.com>; Barry Spector (spector@wrightlaw.com) <spector@wrightlaw.com>  
CC: Zibelman, Audrey A. <zibela@pjmexch01.pjm.com>; Kormos, M.J. <kormosmj@pjmexch01.pjm.com>  
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## **Bowring, Joseph**

---

**From:** Kormos, M.J.  
**Sent:** Friday, April 22, 2005 2:55 PM  
**To:** Bowring, Joseph; Zibelman, Audrey A.  
**Cc:** Pfirrmann, Karl; Ott, Andy; Duane, Vincent P.  
**Subject:** RE: West Regulation Market - Breakpoint test

I would probably mention investigating collapsing the markets into one in the cover letter since we haven't even mentioned it to the stakeholders yet. On the netting issue, are you explaining why it is better to not net this time - it appears in September you used netting and FERC standard test include it.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, April 22, 2005 2:49 PM  
**To:** Kormos, M.J.; Zibelman, Audrey A.  
**Cc:** Pfirrmann, Karl; Ott, Andy  
**Subject:** RE: West Regulation Market - Breakpoint test

Yes.

Can I include mention of the fact that PJM is considering one big regulation market?

-----Original Message-----

**From:** Kormos, M.J.  
**Sent:** Friday, April 22, 2005 2:05 PM  
**To:** Bowring, Joseph; Zibelman, Audrey A.  
**Cc:** Pfirrmann, Karl; Ott, Andy  
**Subject:** RE: West Regulation Market - Breakpoint test

Did you get my netting one?

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, April 22, 2005 2:04 PM  
**To:** Kormos, M.J.; Zibelman, Audrey A.  
**Cc:** Pfirrmann, Karl; Ott, Andy  
**Subject:** RE: West Regulation Market - Breakpoint test

I will send out the next/final iteration shortly.  
Unless you have any new issues.

-----Original Message-----

**From:** Kormos, M.J.  
**Sent:** Friday, April 22, 2005 2:03 PM  
**To:** Bowring, Joseph; Zibelman, Audrey A.  
**Cc:** Pfirrmann, Karl; Ott, Andy  
**Subject:** RE: West Regulation Market - Breakpoint test

Does that mean you have accepted all my changes?

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, April 22, 2005 2:02 PM  
**To:** Zibelman, Audrey A.; Kormos, M.J.  
**Cc:** Pfirrmann, Karl; Ott, Andy  
**Subject:** RE: West Regulation Market - Breakpoint test

Filing today - last edits under way.

-----Original Message-----

From: Zibelman, Audrey A.  
Sent: Friday, April 22, 2005 1:55 PM  
To: Kormos, M.J.; Bowring, Joseph  
Cc: Pfirrmann, Karl; Ott, Andy  
Subject: Re: West Regulation Market - Breakpoint test

So where are we?  
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-----Original Message-----

From: Kormos, M.J. <kormosmj@pjmexch01.pjm.com>  
To: Bowring, Joseph <bowrij@pjmexch01.pjm.com>  
CC: Zibelman, Audrey A. <zibela@pjmexch01.pjm.com>; Pfirrmann, Karl  
<pfirrk@pjmexch01.pjm.com>; Ott, Andy <ott@pjmexch01.pjm.com>  
Sent: Thu Apr 21 21:51:41 2005  
Subject: RE: West Regulation Market - Breakpoint test

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We can agree to disagree - I am going to bed

-----Original Message-----

From: Bowring, Joseph  
Sent: Thursday, April 21, 2005 9:47 PM  
To: Kormos, M.J.  
Cc: Zibelman, Audrey A.; Pfirrmann, Karl; Ott, Andy  
Subject: RE: West Regulation Market - Breakpoint test

See my comments in context below.

-----Original Message-----

From: Kormos, M.J.  
Sent: Thursday, April 21, 2005 9:29 PM  
To: Bowring, Joseph  
Cc: Zibelman, Audrey A.; Pfirrmann, Karl; Ott, Andy  
Subject: RE: West Regulation Market - Breakpoint test

Joe,

A couple of a questions. Your testimony says there is an additional 330 MW of regulation in Virginia that is non-dominion, but you show no separate line for it in your numbers. I assume some of it is might be AETs share of Bath but it doesn't all add up. Also the numbers from Emrkts show bids from Orion (25) and CLPS (10) but you don't show anything for them. Your original analysis also showed capacity for Duke (255 MW) , Buckeye (50 mw) and Neshkoro Power (4Mw) what happened to them?

I also wanted to be clear up the percentage number I wanted was not at the peak. Even your numbers as written show that while we need 90+ participation at the peak load (which shouldn't be a stretch since we are running everything) on average we need only 571 / 769 or 74% based on your numbers (that doesn't have any of the above adders). And I still think your 571 number (which would say the average load in the west/south is 57,000 or PJM's average is close to 114,000 MW) is way to high because of the additional regulation. If you assume the average regulation requirement is more like 450 MW then the percentage would drop to 58% of the available needs to be bid in for the bottom 3 players (this doesn't seem like such a stretch). If you add in any of the regulation I pointed out above it is even less. If you start looking at some of the minimum loads its even less need to be available. We should really see that is there a relationship between requirement which is tied to load and generation that would be available based on the load. If you have enough at the peak and you assume the relationship between regulation available and load is proportional then it says you should have enough in all hours.

Mike - the logic above doesn't hold. The FERC market power tests require a look at a

variety of load conditions, including peak load, and consider MBR not supported if the market power tests are failed at any one load condition. The 571 number is the actual demand for regulation, taken from PJM market data. The number is 504 (see testimony) without the increased regulation requirement. Our results certainly show that there are some hours during which the three pivotal supplier test is passed, but that is not the point.

Also I would suggest you look at the bottom three players because they seem to bid in a lot more of their totals - Dayton seems to have bid it all in at least at some point, Edison has bid in 85% and Exgen 65% (again at least at some point). I think this is significant when looking at the pivotal suppliers and might make your highly unlikely statement moot (particularly at the peak loads it seems high likely)

Mike - I don't think you have looked at the most recent draft (I sent it about 30 minutes ago)

I would also like to understand the difference from the September analysis (where we could pull the top 5 suppliers and still meet the obligation) to your current one that says 90%+ of the hours we cant even pull the top three. It is a big change that is not well documented.

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I think the analysis is well documented. The primary difference is that we looked at actual data - exactly the same analysis as in the SOM.

Sorry I am making your life difficult but the sooner I understand why we see it different the sooner we can resolve it. Any data you can provide like this is helpful.

Happy to answer your questions but we need to end this process. The document must be filed tomorrow.

-----Original Message-----  
From: Bowring, Joseph  
Sent: Thursday, April 21, 2005 5:54 PM  
To: Kormos, M.J.  
Subject: FW: West Regulation Market - Breakpoint test

shows three pivotal supplier analysis with 100% of capability

**Bowring, Joseph**

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**From:** Duane, Vincent P.  
**Sent:** Friday, April 22, 2005 3:08 PM  
**To:** Bowring, Joseph; Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Cc:** Zibelman, Audrey A.; Kormos, M.J.  
**Subject:** RE: Regulation

Joe, please see attached filing letter. Given the continuing back and forth, please see the highlighted text in particular to reflect one of Mike's major lingering concerns.

-----Original Message-----

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**From:** Bowring, Joseph  
**Sent:** Friday, April 22, 2005 2:40 PM  
**To:** Duane, Vincent P.; Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Cc:** Zibelman, Audrey A.; Kormos, M.J.  
**Subject:** Regulation

Vince,  
Do you have a final cover letter for the regulation declaration?  
I will be ready in about 20 minutes.  
Thanks,  
Joe

**Bowring, Joseph**

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**From:** Bowring, Joseph  
**Sent:** Friday, April 22, 2005 6:06 PM  
**To:** Zibelman, Audrey A.  
**Subject:** Regulation

I decided not to file today -wanted to wrap up every last question from MikeAndy.  
The net question takes a lot of work -Monday filing for certain.  
Let me know if you want to see next iteration.  
Vince has sent final cover letter to W&A.  
Anything exciting at ERC today?

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**Bowring, Joseph**

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**From:** Bowring, Joseph  
**Sent:** Sunday, April 24, 2005 9:57 PM  
**To:** Kormos, M.J.; Ott, Andy; Zibelman, Audrey A.; Duane, Vincent P.; Glazer, Craig  
**Cc:** Pfirrmann, Karl; Scheidecker, Paul; Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Subject:** RE: Net analysis

I have attached the revised and essentially final declaration.  
Some editing will occur first thing Monday AM and a final check of the numbers and it will be filed Monday AM.  
While various changes have been made over the last 3 or 4 days, I have highlighted the areas of change associated with the net regulation requirement issue.  
thanks

---

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, April 22, 2005 8:18 PM  
**To:** Kormos, M.J.; Ott, Andy; Zibelman, Audrey A.; Duane, Vincent P.; Glazer, Craig  
**Cc:** Pfirrmann, Karl; Scheidecker, Paul  
**Subject:** Net analysis

Paul has completed a full analysis of net regulation requirements.  
The results show that even with *extreme case where current incumbents retain all load and all* associated regulation requirements that market fails HHI and market share tests and also fails three pivotal test, but for a much smaller number of hours.  
Will send write up around over the weekend.

**Bowring, Joseph**

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**From:** Kormos, M.J.  
**Sent:** Monday, April 25, 2005 7:51 AM  
**To:** Bowring, Joseph; Ott, Andy; Zibelman, Audrey A.; Duane, Vincent P.; Glazer, Craig  
**Cc:** Pfirrmann, Karl; Scheidecker, Paul; 'Carrie Bumgarner (bumgarner@wrightlaw.com)'; 'Barry Spector (spector@wrightlaw.com)'  
**Subject:** RE: Net analysis

I am not asking you to change anything in this testimony - but prior to the next analysis please include or explain in better detail why we do not following the FERC test and use either peak load or seasonally numbers and continue to use hourly and hourly eligible (particularity for the excess test). Hourly numbers by far show the less amount of excess regulation available even though everyone is well aware that at less a good portion of it (or prove it is not) could be made available in the existence of market power. I don't believe we are testing whether market power can be exercised in a single hour but instead can anyone are looking for long-term sustained exercise of market power. At a minimum I still believe the day ahead numbers would be a useful sensitivity run. I think the next analysis should be more balanced or at least explain the assumptions as to why known data was ruled out.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Sunday, April 24, 2005 9:57 PM  
**To:** Kormos, M.J.; Ott, Andy; Zibelman, Audrey A.; Duane, Vincent P.; Glazer, Craig  
**Cc:** Pfirrmann, Karl; Scheidecker, Paul; Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)  
**Subject:** RE: Net analysis

I have attached the revised and essentially final declaration.  
Some editing will occur first thing Monday AM and a final check of the numbers and it will be filed Monday AM.

While various changes have been made over the last 3 or 4 days, I have highlighted the areas of change associated with the net regulation requirement issue.  
thanks

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, April 22, 2005 8:18 PM  
**To:** Kormos, M.J.; Ott, Andy; Zibelman, Audrey A.; Duane, Vincent P.; Glazer, Craig  
**Cc:** Pfirrmann, Karl; Scheidecker, Paul  
**Subject:** Net analysis

Paul has completed a full analysis of net regulation requirements.  
The results show that even with extreme case where current incumbents retain all load and all associated regulation requirements that market fails HHI and market share tests and also fails three pivotal test, but for a much smaller number of hours.  
Will send write up around over the weekend.

## Bowring, Joseph

---

**From:** Bowring, Joseph  
**Sent:** Tuesday, April 26, 2005 3:05 PM  
**To:** 'Derek Bandera'  
**Cc:** Anna Cochran  
**Subject:** RE: Regulation



ER05-10

Confidential 425.pdf

I have attached the confidential copy of our filing, made yesterday. Please use appropriate FERC policies governing such confidential material. Please circulate as appropriate. I would be happy to answer any questions. Call any time - call cell (see below)

- Joe

Mobile: 610-659-0843

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-----Original Message-----

**From:** Derek Bandera [mailto:Derek.Bandera@ferc.gov]  
**Sent:** Tuesday, April 26, 2005 12:57 PM  
**To:** bowrij@pjm.com  
**Cc:** Anna Cochran  
**Subject:** RE: Regulation

Thanks for the public copy and heads up. I would be appreciative of the confidential copy as well. Would you mind cc'ing Anna Cochran (cc'd on this email) on that as well?

Thanks again,  
Derek

-----Original Message-----

**From:** bowrij@pjm.com [mailto:bowrij@pjm.com]  
**Sent:** Tuesday, April 26, 2005 11:42 AM  
**To:** Derek Bandera  
**Subject:** Re: Regulation

Did you receive copy? Do you want confidential version?

**Bowring, Joseph**

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**From:** Bowring, Joseph  
**Sent:** Tuesday, April 26, 2005 6:02 PM  
**To:** Haymes Alan (alan.haymes@ferc.gov)  
**Cc:** William Hederman (William.Hederman@ferc.gov)  
**Subject:** FW: ER05-10



ER05-10 public.pdf  
(4MB)

I have attached our report concluding that the West Regulation Market is not competitive, filed yesterday. Please distribute as you feel appropriate within the Commission. For everyone's protection, the Commission should be aware of the filing prior to making any final decisions about Dominion integration that suggest the regulation market is competitive. ~~I have sent it to Derek and Anna Cochrane. Please let me know if I can answer any questions.~~

## **Bowring, Joseph**

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**From:** Duane, Vincent P.  
**Sent:** Thursday, April 28, 2005 4:00 PM  
**To:** Zibelman, Audrey A.; Hagele, Jack; Pfirrmann, Karl; Kormos, M.J.; Bowring, Joseph  
**Cc:** Glazer, Craig; Miller, W. Scott III  
**Subject:** RE: AMP Ohio Emergency Motion Regarding Joe's Declaration On Regulation



AnswerinDocketNo.  
ER05-10-0010...

Support for AMP-Ohio filed today by the industrials.

Points out what they characterize as disparity in the declaration and cover letter. Find that the MMU declaration contains "clear and convincing conclusions" that the West/South regulation market is not competitive.

---

Our judgment is that the Commission is unlikely to take any action before the integration.

-----Original Message-----

**From:** Duane, Vincent P.  
**Sent:** Wednesday, April 27, 2005 6:24 PM  
**To:** Zibelman, Audrey A.; Hagele, Jack; Pfirrmann, Karl; Kormos, M.J.; Bowring, Joseph  
**Cc:** Glazer, Craig; Miller, W. Scott III  
**Subject:** FW: AMP Ohio Emergency Motion Regarding Joe's Declaration On Regulation

A not unexpected response from the party that has led the cause in this matter from its inception.

Asks, in mildly dramatic tones, for the Commission to intervene to remove the relevant tariff provisions before the May 1, 2005 integration based on Joe's declaration and a statement he made at the last Commission open meeting.

-----Original Message-----

**From:** Barry SPECTOR [mailto:SPECTOR@wrightlaw.com]  
**Sent:** Wednesday, April 27, 2005 5:16 PM  
**To:** duanev@pjm.com; glazec@pjm.com  
**Cc:** CARRIE BUMGARNER  
**Subject:** AMP Ohio \*- regulation motion

AMP Ohio has filed a motion for the Commission to take immediate action, in light of Joe's affidavit, and suspend market based pricing before May 1 in the regulation market.

## Bowring, Joseph

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**From:** Harris, P.G.  
**Sent:** Friday, April 29, 2005 7:39 PM  
**To:** Duane, Vincent P.; Cabinet Team Members  
**Cc:** Herling, Steven R.; Glazer, Craig; Pincus, Steven; Miller, W. Scott III; Bowring, Joseph  
**Subject:** Re: UNEXPECTED FERC ORDER - REGULATION MARKET (WEST/SOUTH)

Karl. Jim. Please advise asap of AEP dominion reaction.  
Mike how does this impact operations and the market  
Let's discuss tomorrow evening around 7 ish.  
Thanks  
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-----Original Message-----

From: Duane, Vincent P. <duanev@pjmexch01.pjm.com>  
To: Cabinet Team Members <cab\_team\_mem@pjmexch01.pjm.com>  
CC: Herling, Steven R. <herling@pjmexch01.pjm.com>; Glazer, Craig  
<glazec@pjmexch01.pjm.com>; Pincus, Steven <pincus@pjmexch01.pjm.com>; Miller, W. Scott  
III <milles@pjmexch01.pjm.com>; Bowring, Joseph <bowrij@pjmexch01.pjm.com>  
Sent: Fri Apr 29 19:15:18 2005  
Subject: UNEXPECTED FERC ORDER - REGULATION MARKET (WEST/SOUTH)

In admittedly a surprise, the Commission issued the attached Order this evening on the eve of the Dominion integration. The Order addresses the MMU's declaration filed this past Monday and the "emergency" protests filed by AMP-Ohio and the Industrials.

The Order allows market based pricing for regulation service to go into effect on May 1 in the PJM West/South region. However, it views AEP and Dominion as "dominant suppliers" based on the declaration of the MMU and it has capped offers made by these suppliers at cost plus the \$7.50 adder. Other suppliers in the West and South are not capped. While the two dominant suppliers are offer capped, the Order makes clear that they are entitled to the market clearing price. There is a cap generally of \$100 in the regulation market that PJM never proposed changing and it remains intact.

After a period of time post-integration (the Commission suggests 6 months), if the excess supply expected is confirmed, a request to remove the offer caps applicable to AEP and Dominion will not be prejudiced by this Order.

**Bowring, Joseph**

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**From:** Bresler, Frederick S. (Stu)  
**Sent:** Saturday, April 30, 2005 7:22 PM  
**To:** 'dehorton@aep.com'; rwbradish@aep.com; 'baondayko@aep.com'  
**Cc:** Hendrzak, Chantal Aimee N.; Hartung, Dean; Hinkel, Robert O.; Loose, Trevor; Pfirrmann, Karl; Libengood, Amanda; Bowring, Joseph  
**Subject:** FW: UNEXPECTED FERC ORDER - REGULATION MARKET (WEST/SOUTH)

Brock, Dana, and Bob -

Just wanted to make sure you were aware of the attached FERC order regarding the PJM West/South Region Regulation Market. According to the order, DVP and AEP, as the dominant suppliers in the market, are required to submit regulation offers that are capped at the marginal cost of the resource to provide regulation plus \$7.50. As required by the order, PJM will continue to calculate a Regulation Market Clearing Price that reflects all offers into the market, both the cost-based offers from AEP and DVP, and the cost/price-based offers from all other participants, and AEP and DVP will be eligible to collect that price for regulation sold into the market.

As always, please feel free to call with questions or concerns.

- Stu Bresler

-----Original Message-----

**From:** Duane, Vincent P.  
**Sent:** Friday, April 29, 2005 7:15 PM  
**To:** Cabinet Team Members  
**Cc:** Herling, Steven R.; Glazer, Craig; Pincus, Steven; Miller, W. Scott III; Bowring, Joseph  
**Subject:** UNEXPECTED FERC ORDER - REGULATION MARKET (WEST/SOUTH)

In admittedly a surprise, the Commission issued the attached Order this evening on the eve of the Dominion integration. The Order addresses the MMU's declaration filed this past Monday and the "emergency" protests filed by AMP-Ohio and the Industrials.

The Order allows market based pricing for regulation service to go into effect on May 1 in the PJM West/South region. However, it views AEP and Dominion as "dominant suppliers" based on the declaration of the MMU and it has capped offers made by these suppliers at cost plus the \$7.50 adder. Other suppliers in the West and South are not capped. While the two dominant suppliers are offer capped, the Order makes clear that they are entitled to the market clearing price. There is a cap generally of \$100 in the regulation market that PJM never proposed changing and it remains intact.

After a period of time post-integration (the Commission suggests 6 months), if the excess supply expected is confirmed, a request to remove the offer caps applicable to AEP and Dominion will not be prejudiced by this Order.

**Bowring, Joseph**

---

**From:** Bresler, Frederick S. (Stu)  
**Sent:** Saturday, April 30, 2005 8:39 PM  
**To:** Bowring, Joseph  
**Subject:** RE: UNEXPECTED FERC ORDER - REGULATION MARKET (WEST/SOUTH)

Not to my knowledge. We had to contact them to verify that they had cost-based offers in. I'll let you know if I hear anything more . . .

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Saturday, April 30, 2005 8:11 PM  
**To:** Bresler, Frederick S. (Stu)  
**Subject:** RE: UNEXPECTED FERC ORDER - REGULATION MARKET (WEST/SOUTH)

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Did they have any other reaction to the order?

-----Original Message-----

**From:** Bresler, Frederick S. (Stu)  
**Sent:** Saturday, April 30, 2005 8:09 PM  
**To:** Bowring, Joseph  
**Subject:** RE: UNEXPECTED FERC ORDER - REGULATION MARKET (WEST/SOUTH)

We have checked with both DVP and AEP this evening, and both have cost-based reg offers in for tomorrow.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Saturday, April 30, 2005 8:03 PM  
**To:** Bresler, Frederick S. (Stu)  
**Subject:** RE: UNEXPECTED FERC ORDER - REGULATION MARKET (WEST/SOUTH)

Stu,  
Let me know if you see any issues on regulation offers.  
Available by cell.  
- Joe  
Mobile: 610-659-0843

-----Original Message-----

**From:** Bresler, Frederick S. (Stu)  
**Sent:** Saturday, April 30, 2005 7:25 PM  
**To:** Bob\_McGuire@dom.com; 'Louis\_Slade@dom.com'; 'Ken\_Berger@dom.com'  
**Cc:** Hendrzak, Chantal Aimee N.; Hinkel, Robert O.; Hartung, Dean; Loose, Trevor; Bowring, Joseph; Crutchfield, Stephen; Hinton, Jim; LaRocque, Matthew G.; Keech, Adam J.  
**Subject:** FW: UNEXPECTED FERC ORDER - REGULATION MARKET (WEST/SOUTH)

Bob, Louis, and Ken -

Just wanted to confirm what has already been discussed tonight regarding the attached FERC order on the PJM West/South Region Regulation Market. According to the order, DVP and AEP, as the dominant suppliers in the market, are required to submit regulation offers that are capped at the marginal cost of the resource to

provide regulation plus \$7.50. As required by the order, PJM will continue to calculate a Regulation Market Clearing Price that reflects all offers into the market, both the cost-based offers from AEP and DVP, and the cost/price-based offers from all other participants, and AEP and DVP will be eligible to collect that price for regulation sold into the market.

As always, please feel free to call with questions or concerns.

- Stu Bresler

-----Original Message-----

**From:** Duane, Vincent P.

**Sent:** Friday, April 29, 2005 7:15 PM

**To:** Cabinet Team Members

**Cc:** Herling, Steven R.; Glazer, Craig; Pincus, Steven; Miller, W. Scott III; Bowring, Joseph

**Subject:** UNEXPECTED FERC ORDER - REGULATION MARKET (WEST/SOUTH)

---

In admittedly a surprise, the Commission issued the attached Order this evening on the eve of the Dominion integration. The Order addresses the MMU's declaration filed this past Monday and the "emergency" protests filed by AMP-Ohio and the Industrials.

The Order allows market based pricing for regulation service to go into effect on May 1 in the PJM West/South region. However, it views AEP and Dominion as "dominant suppliers" based on the declaration of the MMU and it has capped offers made by these suppliers at cost plus the \$7.50 adder. Other suppliers in the West and South are not capped. While the two dominant suppliers are offer capped, the Order makes clear that they are entitled to the market clearing price. There is a cap generally of \$100 in the regulation market that PJM never proposed changing and it remains intact.

After a period of time post-integration (the Commission suggests 6 months), if the excess supply expected is confirmed, a request to remove the offer caps applicable to AEP and Dominion will not be prejudiced by this Order.

## Bowring, Joseph

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**From:** Barry SPECTOR [SPECTOR@wrightlaw.com]  
**Sent:** Monday, November 24, 2003 11:10 AM  
**To:** bowrij@pjm.com  
**Subject:** RE: Com Ed

In the filing letter, we took the view that it won't arise until then because you won't have the weather conditions. The reason to wait is that you have not had any stakeholder process on the necessary changes to the OA for that. It needs an OA amendment that has not been done.

Same would be true regarding post-96 if you want to take a different position on ComEd than the rest of PJM. It would take an OA revision that has not been circulated yet of been through any process. Also, the "1996" date is not linked to the start of the market; it is a date in FERC's regulations on open access linked to the date that FERC proposed open access in Order 888.

>>> <bowrij@pjm.com> 11/24/03 10:53:42 AM >>>

Thanks

I'm not so sure about post-96. I think there is a clear difference in that the post-96 exception was linked to the start date of the PJM classic market. There is no similar rationale in ComEd and no reason to have that exception.

Cost capping for energy from west to east: why wait until June 2004?

We are working on the details. Have committed to having details for 12/4 stakeholder meeting.

-----Original Message-----

From: Barry SPECTOR [mailto:SPECTOR@wrightlaw.com]  
Sent: Monday, November 24, 2003 10:50 AM  
To: bowrij@pjm.com  
Cc: WODYKARA@pjm.com  
Subject: Re: Com Ed

Joe, attached is the draft of the section of the cover letter that we plan to submit regarding the market mitigation issues in Illinois.

Basically, we are stating that we are cost capping ancillary services; capping energy if necessary when the pathway is constrained east to west under existing cost capping procedures; and we will address capacity cost capping and any additional cost capping for energy at least 60 days before June 1, 2004. As to post 1996 units, that will live or die depending on the outcome of the pending local market mitigation filing; I would not address it separately here.

I think you need to get started thinking about specific provisions amending the mitigation rules in the OA on cost capping capacity and cost capping energy when the price is high in PJM and low in ComEd. You need to think about a stakeholder process on this, with sufficient time for the CAT process to go through its steps, ending with a filing as soon as possible next year but no later than April 1. Also, per the latest plans, I think Market Services will need to chair the work on this, upon your request, with your active participation. I would get this process underway.

Rich, this is a significant piece of the picture that may need to be included in the Board report (although perhaps without the details). It is one of the things that Edison Mission complains about in terms of not having the details. Also, it needs to be a part of presentations to members at stakeholder meetings between now and the next MC so that it does not sound like surprise.

The truth

is that Joe made his report in August, so it is not surprise. What stakeholders will complain about is PJM's not filing specific mitigation rules until sometime next year.

>>> <bowrij@pjm.com> 11/24/03 6:14:51 AM >>>

Barry,

We talked about it over the summer but I am not sure we resolved the issues regarding market power mitigation authority in several areas where there is a potential difference from current PJM practice:

- \* Cost capping of post-1996 units
- \* Cost capping of units in Com Ed when constraint is from Com Ed to PJM
- \* Cost capping of units in Com Ed when constraint is from PJM to Com Ed
- \* Limitation of offers in capacity market in Com Ed
- \* Cost based regulation market

Let me know what you think we have to do on these.

Thanks,

Joe

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Barry S. Spector  
Wright & Talisman, P.C.  
Washington, D.C.  
spector@wrightlaw.com  
202-393-1200

Barry S. Spector  
Wright & Talisman, P.C.  
Washington, D.C.  
spector@wrightlaw.com  
202-393-1200

**Bowring, Joseph**

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**From:** Racioppi, Frank  
**Sent:** Thursday, February 12, 2004 11:58 AM  
**To:** Paulson, Erik  
**Cc:** Bowring, Joseph  
**Subject:** NICA Market Regulation and Spin Market Implementation

Eric,

With the advent of the NICA markets on May 1, the MMU has proposed a cost-based market for both Spin and Regulation markets. MMU is developing an addition to the CDTF manual on the calculation of Regulation costs and compensation for a cost-based market whereas the CDTF already has a Spin cost section. PJM has asked each generator in the NICA market to provide the MMU with all cost based bids by March 15th so we need to finalize the cost basis methodology soon and run it through the CDTF process. Joe and I would like to discuss with you the market operation and clearing price methodology for both cost to provide each service and opportunity cost for each market. I've set up a meeting for the 20th of Feb. with you, Joe, Tom Blair and myself. If there is anyone you feel that should be there, please let me know and I will add them to the meeting list.

Thanks.

Frank

**Bowring, Joseph**

---

**From:** Racioppi, Frank  
**Sent:** Thursday, February 12, 2004 11:58 AM  
**To:** Paulson, Erik  
**Cc:** Bowring, Joseph  
**Subject:** NICA Market Regulation and Spin Market Implementation

Eric,

With the advent of the NICA markets on May 1, the MMU has proposed a cost-based market for both Spin and Regulation markets. MMU is developing an addition to the CDTF manual on the calculation of Regulation costs and compensation for a cost-based market whereas the CDTF already has a Spin cost section. PJM has asked each generator in the NICA market to provide the MMU with all cost based bids by March 15th so we need to finalize the cost basis methodology soon and run it through the CDTF process. Joe and I would like to discuss ~~with you the market operation and clearing price methodology for both cost to provide each service and~~ opportunity cost for each market. I've set up a meeting for the 20th of Feb. with you, Joe, Tom Blair and myself. If there is anyone you feel that should be there, please let me know and I will add them to the meeting list.

Thanks.

Frank

**Bowring, Joseph**

---

**From:** Ott, Andy  
**Sent:** Thursday, July 22, 2004 5:52 AM  
**To:** Bowring, Joseph  
**Subject:** FW: Market-Based Ancillary Services

did you know this fact ?

-----Original Message-----

**From:** Bresler, Frederick S. (Stu)  
**Sent:** Wednesday, July 21, 2004 10:01 PM  
**To:** Pfirrmann, Karl; Kormos, M.J.; Hinkel, Robert O.  
**Cc:** Ott, Andy  
**Subject:** Market-Based Ancillary Services

---

FYI guys -

I was talking to Paul Flynn today about the OA change necessary to implement the larger Regulation Market including ComEd, AEP, Dayton, AP and eventually DVP and Duquesne, and Paul informed me of an interesting fact: apparently neither ComEd, AEP, Dayton or AP (we didn't discuss DVP or Duquesne) have filed for market-based pricing authority for ancillary services. Therefore, even if we implement the larger regulation market, they will be required to submit only cost-based offers for ancillary services until such time as they file for this authority and have it approved. I'm thinking this will not be possible by 10/1. I still think it's worthwhile to propose the OA change - the loads certainly ought to like it.

- Stu

**Bowring, Joseph**

---

**From:** Racioppi, Frank  
**Sent:** Tuesday, July 27, 2004 7:16 AM  
**To:** Bowring, Joseph  
**Subject:** RE: CDTF Regulation Cost Calculation Procedure

Joe,

I think the cost structure fits the CT here especially since the CT has a legitimate heat rate curve. The only thing that is different for CT's is the method of maintenance costs. CDTF costs for CT's are in \$/Hr and reg maintenance costs are in \$/MW. It's easy to convert and the owners should have no problem with it. Steve converted correctly but I checked his data to be sure. I think the procedure as approved is good to go. I'll talk to Susan and get the process started.

F

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-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Monday, July 26, 2004 8:51 PM  
**To:** Racioppi, Frank  
**Subject:** RE: CDTF Regulation Cost Calculation Procedure

Frank,

The Regulation costs were approved by CDTF, EMC, MC and the Board. Should be included in Manual. Talk to Susan about facilitating that process. Tell Susan what needs to be done and let her take care of it. Related question - do you think that the language for reg costs will cover the CT costs for Constellation or do we need another change?

thanks,  
Joe

-----Original Message-----

**From:** Racioppi, Frank  
**Sent:** Friday, July 23, 2004 7:15 AM  
**To:** Bowring, Joseph  
**Subject:** CDTF Regulation Cost Calculation Procedure

Joe,

I small item and not that big of a deal, but did the EMC and MC (?) approve the Regulation cost based offer procedure of the CDTF (section 9)? If so, I'll talk to Anne Boyle to get it included. It was not included in the latest update by Anne since they took the stand that whatever was in the manuals as of May 1 would be their snapshot. Like I said no bog deal, but I would like to get it published.

F

## Bowring, Joseph

---

**From:** Bowring, Joseph  
**Sent:** Tuesday, August 31, 2004 7:29 AM  
**To:** 'PAUL FLYNN'; Bresler@pjm.com; duanev@pjm.com; ott@pjm.com  
**Cc:** brysonm@pjm.com; crutcs@pjm.com; glazec@pjm.com; hintoj@pjm.com; Bowring, Joseph; Kormos, M.J.; Racioppi, Frank; Scheidecker, Paul  
**Subject:** RE: Spin, Regulation, and Curtailment Trsnmtl Ltr

Paul,  
The language below (page 7 of draft cover letter) applies (in concept) to both spinning and regulation - they are both being considered.  
What is the purpose of raising this issue in this filing?  
- Joe

PJM does not propose any changes at this time to the tariff provisions that require cost-based offers for regulation in the portions of the PJM region in MAIN and ECAR. However, the larger regulation market enabled by these changes may facilitate a subsequent request to the Commission for market-based rate authority for this service. PJM's market monitoring unit is considering this question, and PJM will report the results of that analysis when it is complete.

-----Original Message-----

From: PAUL FLYNN [mailto:FLYNN@wrightlaw.com]  
Sent: Monday, August 30, 2004 6:00 PM  
To: Bresler@pjm.com; duanev@pjm.com; ott@pjm.com  
Cc: brysonm@pjm.com; crutcs@pjm.com; glazec@pjm.com; hintoj@pjm.com; bowrij@pjmexch01.pjm.com; kormosmj@pjmexch01.pjm.com  
Subject: RE: Spin, Regulation, and Curtailment Trsnmtl Ltr

Attached is a revised version of the transmittal letter, redlined to reflect Stu's changes, the VSCC order issued earlier today, and other changes. We expect to file this tomorrow.

Paul M. Flynn  
Wright & Talisman, P.C.  
1200 G. St., N.W.; Suite 600  
Washington, D.C. 20005  
202/393-1200  
flynn@wrightlaw.com

>>> <Bresler@pjm.com> 8/29/2004 5:18:44 PM >>>  
My comments are in the attached.

Paul - I have to be in Wilmington at a Working Group meeting tomorrow, so if you need to talk to me about this, please call my cell phone. The WG meeting should go from 9:30 until 2 or 3, and I'll have a break at lunch.

The one question I don't have an answer to for you is regarding the VSCC process on the settlement - I don't know where that stands - maybe Craig or Jim have some inside information.

Joe - I copied you on this due to the mention of market-based rates for ancillary services in the expansion zones. I know we are still discussing this internally, and I thought you might have input based on those discussions as to what we put in this letter.

- Stu

-----Original Message-----

From: PAUL FLYNN [mailto:FLYNN@wrightlaw.com]  
Sent: Friday, August 27, 2004 11:59 AM

To: Bresler@pjm.com; duanev@pjm.com; ott@pjm.com  
Cc: brysonm@pjm.com; crutcs@pjm.com; glazec@pjm.com; hintoj@pjm.com;  
kormosmj@pjmexch01.pjm.com  
Subject: Spin, Regulation, and Curtailment Trsnmtl Ltr

Attached is a draft transmittal letter to give FERC the changes approved at yesterday's MC on spinning reserve zones, regulation zones, and curtailment changes related to the KYPSC and VSCC stipulations.

Although these were separate agenda items at the MC, they're combined for the FERC filing, since they are closely related and both are needed by October 1 for the AEP-DPL integration. To ensure the October 1 date, we should try and file ASAP. The draft is dated for filing next Monday.

Paul M. Flynn  
Wright & Talisman, P.C.  
1200 G. St., N.W.; Suite 600  
Washington, D.C. 20005  
202/393-1200  
flynn@wrightlaw.com

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## **Bowring, Joseph**

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**From:** Harris, P.G.  
**Sent:** Monday, September 20, 2004 7:26 AM  
**To:** Bowring, Joseph; Harris, P.G.; Zibelman, Audrey A.; Hagele, Jack; Bresler, Frederick S. (Stu); Ott, Andy; Herling, Steven R.; Duane, Vincent P.; Pfirrmann, Karl; Hinkel, Robert O.; Kormos, M.J.  
**Subject:** Re: AEP Regulation market issues

Thanks joe let's follow up as indicated  
-----

-----Original Message-----

From: Bowring, Joseph <bowrij@pjmexch01.pjm.com>  
To: Harris, P.G. <HARRISPG@pjmexch01.pjm.com>; Zibelman, Audrey A. <zibela@pjmexch01.pjm.com>; Hagele, Jack <hagelj@pjmexch01.pjm.com>; Bresler, Frederick S. (Stu) <Bresler@pjmexch01.pjm.com>; Ott, Andy <ott@pjmexch01.pjm.com>; Herling, Steven R. <herling@pjmexch01.pjm.com>; Duane, Vincent P. <duanev@pjmexch01.pjm.com>; Pfirrmann, Karl <pfirrk@pjmexch01.pjm.com>; Hinkel, Robert O. <hinkelr@pjmexch01.pjm.com>; Kormos, M.J. <kormosmj@pjmexch01.pjm.com>  
Sent: Fri Sep 17 16:55:41 2004  
Subject: AEP Regulation market issues

I had a conversation around 2:30 with Dana Horton and Brock Ondyko of AEP - instigated by them - about the cost-based/market-based issue. They began by being somewhat aggressive about the issue but I walked them through the details of the market clearing dynamics, the fact that there is no reason to expect market prices in a competitive market to be greater than the cost plus a margin plus opportunity cost market clearing price. In addition, I explained to them that we did not believe that the regulation market would be competitive post AEP integration, based on the structure of the market, but that we expected that it would be competitive post Dominion integration.

I also indicated that PJM intended to make a public written statement within the next 10 business days regarding our plans for a transition to a regulation price-based market and that we were committed to that transition when it is based on the structural facts of the market.

At the end of the conversation, they seem satisfied that PJM is following a rational course. In fact, they indicated that a transition period of a couple of months probably made a lot of sense given all the issues that were likely to arise in the transition. They also thought it important that we make a public written statement as to our intentions.

- Joe

**Bowring, Joseph**

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**From:** spectator@wrightlaw.com  
**Sent:** Wednesday, September 22, 2004 7:47 AM  
**To:** zibela@pjm.com; bowrij@pjmexch01.pjm.com; pfirrk@pjmexch01.pjm.com;  
hagelj@pjmexch01.pjm.com; ott@pjmexch01.pjm.com  
**Subject:** RE: Regulation Service Filing for AEP - Request for legal advice

I have another conference call at 3:30 So sometime before that works best for me.

Barry S. Spector  
Wright & Talisman, P.C.  
202-393-1200

[Message delivered by NotifyLink]

-----Original Message-----

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**From:** zibela@pjm.com  
**Sent:** Wed, September 22, 2004 6:34 AM  
**To:** spectator@wrightlaw.com, bowrij@pjmexch01.pjm.com, pfirrk@pjmexch01.pjm.com,  
hagelj@pjmexch01.pjm.com, ott@pjmexch01.pjm.com  
**Subject:** Regulation Service Filing for AEP - Request for legal advice

Joe and I spoke this morning re his affidavit. Joe is rescrubbing his analysis, but is finding that even with total integration the numbers may not be there. Joe and I briefly discussed some alternatives wherein we would rely on factors in addition to the HHI analysis to support moving to market based rates. Joe and I are both on cell phone today at different locations but can participate in a call if someone sets one up. Jack or Andy please follow up. Thanks

<<>>

**Bowring, Joseph**

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**From:** Hagele, Jack  
**Sent:** Wednesday, September 22, 2004 1:18 PM  
**To:** Zibelman, Audrey A.  
**Cc:** pfirr@pjm.com; Ott, Andy; Bowring, Joseph; 'Barry SPECTOR'; Duane, Vincent P.  
**Subject:** Regulation

The outcome of the meeting is as follows:

PJM will file on September 30, with supporting Bowring affidavit, requesting market based rates in the entire footprint effective the date of integration of Dominion. Because of the 60 day waiting period, the market based rates will not become effective before 12/1/04, even if Dominion enters on 11/1, and may be further deferred if Dominion is delayed. The basis for the filing is that although market concentration is high, even after Dominion enters, there is sufficient excess of apparently available regulation over need that PJM and the MM can reasonably assume that the market will be competitive. If, in fact, observations following integration of AEP/DPL and/or Dominion indicate that the ratio of generation being offered into the market to need is not sufficient to make it competitive, PJM will petition FERC to withdraw market based rate authority.

All (Andy, Karl, Joe, Vince, Barry and I) have agreed to the above, with the caveat that Joe needs to confirm when he returns to the office that his recollection about expectations of excess regulation supply following entry of Dominion is correct. He will advise not later than tomorrow a.m.

## Bowring, Joseph

---

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 1:47 AM  
**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'  
**Cc:** pfirrk@pjm.com; Duane, Vincent P.; Carrie Bumgarner (bumgarner@wrightlaw.com)  
**Subject:** RE: Regulation

**Tracking: Recipient**

**Recall**

Hagele, Jack

Failed: 9/24/2004 12:57 PM

Zibelman, Audrey A.

Failed: 9/26/2004 9:19 PM

Ott, Andy

Succeeded: 9/24/2004 2:01 AM

'Barry SPECTOR'

pfirrk@pjm.com

Duane, Vincent P.

Failed: 9/24/2004 8:23 AM

Carrie Bumgarner (bumgarner@wrightlaw.com)

All:

I have attached my revised affidavit as a Word document and a table in pdf. I will also send to PJM subject matter experts for technical review. Please let me have any and all comments as to substance and/or form etc. I have various questions listed as comments that I would appreciate your assistance with.

The draft as well as the associated data is confidential. Please do not provide to anyone outside PJM.

thanks,  
 Joe

## Bowring, Joseph

---

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 2:00 AM  
**To:** Kormos, M.J.  
**Subject:** FW: Regulation

Please review if you have the time - I would appreciate any and all comments/disagreements etc  
thanks

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 1:51 AM  
**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'  
**Cc:** 'pfirrk@pjm.com'; Duane, Vincent P.; 'Carrie Bumgarner (bumgarner@wrightlaw.com)'  
**Subject:** RE: Regulation

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Please ignore prior attachments and use the documents attached here.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 1:47 AM  
**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'  
**Cc:** pfirrk@pjm.com; Duane, Vincent P.; Carrie Bumgarner (bumgarner@wrightlaw.com)  
**Subject:** RE: Regulation

All:

I have attached my revised affidavit as a Word document and a table in pdf. I will also send to PJM subject matter experts for technical review. Please let me have any and all comments as to substance and/or form etc. I have various questions listed as comments that I would appreciate your assistance with.

The draft as well as the associated data is confidential. Please do not provide to anyone outside PJM.

thanks,  
Joe

**Bowring, Joseph**

---

**From:** ott@pjm.com  
**Sent:** Friday, September 24, 2004 6:47 AM  
**To:** pfirrk@pjmexch01.pjm.com; bowrij@pjm.com; hagelj@pjmexch01.pjm.com; zibela@pjmexch01.pjm.com; spectator@wrightlaw.com  
**Cc:** pfirrk@pjm.com; duanev@pjmexch01.pjm.com; bumgarner@wrightlaw.com  
**Subject:** RE: Regulation

I thought that we agreed the filing would go in on 9/30 .

I also want to mention this filing at the MIC on Tuesday (9/28). Is that OK ?

-----Original Message-----

**From:** Pfirrmann, Karl  
**Sent:** Friday, September 24, 2004 6:36 AM  
**To:** 'bowrij@pjm.com'; Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'spectator@wrightlaw.com'  
**Cc:** 'pfirrk@pjm.com'; Duane, Vincent P.; 'bumgarner@wrightlaw.com'  
**Subject:** Re: Regulation

What's the plan for filing this? I received a request from AEP last evening to provide that information among other requests.

Karl  
-----

## **Bowring, Joseph**

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**From:** Harris, P.G.  
**Sent:** Friday, September 24, 2004 7:02 AM  
**To:** Bowring, Joseph  
**Subject:** Re: Regulation

Thanks joe  
-----

-----Original Message-----

**From:** Bowring, Joseph <bowrij@pjmexch01.pjm.com>  
**To:** Harris, P.G. <HARRISPG@pjmexch01.pjm.com>  
**Sent:** Fri Sep 24 02:03:05 2004  
**Subject:** FW: Regulation

Phil,

I have attached the revised affidavit and data tables. I trust that you know that I do not take these positions lightly. I plan to review the technical details with the experts at PJM to ensure that I am not making any mistakes. The bottom line is presented in paragraph 33 which I have pasted in below. Please let me know if you have any comments/concerns etc. I will be available by cell tomorrow - will be at RAM meeting.

- Joe

Based on the above analysis, I recommend that the regulation market in the PJM Western Ancillary Service Area continue to be cost based until the integration of Dominion. I recommend that the regulation market transition to a price-based market at the time of the Dominion integration only if the data derived from the operation of a regulation market for APS, ComEd, AEP and DPL support that transition. In particular I recommend that the market remain cost-based for a lengthier transition period if the experience with the first market configuration demonstrates that the combined market will not pass the Commission's market power screens, including any additional, relevant mitigating factors. I recommend that the Commission make that decision after review of an updated analysis and data to be submitted by the PJM MMU.

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 1:47 AM  
**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'  
**Cc:** pfirrk@pjm.com; Duane, Vincent P.; Carrie Bumgarner (bumgarner@wrightlaw.com)  
**Subject:** RE: Regulation

All:

I have attached my revised affidavit as a Word document and a table in pdf. I will also send to PJM subject matter experts for technical review. Please let me have any and all comments as to substance and/or form etc. I have various questions listed as comments that I would appreciate your assistance with.

The draft as well as the associated data is confidential. Please do not provide to anyone outside PJM.

thanks,  
Joe

**Bowring, Joseph**

---

**From:** hagelj@pjm.com  
**Sent:** Friday, September 24, 2004 8:13 AM  
**To:** ott@pjmexch01.pjm.com; pfirrk@pjmexch01.pjm.com; bowrij@pjm.com;  
hagelj@pjmexch01.pjm.com; zibela@pjmexch01.pjm.com; spectator@wrightlaw.com  
**Cc:** pfirrk@pjm.com; duanev@pjmexch01.pjm.com; bumgarner@wrightlaw.com  
**Subject:** Re: Regulation

Per discussion with Phil, we will file on Sepy. 30 and will advise mEmbers of intended filing via mAjor domo today or Monday. Vince preparing notice.  
-----

**Bowring, Joseph**

---

**From:** Bresler, Frederick S. (Stu)  
**Sent:** Friday, September 24, 2004 3:33 PM  
**To:** Paulson, Erik; Bowring, Joseph  
**Subject:** RE: Regulation

Joe - I agree with Erik's comments, and there are answers similar to his in the attached. I also think it may be better to remain silent on the actual decision by PJM to expand the Reg market, but if we have to mention it, we could say it was in the early July timeframe after we received the responses from MAIN and VACAR. As Erik indicates though, documentation would be sparse. I would say the first version of the whitepapers that reduced the number of Reg markets would be our best bet.

-----Original Message-----

---

**From:** Paulson, Erik  
**Sent:** Friday, September 24, 2004 7:14 AM  
**To:** Bowring, Joseph; Bresler, Frederick S. (Stu)  
**Subject:** RE: Regulation

Joe to answer some of your questions within the doc:

- For the vote at the stakeholder meetings to endorse the different spin / reg zones, we presented the revised layout and asked for approval of that layout long with the Tariff changes. So, my interpretation is that the members approved the specific set of which zones joins which Spin / Reg zones.

- Concerning the actual decision to move forward with two broad markets - maybe we drop this item as I do not think there is any documentation for this nor an exact date. This decision was the result of various discussions and ultimately the decision was made at the stakeholder meetings.

One general editorial comment, per the definitions that were filed with the Tariff changes, we call it the Western "Regulation Zone". You may want to change the phrases in the doc for "Western Ancillary Service Area" to "Western Regulation Zone".

Also - I am presenting business rule changes to the MIC on Tuesday. Within the business rules, we mention that the market is cost based. Will we be ready to announce this filing on Tuesday?

Erik

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 1:53 AM  
**To:** Bresler, Frederick S. (Stu); Paulson, Erik  
**Subject:** FW: Regulation

Please review attached for accuracy, misstatements, tone or anything else that you notice. I appreciate it.

- Joe

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 1:51 AM  
**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'  
**Cc:** 'pfirrk@pjm.com'; Duane, Vincent P.; 'Carrie Bumgarner (bumgarner@wrightlaw.com)'

**Subject:** RE: Regulation

Please ignore prior attachments and use the documents attached here.

-----Original Message-----

**From:** Bowring, Joseph

**Sent:** Friday, September 24, 2004 1:47 AM

**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'

**Cc:** pfirrk@pjm.com; Duane, Vincent P.; Carrie Bumgarner (bumgarner@wrightlaw.com)

**Subject:** RE: Regulation

All:

I have attached my revised affidavit as a Word document and a table in pdf. I will also send to PJM subject matter experts for technical review. Please let me have any and all comments as to substance and/or form etc. I have various questions listed as comments that I would appreciate your assistance with.

---

The draft as well as the associated data is confidential. Please do not provide to anyone outside PJM.

thanks,  
Joe

**Bowring, Joseph**

---

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 6:06 PM  
**To:** Hagele, Jack  
**Cc:** Zibelman, Audrey A.; 'pfirrk@pjm.com'; Kormos, M.J.; Ott, Andy; 'Barry SPECTOR'; Duane, Vincent P.  
**Subject:** RE: Regulation Affidavit

I don't agree with much of what you say in your email and respond to the substantive points below. I have received numerous comments on the affidavit and will send out a revised version tomorrow.

However, the essential point is that the ratio of supply to demand is not a well defined indicator of market power or the lack thereof - it is simply one measure of excess supply. The affidavit sets forth more analytical tests and ultimately requests that FERC decide, based on their stated market power tests and any mitigating factors that they wish to consider, whether they believe that the expanded regulation market is competitive.

The timing of the FERC decision is also up to FERC. Ideally it would occur after we file additional information after experience with the integration of AEP. There is no indefinite deferral.

I have stated clearly and continue to think that putting in market based rates without a determination of competition does not make sense and that the idea that we would put in market based rates and then reverse the decision is not a stable or sensible course.

With regard to the data, there are two points. First, the data was not "generated" in the last two days. The data was received from market participants in the last two days. It has nothing to do with the quality of the data, but the timing of receiving it. Second, there is a general concern over the quality of the data to the extent that the data on regulation availability may not reflect actual experience once markets begin.

With regard to uncertainty about how the regulation market will operate. I don't think there is any question about the fact that there is uncertainty. This a brand new construct, operating across multiple control areas where there has never been a single regulation market or construct. This is very different from the history and current practice in PJM. The regulation market certainly did not work very well at the outset in NICA and did not work as anticipated.

-----Original Message-----

**From:** Hagele, Jack  
**Sent:** Friday, September 24, 2004 4:46 PM  
**To:** Bowring, Joseph  
**Cc:** Zibelman, Audrey A.; pfirrk@pjm.com; Kormos, M.J.; Ott, Andy; 'Barry SPECTOR'; Duane, Vincent P.  
**Subject:** Regulation Affidavit

Joe, I have reviewed your draft affidavit (distributed at 1:51 a.m. today) and have the following comments/concerns:

Section 33: This section appears to abrogate the agreement reached among you, Karl, Mike, Andy, Vince, Barry and me last Wednesday. At the end of that meeting I carefully articulated, and Vince's clarifying question confirmed, that PJM will ask, with your affidavit in support, that market-based rates become effective upon the later of 60 days from filing or the date of integration of Dominion. The decision was based on the expectation that after the integration of Dominion, there will be enough surplus regulation supply to offset market concentration, leading

to a competitive market. It was agreed that although one can not be certain that the apparently available surplus will be offered, the default should be to market-based rates unless and until it appears that the surplus is not, in fact, being made available. If observations during the period before or after the market-based rates become effective indicate that the expectations concerning surplus regulation are not fulfilled, PJM will petition FERC to revert to cost-based rates. However, the request is that the market-based rates become automatically effective upon integration of Dominion.

Your Section 33 reverses that decision and would defer market-based rates indefinitely until the PJM MMU comes forward with its further analysis justifying the move to market-based rates. That is contrary to our Wednesday agreement, which I understand you confirmed to Karl as recently as yesterday. This is, to me, a very serious breach of the integrity of our internal process for reaching agreement and moving forward on important issues. If I have misunderstood the intent of Section 33, I apologize. If I have not, I urge all recipients of this email to address the matter first thing Monday morning and then take it to Phil if not (finally) resolved. Unfortunately, I will be traveling on Monday, but will try to be available by phone until mid-morning and again in the mid-afternoon.

Some other points of less consequence, but which I think need attention:

Section 16: In the penultimate sentence you make reference to the data being analyzed having been generated in the "last two days." This reads as an indication of uncertainty over the quality of the data, which I trust you do not intend. In any event, since this draft was produced last night, when we file next Friday, I presume it would have to be changed to read "last 10 days," which would seem rather strange. I suggest that the sentence be deleted or clarified.

Section 32: The last sentence reads: "In addition to market power concerns, there is some uncertainty about exactly how the provision of regulation over such a large footprint will work." Is the large Western Region so different from the large Mid-Atlantic Region? What is it that you are uncertain about? This sentence raises undefined issues of concern and should be clarified or deleted.

Jack

**Bowring, Joseph**

---

**From:** Ott, Andy  
**Sent:** Friday, September 24, 2004 10:06 PM  
**To:** Bowring, Joseph  
**Subject:** RE: Regulation

Joe, My comments

in paragraph 10. In my opinion, there were never locational regulation requirements under consideration by markets, some of the ops people might have had the mistaken impression it was necessary but it was never truly proposed that way. PJM classic never had locational regulation requirements in operations and there was no reason to believe they were necessary. The only issue under consideration to segregate regulation was different Reliability regions (MAAC, ECAR, MAIN etc)

---

in paragraph 17, I did not realize that the first configuration analysis included Duquesne ? the data that you attached and reference in paragraph 30 does not appear to include Duquesne. Also I do not think configuration 2 included Duquesne either at least according to the data you show ? I could be wrong but the data seems inconsistent with the Duquesne reference ?

in paragraph 33, I do agree with Jack that your wording does not coincide with our 'agreement' I am not sure that I understand your reluctance to agree with allowing the market to be market based on the assumption the data is correct. I do understand that you may not want to specifically offer this suggestion in your sworn affidavit. But you could just state the facts in the affidavit and state that given these facts, there are two ways to proceed. Either implement cost-based and wait for further evidence or implement market based and keep an eye on it. Then you can let me, make the fateful decision to go with market based. I believe that either way, the exercise of market power can be controlled. And under the current circumstances, I believe that giving the market-based approach the benefit of the doubt is the better way to go.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 1:51 AM  
**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'  
**Cc:** 'pfirrk@pjm.com'; Duane, Vincent P.; 'Carrie Bumgarner (bumgarner@wrightlaw.com)'  
**Subject:** RE: Regulation

Please ignore prior attachments and use the documents attached here.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 1:47 AM  
**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'  
**Cc:** pfirrk@pjm.com; Duane, Vincent P.; Carrie Bumgarner (bumgarner@wrightlaw.com)  
**Subject:** RE: Regulation

All:

I have attached my revised affidavit as a Word document and a table in pdf. I will also send to PJM

subject matter experts for technical review. Please let me have any and all comments as to substance and/or form etc. I have various questions listed as comments that I would appreciate your assistance with.

The draft as well as the associated data is confidential. Please do not provide to anyone outside PJM.

thanks,  
Joe

---

**Bowring, Joseph**

---

**From:** pfirrk@pjm.com  
**Sent:** Sunday, September 26, 2004 8:26 AM  
**To:** bowrij@pjm.com; hagelj@pjmexch01.pjm.com  
**Cc:** zibela@pjmexch01.pjm.com; pfirrk@pjm.com; kormosmj@pjmexch01.pjm.com; ott@pjmexch01.pjm.com; Spector@wrightlaw.com; duanev@pjmexch01.pjm.com  
**Subject:** Re: Regulation Affidavit

Jack and Joe,

All said, Jack's representation of our agreement is exactly as I recall it. This issue, like others before it, comes down to a simple difference of opinion on how to move forward with competitive markets. Some of us, me included, believe that competitive markets should be the default in the absence of rock hard evidence that competitive markets won't work. Others, and I'll opine that I believe this includes Joe but of course he can confirm or deny, believe that regulated, cost based markets should prevail in the absence of rock hard data that competitive ~~markets won't have a chance of bringing harm to market participants.~~ We in PJM must decide which approach we'll use to guide our decisions moving forward.

Karl  
-----

**Bowring, Joseph**


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**From:** Bowring, Joseph  
**Sent:** Sunday, September 26, 2004 12:08 PM  
**To:** Racioppi, Frank  
**Subject:** RE: Regulation Affidavit

I am reworking the affidavit now.  
 I have not heard any responses to my Friday email.  
 The claim is just being repeated that we all agreed to file for automatic market based rates effective with Dominion unless we file something before then identifying an issue and specifying a solution.  
 I will forward you the related email in a minute.

-----Original Message-----

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**From:** Racioppi, Frank  
**Sent:** Sunday, September 26, 2004 12:05 PM  
**To:** Bowring, Joseph; Scheidecker, Paul  
**Subject:** RE: Regulation Affidavit

Joe,

Did you send out a revised affidavit yesterday (Sat)? Aside from that these are excellent answers!! I especially like the last two points and that these can not be overstated enough. I would be curious as to the response(s) if any.

Frank

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 6:07 PM  
**To:** Racioppi, Frank; Scheidecker, Paul  
**Subject:** FW: Regulation Affidavit

fyi - Let me know if I missed anything.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 6:06 PM  
**To:** Hagele, Jack  
**Cc:** Zibelman, Audrey A.; 'pfirrk@pjm.com'; Kormos, M.J.; Ott, Andy; 'Barry SPECTOR'; Duane, Vincent P.  
**Subject:** RE: Regulation Affidavit

I don't agree with much of what you say in your email and respond to the substantive points below. I have received numerous comments on the affidavit and will send out a revised version tomorrow.

However, the essential point is that the ratio of supply to demand is not a well defined indicator of market power or the lack thereof - it is simply one measure of excess supply. The affidavit sets forth more analytical tests and ultimately requests that FERC decide, based on their stated market power tests and any mitigating factors that they wish to consider, whether they believe that the expanded regulation market is competitive.

The timing of the FERC decision is also up to FERC. Ideally it would occur after we file additional information after experience with the integration of AEP. There is no indefinite deferral.

I have stated clearly and continue to think that putting in market based rates without a determination of competition does not make sense and that the idea that we would put in market based rates and then reverse the decision is not a stable or sensible course.

With regard to the data, there are two points. First, the data was not "generated" in the last two days. The data was received from market participants in the last two days. It has nothing to do with the quality of the data, but the timing of receiving it. Second, there is a general concern over the quality of the data to the extent that the data on regulation availability may not reflect actual experience once markets begin.

With regard to uncertainty about how the regulation market will operate. I don't think there is any question about the fact that there is uncertainty. This a brand new construct, operating across multiple control areas where there has never been a single regulation market or construct. This is very different from the history and current practice in PJM. The regulation market certainly did not work very well at the outset in NICA and did not work as anticipated.

-----Original Message-----

**From:** Hagele, Jack

**Sent:** Friday, September 24, 2004 4:46 PM

**To:** Bowring, Joseph

**Cc:** Zibelman, Audrey A.; pfirrk@pjm.com; Kormos, M.J.; Ott, Andy; 'Barry SPECTOR'; Duane, Vincent P.

**Subject:** Regulation Affidavit

Joe, I have reviewed your draft affidavit (distributed at 1:51 a.m. today) and have the following comments/concerns:

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Your Section 33 reverses that decision and would defer market-based rates indefinitely until the PJM MMU comes forward with its further analysis justifying the move to market-based rates. That is contrary to our Wednesday agreement, which I understand you confirmed to Karl as recently as yesterday. This is, to me, a very serious breach of the integrity of our internal process for reaching agreement and moving forward on important issues. If I have misunderstood the intent of Section 33, I apologize. If I have not, I urge all recipients of this email to address the matter first thing Monday morning and then take it to Phil if not (finally) resolved. Unfortunately, I will be traveling on Monday, but will try to be available by phone until mid-morning and again in the mid-afternoon.

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Jack

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## **Bowring, Joseph**

---

**From:** Zibelman, Audrey A.  
**Sent:** Sunday, September 26, 2004 8:04 PM  
**To:** Bowring, Joseph; Hagele, Jack  
**Cc:** 'pfirrk@pjm.com'; Kormos, M.J.; Ott, Andy; 'spector@wrightlaw.com'; Duane, Vincent P.  
**Subject:** Re: Regulation Affidavit

Ok - here is the plan - we will have a call at 8 tomorrow to determine how we will get past this impasse and make the filing tomorrow - I will call jack and karl on their cells - everyone else can meet in my office -  
-----

-----Original Message-----

From: Bowring, Joseph <bowrij@pjmexch01.pjm.com>  
To: Hagele, Jack <hagelj@pjmexch01.pjm.com>  
CC: Zibelman, Audrey A. <zibela@pjmexch01.pjm.com>; 'pfirrk@pjm.com' <pfirrk@pjm.com>; Kormos, M.J. <kormosmj@pjmexch01.pjm.com>; Ott, Andy <ott@pjmexch01.pjm.com>; 'Barry SPECTOR' <Spector@wrightlaw.com>; Duane, Vincent P. <duanev@pjmexch01.pjm.com>  
Sent: Fri Sep 24 18:06:18 2004  
Subject: RE: Regulation Affidavit

I don't agree with much of what you say in your email and respond to the substantive points below. I have received numerous comments on the affidavit and will send out a revised version tomorrow.

However, the essential point is that the ratio of supply to demand is not a well defined indicator of market power or the lack thereof - it is simply one measure of excess supply. The affidavit sets forth more analytical tests and ultimately requests that FERC decide, based on their stated market power tests and any mitigating factors that they wish to consider, whether they believe that the expanded regulation market is competitive.

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-----Original Message-----

From: Hagele, Jack  
Sent: Friday, September 24, 2004 4:46 PM  
To: Bowring, Joseph  
Cc: Zibelman, Audrey A.; pfirrk@pjm.com; Kormos, M.J.; Ott, Andy; 'Barry SPECTOR'; Duane, Vincent P.  
Subject: Regulation Affidavit

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Jack

## Bowring, Joseph

---

**From:** Bowring, Joseph  
**Sent:** Sunday, September 26, 2004 9:51 PM  
**To:** Zibelman, Audrey A.; Hagele, Jack  
**Cc:** 'pfirrk@pjm.com'; Kormos, M.J.; Ott, Andy; 'spector@wrightlaw.com'; Duane, Vincent P.  
**Subject:** RE: Regulation Affidavit



Bowring Reg Aff  
092604.doc (64...

I have attached the revised affidavit.

-----Original Message-----

From: Zibelman, Audrey A.  
Sent: Sunday, September 26, 2004 8:04 PM  
To: Bowring, Joseph; Hagele, Jack  
Cc: 'pfirrk@pjm.com'; Kormos, M.J.; Ott, Andy; 'spector@wrightlaw.com'; Duane, Vincent P.  
Subject: Re: Regulation Affidavit

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To: Hagele, Jack <hagelj@pjmexch01.pjm.com>  
CC: Zibelman, Audrey A. <zibela@pjmexch01.pjm.com>; 'pfirrk@pjm.com' <pfirrk@pjm.com>; Kormos, M.J. <kormosmj@pjmexch01.pjm.com>; Ott, Andy <ott@pjmexch01.pjm.com>; 'Barry SPECTOR' <Spector@wrightlaw.com>; Duane, Vincent P. <duanev@pjmexch01.pjm.com>  
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From: Hagele, Jack

Sent: Friday, September 24, 2004 4:46 PM

To: Bowring, Joseph

Cc: Zibelman, Audrey A.; pfirrk@pjm.com; Kormos, M.J.; Ott, Andy; 'Barry SPECTOR'; Duane, Vincent P.

Subject: Regulation Affidavit

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Jack

## **Bowring, Joseph**

---

**From:** Bowring, Joseph  
**Sent:** Sunday, September 26, 2004 9:52 PM  
**To:** Bresler, Frederick S. (Stu); Paulson, Erik  
**Subject:** FW: Regulation Affidavit



Bowring Reg Aff  
092604.doc (64...

I appreciate your comments - I think I have correctly incorporated them.  
Please let me know if not.

-----Original Message-----

From: Bowring, Joseph  
Sent: Sunday, September 26, 2004 9:51 PM  
To: Zibelman, Audrey A.; Hagele, Jack  
Cc: 'pfirrk@pjm.com'; Kormos, M.J.; Ott, Andy; 'spector@wrightlaw.com'; Duane, Vincent P.  
Subject: RE: Regulation Affidavit

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To: Bowring, Joseph; Hagele, Jack  
Cc: 'pfirrk@pjm.com'; Kormos, M.J.; Ott, Andy; 'spector@wrightlaw.com'; Duane, Vincent P.  
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To: Hagele, Jack <hagelj@pjmexch01.pjm.com>  
CC: Zibelman, Audrey A. <zibela@pjmexch01.pjm.com>; 'pfirrk@pjm.com' <pfirrk@pjm.com>; Kormos, M.J. <kormosmj@pjmexch01.pjm.com>; Ott, Andy <ott@pjmexch01.pjm.com>; 'Barry SPECTOR' <Spector@wrightlaw.com>; Duane, Vincent P. <duanev@pjmexch01.pjm.com>  
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Cc: Zibelman, Audrey A.; pfirrk@pjm.com; Kormos, M.J.; Ott, Andy; 'Barry SPECTOR'; Duane, Vincent P.

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Jack

## Bowring, Joseph

---

**From:** Benner, Scott  
**Sent:** Monday, September 27, 2004 9:34 AM  
**To:** Racioppi, Frank; Generation Department  
**Cc:** Scheidecker, Paul; Bowring, Joseph; Williams, Stanley  
**Subject:** RE: Integrated Zone Regulation Tests

No, I don't have any of this.

I don't have a list of who's eligible to regulate, much less any historical data, or even regulation hi/lo limits.

-- Scott Benner  
Performance Compliance, PJM Interconnection  
bennes@pjm.com

---

-----Original Message-----

**From:** Racioppi, Frank  
**Sent:** Sunday, September 26, 2004 5:49 PM  
**To:** Benner, Scott  
**Cc:** Scheidecker, Paul; Bowring, Joseph; Williams, Stanley  
**Subject:** Integrated Zone Regulation Tests

Scott,

Have any generators in the new integrated zones (AEP/Dayton/VEP/DUQ) performed Regulation testing and if so, do you have a list of which generators tested and either failed or passed and what their regulation bands are for those who passed? This is extremely important as we try to analyze how these integrated markets are going to operate.

If you are not the right person, could you let me know and I will forward this request.

Thanks  
Frank

**Bowring, Joseph**

---

**From:** Duane, Vincent P.  
**Sent:** Monday, September 27, 2004 10:43 AM  
**To:** Bowring, Joseph; Kormos, M.J.; Ott, Andy  
**Cc:** Harris, P.G.; Zibelman, Audrey A.; 'pfirrk@pjm.com'; Hagele, Jack  
**Subject:** RE: Regulation Filing and Major Domo Notice

Gentleman: as discussed this morning please see the form of proposed notice below. Jack has provided this version to Phil to solicit any comments he may have before transmittal today. Similarly, provide me any suggestions you may have. Thanks.

\*\*\*\*\* PROPOSED MAJOR DOMO NOTICE

---

Dear Members:

Section 3.2.3 of Schedule 1 of the PJM Operating Agreement provides that PJM shall conduct the Regulation markets as cost-based "unless and until market-based pricing is authorized for Regulation" in the applicable Regulation Zone. To date the Regulation markets in the ComEd and Allegheny zones have operated as cost-based markets. Based on prior Commission approval, the Regulation market in PJM East was converted from a cost-based to a market-based structure in .

Upon integration of American Electric Power, Dayton Power and Light and Dominion Virginia Power, PJM expects that the Regulation market for the newly constituted PJM West/South Regulation Zone will be sufficiently competitive to warrant conversion to a market-based structure. Although ownership concentration in PJM West will remain high, PJM's expectation of sufficient competition rests on assumptions as to the overall abundance of supply relative to demand.

Therefore, on September 30, 2004, PJM plans to file with the Commission a showing of competitiveness in the PJM West/South Regulation market and a request that the Commission authorize the conversion of the market from a cost-based to a market-based structure. PJM will request a market-based structure upon Dominion's integration, but in any event no earlier than 60 days from the date of filing. PJM will highlight the assumptions upon which the request is made. If PJM's observations of the Regulation market following the AEP/Dayton integration indicate that the assumptions underlying the request no longer hold, PJM will so advise the Commission and request that the Commission suspend conversion to a market-based structure.

PJM provides this notice of its intended filing for the benefit of its market participants to assist in their planning for the upcoming integrations. Please understand that the expected timing and outcome of this initiative are subject to factors outside of PJM's control, including ultimate decision-making by the Commission.

**Bowring, Joseph**

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**From:** Bowring, Joseph  
**Sent:** Monday, September 27, 2004 1:12 PM  
**To:** Duane, Vincent P.; Kormos, M.J.; Ott, Andy  
**Cc:** Harris, P.G.; Zibelman, Audrey A.; 'pfirrk@pjm.com'; Hagele, Jack  
**Subject:** RE: Regulation Filing and Major Domo Notice

- I assume that there are no plans to implement market based rate prior to Dominion? (60 day language below) That has not been discussed.
- If PJM is planning to make a "showing of competitiveness", I am not sure what that is.

-----Original Message-----

---

**From:** Duane, Vincent P.  
**Sent:** Monday, September 27, 2004 10:43 AM  
**To:** Bowring, Joseph; Kormos, M.J.; Ott, Andy  
**Cc:** Harris, P.G.; Zibelman, Audrey A.; 'pfirrk@pjm.com'; Hagele, Jack  
**Subject:** RE: Regulation Filing and Major Domo Notice

Gentleman: as discussed this morning please see the form of proposed notice below. Jack has provided this version to Phil to solicit any comments he may have before transmittal today. Similarly, provide me any suggestions you may have. Thanks.

\* \* \* \* \* PROPOSED MAJOR DOMO NOTICE

Dear Members:

Section 3.2.3 of Schedule 1 of the PJM Operating Agreement provides that PJM shall conduct the Regulation markets as cost-based "unless and until market-based pricing is authorized for Regulation" in the applicable Regulation Zone. To date the Regulation markets in the ComEd and Allegheny zones have operated as cost-based markets. Based on prior Commission approval, the Regulation market in PJM East was converted from a cost-based to a market-based structure in .

Upon integration of American Electric Power, Dayton Power and Light and Dominion Virginia Power, PJM expects that the Regulation market for the newly constituted PJM West/South Regulation Zone will be sufficiently competitive to warrant conversion to a market-based structure. Although ownership concentration in PJM West will remain high, PJM's expectation of sufficient competition rests on assumptions as to the overall abundance of supply relative to demand.

Therefore, on September 30, 2004, PJM plans to file with the Commission a showing of competitiveness in the PJM West/South Regulation market and a request that the Commission authorize the conversion of the market from a cost-based to a market-based structure. PJM will request a market-based structure upon Dominion's integration, but in any event no earlier than 60 days from the date of filing. PJM will highlight the assumptions upon which the request is made. If PJM's observations of the Regulation market following the AEP/Dayton integration indicate that the assumptions underlying the request no longer hold, PJM will so advise the Commission and request that the Commission suspend conversion to a market-based structure.

PJM provides this notice of its intended filing for the benefit of its market participants to assist in their planning for the upcoming integrations. Please understand that the expected timing and outcome of this initiative are subject to factors outside of PJM's control, including ultimate decision-making by the Commission.

## Bowring, Joseph

---

**From:** Baranowski, John  
**Sent:** Monday, September 27, 2004 2:12 PM  
**To:** Bowring, Joseph  
**Cc:** Kormos, M.J.; Scheidecker, Paul; Racioppi, Frank; Caven, Augustine  
**Subject:** RE: Regulation

No disagreement... the change is that these units will now be part of the PJM control area, Washington and Hanging Rock on 10/1, Sugar Creek on 10/4. Note that Sugar Creek has not regulated previously, so they will not be available to regulate on 10/4.

As I noted, these are all recent changes which have not yet been reflected in the master sheets. Augustine, please forward the updated info from Duke and Reliant to MMU.

---

John B.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Monday, September 27, 2004 12:55 PM  
**To:** Baranowski, John  
**Cc:** Kormos, M.J.; Scheidecker, Paul; Racioppi, Frank  
**Subject:** FW: Regulation

Please let me know if you disagree with the below.

-----Original Message-----

**From:** Scheidecker, Paul  
**Sent:** Monday, September 27, 2004 10:22 AM  
**To:** Bowring, Joseph; Racioppi, Frank  
**Subject:** RE: Regulation

Joe,

As we discussed, the unit information provided by the Generation Group was relied upon to construct the regulation capabilities by owner. As of this morning, there is no regulation capability listed for Washington, Hanging Rock or Sugar Creek units. The present state of our modeling correctly reflects this. If there has been a change in the regulating status of these units, the Generation group needs to record this in their AEP Master Unit Information Document (DOCS# 256482) so that we can incorporate it into our model. The last time that this file has been updated by the Generation Group is September 2, 2004.

With regard to the representation of Bath County, our model currently reflects the ownership structure that John describes in his email.

Thank You,

Paul

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Monday, September 27, 2004 10:05 AM  
**To:** Racioppi, Frank; Scheidecker, Paul  
**Subject:** FW: Regulation

SMM - 00488

6/3/2007

Please check on this

-----Original Message-----

**From:** Baranowski, John

**Sent:** Monday, September 27, 2004 10:01 AM

**To:** Kormos, M.J.

**Cc:** Bowring, Joseph

**Subject:** RE: Regulation

Mike,

I reviewed Joe's assessment, and there are 2 recent changes which were not reflected in his analysis.

First, Duke has decided to de-certified their generation only control areas (Washington and Hanging Rock) which will make an additional 510 MW of regulating capability available in AEP.

~~Second, Reliant is planning to connect Sugar Creek to PJM (the unit can be connected to either MISO or PJM), and have the units available to regulate. Reliant has not regulated with these units, and the should add additional regulation in the near future (once they are qualified by PJM).~~

In general, Duke should reduce the risks Joe identified for 10/1, and will reduce the market shares post Dominion to be closer to (but still not below) the 20% threshold. Also, since AETS owns 40% of Bath, and they will be able to use their shares to regulate starting 11/1, the Dominion numbers may need to be reduce by 40% of Bath regulation, and the 40% share should be moved to AETS. Bath will be modeled as 2 'units', and Dominion and AETS will bid in separately. This should reduce the Dom market share, and should result in getting much closer to 20% for all participants.

John B.

-----Original Message-----

**From:** Kormos, M.J.

**Sent:** Friday, September 24, 2004 10:40 AM

**To:** Baranowski, John

**Subject:** FW: Regulation

-----Original Message-----

**From:** Bowring, Joseph

**Sent:** Friday, September 24, 2004 2:00 AM

**To:** Kormos, M.J.

**Subject:** FW: Regulation

Please review if you have the time - I would appreciate any and all comments/disagreements etc

thanks

-----Original Message-----

**From:** Bowring, Joseph

**Sent:** Friday, September 24, 2004 1:51 AM

**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'

**Cc:** 'pfirrk@pjm.com'; Duane, Vincent P.; 'Carrie Bumgarner (bumgarner@wrightlaw.com)'

**Subject:** RE: Regulation

Please ignore prior attachments and use the documents attached here.

-----Original Message-----

**From:** Bowring, Joseph

SMM - 00489

6/3/2007

**Sent:** Friday, September 24, 2004 1:47 AM  
**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'  
**Cc:** pfirrk@pjm.com; Duane, Vincent P.; Carrie Bumgarner  
(bumgarner@wrightlaw.com)  
**Subject:** RE: Regulation

All:

I have attached my revised affidavit as a Word document and a table in pdf. I will also send to PJM subject matter experts for technical review. Please let me have any and all comments as to substance and/or form etc. I have various questions listed as comments that I would appreciate your assistance with.

The draft as well as the associated data is confidential. Please do not provide to anyone outside PJM.

thanks,  
Joe

---

**Bowring, Joseph**

---

**From:** Bowring, Joseph  
**Sent:** Monday, September 27, 2004 3:54 PM  
**To:** Baranowski, John  
**Cc:** Kormos, M.J.; Scheidecker, Paul; Racioppi, Frank; Caven, Augustine  
**Subject:** RE: Regulation

If you are going to update these numbers so that we can rely on them, please do so immediately.  
Thanks

-----Original Message-----

**From:** Baranowski, John  
**Sent:** Monday, September 27, 2004 2:12 PM  
**To:** Bowring, Joseph  
**Cc:** Kormos, M.J.; Scheidecker, Paul; Racioppi, Frank; Caven, Augustine  
**Subject:** RE: Regulation

No disagreement... the change is that these units will now be part of the PJM control area, Washington and Hanging Rock on 10/1, Sugar Creek on 10/4. Note that Sugar Creek has not regulated previously, so they will not be available to regulate on 10/4.

As I noted, these are all recent changes which have not yet been reflected in the master sheets. Augustine, please forward the updated info from Duke and Reliant to MMU.

John B.

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Monday, September 27, 2004 12:55 PM  
**To:** Baranowski, John  
**Cc:** Kormos, M.J.; Scheidecker, Paul; Racioppi, Frank  
**Subject:** FW: Regulation

Please let me know if you disagree with the below.

-----Original Message-----

**From:** Scheidecker, Paul  
**Sent:** Monday, September 27, 2004 10:22 AM  
**To:** Bowring, Joseph; Racioppi, Frank  
**Subject:** RE: Regulation

Joe,

As we discussed, the unit information provided by the Generation Group was relied upon to construct the regulation capabilities by owner. As of this morning, there is no regulation capability listed for Washington, Hanging Rock or Sugar Creek units. The present state of our modeling correctly reflects this. If there has been a change in the regulating status of these units, the Generation group needs to record this in their AEP Master Unit Information Document (DOCS# 256482) so that we can incorporate it into our model. The last time that this file has been updated by the Generation Group is September 2, 2004.

With regard to the representation of Bath County, our model currently reflects the ownership structure that John describes in his email.

Thank You,

Paul

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Monday, September 27, 2004 10:05 AM  
**To:** Racioppi, Frank; Scheidecker, Paul  
**Subject:** FW: Regulation

Please check on this

-----Original Message-----

**From:** Baranowski, John  
**Sent:** Monday, September 27, 2004 10:01 AM  
**To:** Kormos, M.J.  
**Cc:** Bowring, Joseph  
**Subject:** RE: Regulation

Mike,

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First, Duke has decided to de-certified their generation only control areas (Washington and Hanging Rock) which will make an additional 510 MW of regulating capability available in AEP.

Second, Reliant is planning to connect Sugar Creek to PJM (the unit can be connected to either MISO or PJM), and have the units available to regulate. Reliant has not regulated with these units, and they should add additional regulation in the near future (once they are qualified by PJM).

In general, Duke should reduce the risks Joe identified for 10/1, and will reduce the market shares post Dominion to be closer to (but still not below) the 20% threshold. Also, since AETS owns 40% of Bath, and they will be able to use their shares to regulate starting 11/1, the Dominion numbers may need to be reduced by 40% of Bath regulation, and the 40% share should be moved to AETS. Bath will be modeled as 2 'units', and Dominion and AETS will bid in separately. This should reduce the Dom market share, and should result in getting much closer to 20% for all participants.

John B.

-----Original Message-----

**From:** Kormos, M.J.  
**Sent:** Friday, September 24, 2004 10:40 AM  
**To:** Baranowski, John  
**Subject:** FW: Regulation

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Friday, September 24, 2004 2:00 AM  
**To:** Kormos, M.J.  
**Subject:** FW: Regulation

Please review if you have the time - I would appreciate any and all

comments/disagreements etc  
thanks

-----Original Message-----

**From:** Bowring, Joseph

**Sent:** Friday, September 24, 2004 1:51 AM

**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'

**Cc:** 'pfirrk@pjm.com'; Duane, Vincent P.; 'Carrie Bumgarner  
(bumgarner@wrightlaw.com)'

**Subject:** RE: Regulation

Please ignore prior attachments and use the documents attached here.

-----Original Message-----

**From:** Bowring, Joseph

**Sent:** Friday, September 24, 2004 1:47 AM

**To:** Hagele, Jack; Zibelman, Audrey A.; Ott, Andy; 'Barry SPECTOR'

**Cc:** pfirrk@pjm.com; Duane, Vincent P.; Carrie Bumgarner  
(bumgarner@wrightlaw.com)

**Subject:** RE: Regulation

All:

I have attached my revised affidavit as a Word document and a table in pdf. I will also send to PJM subject matter experts for technical review. Please let me have any and all comments as to substance and/or form etc. I have various questions listed as comments that I would appreciate your assistance with.

The draft as well as the associated data is confidential. Please do not provide to anyone outside PJM.

thanks,  
Joe

## Bowring, Joseph

---

**From:** Bowring, Joseph  
**Sent:** Monday, September 27, 2004 4:58 PM  
**To:** 'Barry SPECTOR'  
**Subject:** RE: New data

The data will add some new regulation capability. It may create a new supplier with a greater than 20% share. Depending on the level, it will impact the HHI results and the pivotal supplier analysis. The additional regulation capability informally provided by Baranowski is suspect - it appears to be twice the actual regulation capability.

-----Original Message-----

From: Barry SPECTOR [mailto:SPECTOR@wrightlaw.com]  
Sent: Monday, September 27, 2004 4:50 PM  
To: bowrij@pjm.com  
Cc: CARRIE BUMGARNER  
Subject: ~~Re: New data~~

I'm not sure I follow what is suspect. The data you were previously working with or John's reporting of new information? I assume the potentially significant change from adding capability would be to reduce market shares and increase excess supply, making it more likely to be competitive. Please confirm that is what you mean, so we know what direction we are moving. Thanks.

>>> <bowrij@pjm.com> 9/27/2004 4:44:25 PM >>>

John Baranowski informed us today that his group had not added some regulation capability to the data base. We cannot finalize our analysis without the data which has still not been added. The numbers as initially reported to us are suspect. We are confirming the data with the generation owner. The impact on the analysis is potentially significant. We will update as soon as we receive the data.

**Bowring, Joseph**

---

**From:** Bowring, Joseph  
**Sent:** Monday, September 27, 2004 5:19 PM  
**To:** Scheidecker, Paul; Racioppi, Frank  
**Subject:** FW: pjw-mc Anticipated PJM Filing Regarding PJM West/South Regulation Market

-----Original Message-----

**From:** owner-pjm-mc@pjm.com [mailto:owner-pjm-mc@pjm.com] **On Behalf Of** andersd@pjm.com  
**Sent:** Monday, September 27, 2004 4:54 PM  
**To:** pjw-mc@majoromo.pjm.com  
**Subject:** pjw-mc Anticipated PJM Filing Regarding PJM West/South Regulation Market

---

Dear Members:

Section 3.2.3 of Schedule 1 of the PJM Operating Agreement provides that PJM shall conduct the Regulation markets as cost-based "unless and until market-based pricing is authorized for Regulation" in the applicable Regulation Zone. To date the Regulation markets in the ComEd and Allegheny zones have operated as cost-based markets. Based on prior Commission approval, the Regulation market in PJM East was converted from a cost-based to a market-based structure in 2000.

Upon integration of American Electric Power, Dayton Power and Light and Dominion Virginia Power, PJM expects that the Regulation market for the newly constituted PJM West/South Regulation Zone will be sufficiently competitive to warrant conversion to a market-based structure. Therefore, on September 30, 2004, PJM plans to file to request that the Commission authorize the conversion of the PJM West/South Regulation market from a cost-based to a market-based structure. PJM will request a market-based structure upon Dominion's integration, but in any event no earlier than 60 days from the date of filing.

PJM provides this notice of its intended filing for the benefit of its market participants to assist in their planning for the upcoming integrations. Please understand that the expected timing and outcome of this initiative are subject to factors outside of PJM's control, including ultimate decision-making by the Commission.

Vincent P. Duane  
Deputy General Counsel  
PJM Interconnection, LLC  
955 Jefferson Avenue  
Norristown, PA 19403  
(610) 666 4367 (phone)  
(610) 666 4281 (fax)

## Bowring, Joseph

---

**From:** Barry SPECTOR [SPECTOR@wrightlaw.com]  
**Sent:** Monday, September 27, 2004 5:22 PM  
**To:** bowrij@pjm.com  
**Cc:** CARRIE BUMGARNER  
**Subject:** RE: New data

Forgot to mention, but at some point we will need exhibits to go with your declaration showing where the data comes from, ie listing of generation owners and their capacity, etc. We will seek confidential treatment to the extent necessary. But I think FERC's got to see the data we are working with, rather than just the outcomes of the calculations.

>>> <bowrij@pjm.com> 9/27/2004 4:57:30 PM >>>

The data will add some new regulation capability. It may create a new supplier with a greater than 20% share. Depending on the level, it will impact the HHI results and the pivotal supplier analysis. The additional regulation capability informally provided by ~~Baranowski is suspect - it appears to be twice the actual regulation capability.~~

-----Original Message-----

From: Barry SPECTOR [mailto:SPECTOR@wrightlaw.com]  
Sent: Monday, September 27, 2004 4:50 PM  
To: bowrij@pjm.com  
Cc: CARRIE BUMGARNER  
Subject: Re: New data

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Please confirm

that is what you mean, so we know what direction we are moving.

Thanks.

>>> <bowrij@pjm.com> 9/27/2004 4:44:25 PM >>>

John Baranowski informed us today that his group had not added some regulation capability to the data base. We cannot finalize our analysis without the data which has still not been added. The numbers as initially reported to us are suspect. We are confirming the data with the generation owner. The impact on the analysis is potentially significant. We will update as soon as we receive the data.

## **Bowring, Joseph**

---

**From:** spectator@wrightlaw.com  
**Sent:** Tuesday, September 28, 2004 10:02 PM  
**To:** bowrij@pjm.com  
**Subject:** RE: Market Based Rate Regulation Filing

You, ll have to fax it to me tonight at the NY Hilton Towers. Otherwise, I won't see it until tomorrow night. I am in a meeting in NY all day. Hotel phone is 212-586-7000. I don't have the fax number.

Barry S. Spector  
Wright & Talisman, P.C.  
202-393-1200

[Message delivered by NotifyLink]

-----Original Message-----

---

**From:** bowrij@pjm.com  
**Sent:** Tue, September 28, 2004 9:31 PM  
**To:** spectator@wrightlaw.com  
**Subject:** RE: Market Based Rate Regulation Filing

Will you be getting email?  
If I get this thing out in a couple of hours, will you have it with you tomorrow?

-----Original Message-----

**From:** spectator@wrightlaw.com [mailto:spectator@wrightlaw.com]  
**Sent:** Tuesday, September 28, 2004 9:29 PM  
**To:** zibela@pjm.com; duanev@pjm.com; Bumgarner@wrightlaw.com; bowrij@pjm.com; glazec@pjm.com; hagelj@pjm.com; ott@pjm.com; pfirrk@pjm.com; zibela@pjm.com  
**Subject:** Re: Market Based Rate Regulation Filing

Please also copy Carrie Bumgarner in my office with all comments, as I am out of town on Wednesday. Thanks.

Barry S. Spector  
Wright & Talisman, P.C.  
202-393-1200

[Message delivered by NotifyLink]

-----Original Message-----

**From:** zibela@pjm.com  
**Sent:** Tue, September 28, 2004 8:48 PM  
**To:** duanev@pjm.com, Bumgarner@wrightlaw.com, bowrij@pjm.com, glazec@pjm.com, hagelj@pjm.com, ott@pjm.com, pfirrk@pjm.com, zibela@pjm.com  
**Cc:** spectator@wrightlaw.com  
**Subject:** Re: Market Based Rate Regulation Filing

Joe is working on his affidavit and will have it out this evening - joe is out of town and we will have a limited opportunity to work together tomorrow - to avoid confusion, please get your comments to barry so we can have one person responsible for finalizing the document - thanks

-----

## Bowring, Joseph

---

**From:** Bowring, Joseph  
**Sent:** Tuesday, September 28, 2004 11:03 PM  
**To:** 'zibela@pjm.com'; duanev@pjm.com; Bumgarner@wrightlaw.com; glazec@pjm.com; hagelj@pjm.com; ott@pjm.com; pfirrk@pjm.com  
**Cc:** spector@wrightlaw.com  
**Subject:** RE: Market Based Rate Regulation Filing



Bowring Reg Aff  
092904.doc (71...

I have attached the modified affidavit. The presentation of the results tracks the FERC market power Order more closely. The key paragraph is now 43 but the substance has not changed. I recommend reading at least paragraphs 36 to 43 to understand the basis for 43. I have not ruled out changing the recommendation but don't see how at this point. ~~This includes the additional data that John Baranowski provided yesterday -- while the data~~ was not accurate we tracked down the specified units and determined that there is an additional 255 MW of regulation. I am open to your suggestions. If you think I am being too negative based on the data, tell me why specifically you think that. I continue to rethink the conclusions but it is hard to avoid the conclusion that the market does not pass the tests specified in the FERC Order. Again, if you disagree please explain why. Another option is to go to market based but with some very specific transition mitigation measures, e.g. an adder higher than \$7.50 but less than the \$100 in PJM MidAtlantic. I think we should all decide exactly what the objective is - please let me know your thoughts. My objective is to present the results of an objective market power analysis following the FERC specifications and draw conclusions based on those results. Please pass on to anyone else at PJM who should be reviewing this.

-----Original Message-----

**From:** zibela@pjm.com [mailto:zibela@pjm.com]  
**Sent:** Tuesday, September 28, 2004 8:48 PM  
**To:** duanev@pjm.com; Bumgarner@wrightlaw.com; bowrij@pjm.com; glazec@pjm.com; hagelj@pjm.com; ott@pjm.com; pfirrk@pjm.com; zibela@pjm.com  
**Cc:** spector@wrightlaw.com  
**Subject:** Re: Market Based Rate Regulation Filing

Joe is working on his affidavit and will have it out this evening - joe is out of town and we will have a limited opportunity to work together tomorrow - to avoid confusion, please get your comments to barry so we can have one person responsible for finalizing the document - thanks  
-----

**Bowring, Joseph**

---

**From:** Bowring, Joseph  
**Sent:** Tuesday, September 28, 2004 11:04 PM  
**To:** Ott, Andy  
**Subject:** Regulation

Let me know what you think - a reasoned take on the results of our analysis. I don't see too many options - tell me if you do.

---

## Bowring, Joseph

---

**From:** duanev@pjm.com  
**Sent:** Tuesday, September 28, 2004 11:33 AM  
**To:** Bumgarner@wrightlaw.com; bowrij@pjm.com; glazec@pjm.com; hagelj@pjm.com; ott@pjm.com; pfirrk@pjm.com; zibela@pjm.com  
**Cc:** Spector@wrightlaw.com  
**Subject:** RE: Market Based Rate Regulation Filing



Transmittal Letter  
9-28 clean....

Thanks Carrie and Barry. I think the approach taken by the transmittal is very good and reflects PJM's internal discussions. I have made some further suggestions in the attached.

Vincent P. Duane  
~~Deputy General Counsel~~  
PJM Interconnection, LLC  
955 Jefferson Avenue  
Norristown, PA 19403  
(610) 666 4367 (phone)  
(610) 666 4281 (fax)

-----Original Message-----

**From:** CARRIE BUMGARNER [mailto:Bumgarner@wrightlaw.com]  
**Sent:** Tuesday, September 28, 2004 10:13 AM  
**To:** bowrij@pjm.com; duanev@pjm.com; glazec@pjm.com; hagelj@pjm.com; ott@pjm.com; pfirrk@pjm.com; zibela@pjm.com  
**Cc:** Barry SPECTOR  
**Subject:** Market Based Rate Regulation Filing

Attached is a draft of the market based rate authorization filing for the Regulation market in the PJM West/South region. We are continuing to add cites etc. Please provide us with any suggestions or changes you may have.

Carrie

Carrie L. Bumgarner  
Wright & Talisman, P.C.  
Washington, D.C. 20005  
Phone: (202) 393-1200  
Fax: (202) 393-1240  
bumgarner@wrightlaw.com

**Bowring, Joseph**

---

**From:** Duane, Vincent P.  
**Sent:** Wednesday, September 29, 2004 6:35 PM  
**To:** Bowring, Joseph; Ott, Andy; Kormos, M.J.; [spector@wrightlaw.com](mailto:spector@wrightlaw.com); 'Bumgarner@wrightlaw.com'  
**Cc:** Hagele, Jack; Zibelman, Audrey A.; Glazer, Craig  
**Subject:** Revisions To Bowring Regulation Affidavit

Joe: please consider the attached revisions to the affidavit draft you circulated last night. The revisions reflect the internal discussion had here at PJM today. The gist is to leave conclusions largely to the Commission based on your analysis as stated in the affidavit.

Changes up to paragraph 35 are overwhelmingly clerical - the heart of the matter is 35 - 45. Audrey will call you to discuss in the morning.

---

Vincent P. Duane  
Deputy General Counsel  
PJM Interconnection, LLC  
955 Jefferson Avenue  
Norristown, PA 19403  
(610) 666 4367 (phone)  
(610) 666 4281 (fax)

**Bowring, Joseph**

---

**From:** Duane, Vincent P.  
**Sent:** Friday, October 01, 2004 11:06 AM  
**To:** Bowring, Joseph; Zibelman, Audrey A.; Hagele, Jack  
**Subject:** RE: Final Comment on Affidavit

I recommend replacing the highlighted text currently in the affidavit with the text below that follows:

In this case, we will have the opportunity to review actual data and inform the Commission as to actual supply conditions prior to a Commission decision regarding a price-based regulation market after the integration of Virginia Power.

---

*In this case, we will have the opportunity to review actual data and, if necessary, inform the Commission as to actual supply conditions prior to the integration of Virginia Power.*

Vincent P. Duane  
 Deputy General Counsel  
 PJM Interconnection, LLC  
 955 Jefferson Avenue  
 Norristown, PA 19403  
 (610) 666 4367 (phone)  
 (610) 666 4281 (fax)

-----Original Message-----

**From:** Duane, Vincent P.  
**Sent:** Friday, October 01, 2004 8:52 AM  
**To:** Bowring, Joseph; Zibelman, Audrey A.; Hagele, Jack  
**Subject:** RE: Final Comment on Affidavit

Joe/Audrey/Jack: please see the highlighted sentence in paragraph 46 of the affidavit attached. I think this is a vestige of our evolving discussions this week and should be modified. I think it continues to suggest that the Commission await further information before making a decision. I think modifications are in order and they simply didn't get picked up yesterday. Let me know if you agree and I'll suggest new language.

Joe: I highlighted a second point in paragraph 47; this looks like a wording issue. It read to me as sort of peculiar. Is there an extra word here?

Vincent P. Duane  
 Deputy General Counsel  
 PJM Interconnection, LLC  
 955 Jefferson Avenue  
 Norristown, PA 19403  
 (610) 666 4367 (phone)  
 (610) 666 4281 (fax)

-----Original Message-----

**From:** Bowring, Joseph

**Sent:** Thursday, September 30, 2004 6:52 PM

**To:** Zibelman, Audrey A.; Hagele, Jack; Duane, Vincent P.

**Subject:** FW:

-----Original Message-----

**From:** Bowring, Joseph

**Sent:** Thursday, September 30, 2004 6:45 PM

**To:** Carrie Bumgarner (bumgarner@wrightlaw.com); Barry Spector (spector@wrightlaw.com)

**Subject:**

Final affidavit:

- Redacted
  - Unredacted
  - Figures
- 

I will fax signed document shortly.

**Bowring, Joseph**

---

**From:** Barry SPECTOR [SPECTOR@wrightlaw.com]  
**Sent:** Friday, October 01, 2004 1:18 PM  
**To:** bowrij@pjm.com; duanev@pjm.com; scheip@pjmexch01.pjm.com  
**Cc:** CARRIE BUMGARNER  
**Subject:** REGULATION FILING TODAY

**Importance:** High

\*\* High Priority \*\*

We must have the final affidavit, as well as final confidentiality decisions, in approximately one hour. Because of the confidentiality of material, we must file in hand rather than electronically. We need time to redact appropriately from the filing, if necessary, complete production and get it to FERC. We also must file today to make a 12/1 effective date.

---

Barry S. Spector  
Wright & Talisman, P.C.  
Washington, D.C.  
spector@wrightlaw.com  
202-393-1200

## Bowring, Joseph

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**From:** Bowring, Joseph  
**Sent:** Friday, October 01, 2004 1:22 PM  
**To:** 'Barry SPECTOR'; duanev@pjm.com; Scheidecker, Paul  
**Cc:** CARRIE BUMGARNER; Racioppi, Frank  
**Subject:** RE: REGULATION FILING TODAY



Bowring Reg Aff 093004 b redac...  
Bowring Reg Aff 093004 b.doc(...

I have attached the final affidavit and the redacted final affidavit.

-----Original Message-----

From: Barry SPECTOR [mailto:SPECTOR@wrightlaw.com]  
Sent: Friday, October 01, 2004 1:18 PM  
To: bowrij@pjm.com; duanev@pjm.com; scheip@pjmexch01.pjm.com  
Cc: CARRIE BUMGARNER  
Subject: REGULATION FILING TODAY  
Importance: High

**\*\* High Priority \*\***

We must have the final affidavit, as well as final confidentiality decisions, in approximately one hour. Because of the confidentiality of material, we must file in hand rather than electronically. We need time to redact appropriately from the filing, if necessary, complete production and get it to FERC. We also must file today to make a 12/1 effective date.

Barry S. Spector  
Wright & Talisman, P.C.  
Washington, D.C.  
spector@wrightlaw.com  
202-393-1200

**Bowring, Joseph**

---

**From:** Duane, Vincent P.  
**Sent:** Friday, October 22, 2004 5:23 PM  
**To:** Bowring, Joseph  
**Cc:** Hagele, Jack  
**Subject:** FW: PJM Industrials filing re regulation

I'm forwarding the attached protest from Kleppinger on the regulation market for the West/South; I've also added one from AMP-Ohio. One of the more difficult arguments is Kleppinger's assertion that an OA change was required in order to extend the \$100 cap to the West/South. His broader OA argument is not as problematic. Both filings also make a lot out of the different tone and approach in the filing as compared to the affidavit.

---

Vincent P. Duane  
Deputy General Counsel  
PJM Interconnection, LLC  
955 Jefferson Avenue  
Norristown, PA 19403  
(610) 666 4367 (phone)  
(610) 666 4281 (fax)

-----Original Message-----

**From:** Barry SPECTOR [mailto:SPECTOR@wrightlaw.com]  
**Sent:** Friday, October 22, 2004 4:57 PM  
**To:** duanev@pjm.com  
**Subject:** PJM Industrials filing re regulation

**Bowring, Joseph**

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**From:** Bowring, Joseph  
**Sent:** Tuesday, November 09, 2004 9:25 AM  
**To:** Duane, Vincent P.; 'Andy Ott'  
**Cc:** 'Barry SPECTOR'  
**Subject:** RE: Answers To South/West Regulation Market

We don't have good data yet. Probably will not have good data today. It is fair to conclude from what we know that not all expected regulation is actually being made available to market.

-----Original Message-----

**From:** Duane, Vincent P.  
**Sent:** Tuesday, November 09, 2004 8:13 AM  
**To:** Bowring, Joseph; 'Andy Ott'  
**Cc:** 'Barry SPECTOR'  
**Subject:** RE: Answers To South/West Regulation Market

Joe: are you planning on adding any information on "actuals versus estimates." I haven't received anything yet and we are going forward with the filing. If you have any trouble getting me, please copy Barry with any data.

Vincent P. Duane  
Deputy General Counsel  
PJM Interconnection, LLC  
955 Jefferson Avenue  
Norristown, PA 19403  
(610) 666 4367 (phone)  
(610) 666 4281 (fax)

-----Original Message-----

**From:** Duane, Vincent P.  
**Sent:** Monday, November 08, 2004 8:43 AM  
**To:** Bowring, Joseph; 'Andy Ott'  
**Subject:** RE: Answers To South/West Regulation Market

The \$100 cap is a difficult point to rebut. We have invited the Commission to direct PJM to address a conforming tariff change through a compliance filing if it believes a tariff change is required.

Vincent P. Duane  
Deputy General Counsel  
PJM Interconnection, LLC  
955 Jefferson Avenue  
Norristown, PA 19403  
(610) 666 4367 (phone)  
(610) 666 4281 (fax)

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Sunday, November 07, 2004 8:10 PM  
**To:** Duane, Vincent P.; 'Andy Ott'  
**Subject:** RE: Answers To South/West Regulation Market

While I would not write it this way, it is not my filing.  
We will have information on the actuals vs estimates tomorrow, hopefully by late AM. I will share them with you so that you do not make statements that will not be supported by the data.

What is the plan regarding the \$100 offer cap?

-----Original Message-----

**From:** Duane, Vincent P.

**Sent:** Sunday, November 07, 2004 6:46 PM

**To:** Bowring, Joseph; 'Andy Ott'

**Subject:** Answers To South/West Regulation Market

Regarding our cost based filing, see attached. We are keeping it short. Acknowledging a difference of opinion between MMU and PJM. I know Jack has comments but haven't seen them. This is due on Monday, but might be pushed back until Tuesday.

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Let me know your thoughts/comments. Thanks.

Vincent P. Duane  
Deputy General Counsel  
PJM Interconnection, LLC  
955 Jefferson Avenue  
Norristown, PA 19403  
(610) 666 4367 (phone)  
(610) 666 4281 (fax)

**Bowring, Joseph**

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**From:** Duane, Vincent P.  
**Sent:** Wednesday, November 10, 2004 2:13 PM  
**To:** Ott, Andy; Bowring, Joseph  
**Cc:** McAuley, Maria  
**Subject:** Potential For Informational Filing At Commission On West Regulation Markets

Andy/Joe: I want to remind you that our internal Policy on Regulatory Filings requires that you notify me of any intended PJM filing to be made with FERC. You both have been identified previously as joint Executive Sponsors under this Policy for the docket involving the regulation market in the West/South region. Based on our discussion of this docket in Joe's office this morning, Joe made clear he would like to file additional data with the Commission based on performance of this market since the October 1, 2004 integrations of AEP/Dayton. If indeed you both recommend that such a filing be made, please advise me promptly of a projected filing date, so that I can get this anticipated filing in our docket tracking sheet and apply the process, notice and timing required by our Policy. Thanks.

Vincent P. Duane  
Deputy General Counsel  
PJM Interconnection, LLC  
955 Jefferson Avenue  
Norristown, PA 19403  
(610) 666 4367 (phone)  
(610) 666 4281 (fax)

**Bowring, Joseph**

---

**From:** Duane, Vincent P.  
**Sent:** Wednesday, November 10, 2004 6:08 PM  
**To:** Bowring, Joseph; Ott, Andy  
**Cc:** McAuley, Maria  
**Subject:** RE: Potential For Informational Filing At Commission On West Regulation Markets

Okay, we'll get out the usual notice tomorrow. We can accommodate a compressed timeframe because this is in essence an informational report from you with not much more than a cover letter from the lawyers.

Maria, can you take care of that notice. Note the first draft as due on 11/15, with 2 business days to review for internal comment (expected 11/17) with 2 further business days for incorporating feedback, if any for a scheduled filing on 11/19. Thanks.

---

Vincent P. Duane  
Deputy General Counsel  
PJM Interconnection, LLC  
955 Jefferson Avenue  
Norristown, PA 19403  
(610) 666 4367 (phone)  
(610) 666 4281 (fax)

-----Original Message-----

**From:** Bowring, Joseph  
**Sent:** Wednesday, November 10, 2004 5:00 PM  
**To:** Duane, Vincent P.; Ott, Andy  
**Cc:** McAuley, Maria  
**Subject:** RE: Potential For Informational Filing At Commission On West Regulation Markets

My goal is to file a report next week. Let me know if you need more lead time. I anticipate circulating a draft by Monday.

-----Original Message-----

**From:** Duane, Vincent P.  
**Sent:** Wednesday, November 10, 2004 2:13 PM  
**To:** Ott, Andy; Bowring, Joseph  
**Cc:** McAuley, Maria  
**Subject:** Potential For Informational Filing At Commission On West Regulation Markets

Andy/Joe: I want to remind you that our internal Policy on Regulatory Filings requires that you notify me of any intended PJM filing to be made with FERC. You both have been identified previously as joint Executive Sponsors under this Policy for the docket involving the regulation market in the West/South region. Based on our discussion of this docket in Joe's office this morning, Joe made clear he would like to file additional data with the Commission based on performance of this market since the October 1, 2004 integrations of AEP/Dayton. If indeed you both recommend that such a filing be made, please advise me promptly of a projected filing date, so that I can get this anticipated filing in our docket tracking sheet and apply the process, notice and timing required by our Policy. Thanks.

Vincent P. Duane  
Deputy General Counsel  
PJM Interconnection, LLC

955 Jefferson Avenue  
Norristown, PA 19403  
(610) 666 4367 (phone)  
(610) 666 4281 (fax)

**Bowring, Joseph**

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**From:** Bowring, Joseph  
**Sent:** Monday, November 22, 2004 7:12 AM  
**To:** Haymes Alan (alan.haymes@ferc.gov)  
**Subject:** Questions

Alan:

- What do you know about the FERC technical conference for December 7 on transmission market power? Are the MMUs being invited to participate?
- Can you let me know if the Commission would like us to file our report on October data from AEP on actual regulation market performance? We could file it on Wednesday or next week - whatever is preferred.

Thanks,  
Joe

Message

**Bowring, Joseph**

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**From:** Bowring, Joseph  
**Sent:** Wednesday, November 24, 2004 8:49 AM  
**To:** Hagele, Jack; Duane, Vincent P.; Zibelman, Audrey A.; Ott, Andy; Bresler, Frederick S. (Stu)  
**Cc:** Barry Spector (spector@wrightlaw.com); Carrie Bumgarner (bumgarner@wrightlaw.com)  
**Subject:** Regulation information for FERC

I have attached a summary of the results of the October regulation markets in East and West. Given the PJM request for FERC action by December 1, I would like to file a document based on these facts today.

Please let me know what you think. I can have a complete document distributed by late AM. Am available to discuss the facts at any time.

---

Thanks,  
Joe

**Bowring, Joseph**

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**From:** Zibelman, Audrey A.  
**Sent:** Monday, November 29, 2004 7:41 AM  
**To:** Bowring, Joseph  
**Subject:** Re: Regulation information for FERC

Yes  
-----

-----Original Message-----

From: Bowring, Joseph <bowrij@pjmexch01.pjm.com>  
To: Zibelman, Audrey A. <zibela@pjmexch01.pjm.com>  
Sent: Mon Nov 29 07:04:30 2004  
Subject: RE: Regulation information for FERC

Consistent with the draft procedures for handling issues, I assume that I am to attend the Cabinet meeting to present the MMU perspective?

---

-----Original Message-----

From: Zibelman, Audrey A.  
Sent: Wednesday, November 24, 2004 9:50 AM  
To: Bowring, Joseph; Hagele, Jack; Duane, Vincent P.; Zibelman, Audrey A.; Ott, Andy; Bresler, Frederick S. (Stu)  
Cc: 'spector@wrightlaw.com'; 'bumgarner@wrightlaw.com'; 'HARRISPG@pjm.com'  
Subject: Re: Regulation information for FERC

Joe we will review this with the cabinet next Tuesday as planned. Until then nothing should be filed  
-----

-----Original Message-----

From: Bowring, Joseph <bowrij@pjmexch01.pjm.com>  
To: Hagele, Jack <hagelj@pjmexch01.pjm.com>; Duane, Vincent P. <duanev@pjmexch01.pjm.com>; Zibelman, Audrey A. <zibela@pjmexch01.pjm.com>; Ott, Andy <ott@pjmexch01.pjm.com>; Bresler, Frederick S. (Stu) <Bresler@pjmexch01.pjm.com>  
CC: Barry Spector (spector@wrightlaw.com) <spector@wrightlaw.com>; Carrie Bumgarner (bumgarner@wrightlaw.com) <bumgarner@wrightlaw.com>  
Sent: Wed Nov 24 08:48:53 2004  
Subject: Regulation information for FERC

I have attached a summary of the results of the October regulation markets in East and West. Given the PJM request for FERC action by December 1, I would like to file a document based on these facts today.

Please let me know what you think. I can have a complete document distributed by late AM. Am available to discuss the facts at any time.

Thanks,  
Joe

**Bowring, Joseph**

---

**From:** Hagele, Jack  
**Sent:** Wednesday, December 01, 2004 4:13 PM  
**To:** Cabinet Team Members; Laughlin, Ken W.; Ott, Andy; Bowring, Joseph  
**Subject:** Regulation Dissent by Commissioners Wood and Kelly

Attached is the one-paragraph dissent by Commissioners Wood and Kelly regarding the regulation filing. They would have preferred to maintain mitigation for dominant suppliers until operating experience demonstrated that they lacked market power.

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**Bowring, Joseph**

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**From:** Cawley, Susan  
**Sent:** Monday, December 13, 2004 6:05 PM  
**To:** Bowring, Joseph  
**Cc:** Haas, Howard; Scheidecker, Paul; Racioppi, Frank  
**Subject:** West/South Regulation notice and dissent

Joe,

For your records, I am attaching the FERC notice and dissent in the West/South Regulation case (market-based rates).

I have printed a copy for the files.

---

Re your "due dates" list - when do you anticipate filing the pre-Dominion report in this docket? And has your timeline changed due to the delay in Dominion integration?

Thanks.

Susan

## **Bowring, Joseph**

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**From:** Barry SPECTOR [spector@wrightlaw.com]  
**Sent:** Wednesday, December 08, 2004 7:18 AM  
**To:** bowrij@pjm.com  
**Subject:** Re: Regulation Order

Because it is a non-order, there is nothing to seek rehearing of. FERC allowed the rate to go into effect by operation of law, which is what happens when a majority of the Commission does not turn down a section 205 filing. Under section 205, it just goes into effect without any FERC decision. It is very unusual (in fact, I have never seen it happen before), but that is what happened.

Barry S. Spector  
Wright & Talisman, P.C.  
Washington, D.C.  
spector@wrightlaw.com  
202-393-1200

---

>>> <bowrij@pjm.com> 12/08/04 6:15 AM >>>

Barry,

What are the procedural requirements/timeline should PJM wish to file for rehearing on the Order or non-Order regarding regulation in PJM West/South? Thanks, Joe

---

-----Original Message-----

From: Zibelman, Audrey A.  
Sent: Tuesday, March 20, 2007 11:53 PM  
To: Bowring, Joseph  
Subject: Re: Issue

We will talk tomorrow

-----

-----Original Message-----

From: Bowring, Joseph  
To: Zibelman, Audrey A.  
CC: Johnston, Lindsay  
Sent: Tue Mar 20 22:01:14 2007  
Subject: Issue

Audrey,

I don't know if you aware of the following, but you need to be.

Andy Ott had Frank Racioppi, one of my recently promoted supervisors, summoned to his office this morning. Andy proceeded to threaten Frank in forceful terms, demanding that he transfer from the MMU to Markets, stating that Frank would not have a job with PJM if he should refuse and stating that you would be announcing the disbanding of the MMU at the MMU meeting to which I invited you next week.

I have several issues with this:

\* Based on the meeting that you had with me and Andy on Monday,

you had stated that you wanted to move responsibility for the CDTF to Andy. You also indicated that you wanted Frank to continue his CDTF role for a transition period until Andy could hire someone to handle the issue. I explained that the CDTF role for Frank was a minor one, taking perhaps one percent of his time and that there were other PJM staff who could fill the CDTF role. While I don't agree that moving the CDTF or requiring one of my staff to fill that role is appropriate, all that is very different from what Andy told Frank today.

\* In addition, you recognized that Frank was just promoted to be a supervisor in the MMU and that he plays a core role in the MMU and that his cost analyses have nothing to do with his CDTF role and that his CDTF duties are an extremely minor part of his overall job.

\* Also based on the meeting that you had with me and Andy on Monday, you did not state that you would be disbanding the MMU or announcing such a move at our scheduled meeting next week. Rather, you indicated that the Strategy Report would call for further study.

\* Andy's threatening behavior towards Frank is inconsistent with PJM core values and violates one or more PJM policies governing the interactions between officers of the company and employees and management of the company and employees.

\* Andy's behavior constituted a threat towards Frank and caused Frank to be frightened and extremely upset.

\* Frank has expressed no interest in moving to Markets and no job opening has been posted. Coercion is an inappropriate recruiting behavior.

\* I regard this, in addition, as an attack on the independence of the MMU and on our ability to do our FERC-mandated jobs. We cannot do our jobs in an independent manner if this type of threat is permitted.

\* This is the second recent incident that I have reported regarding Andy's threatening behavior towards members of the MMU.

\* Andy's statement to Frank that the MMU would be disbanded is entirely inappropriate. If policy steps are to be taken on market monitoring, I would hope that I would be informed in a professional manner.

I appreciate your attention to this matter.

- Joe

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Ready for the edge of your seat? Check out tonight's top picks on Yahoo! TV.

SMM - 00616

1 APPEARANCES:

2 COMMISSIONER NORA MEAD BROWNELL

3 COMMISSIONER SUEDEEN G. KELLY

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1 P R O C E E D I N G S

2 (1:25 p.m.)

3 CHAIRMAN KELLIHER: Good afternoon. I'm sorry  
4 we're starting late. I'm the late Chairman Kelliher. Sorry  
5 for that.

6 Before we start, I want to have an addendum to  
7 the open meeting from this morning. On my list of things  
8 that aren't in the OATT reform proposed rule, I left one  
9 out. That one thing that isn't in the OATT reform proposed  
10 rule is any direction application of Section 211(a) of the  
11 Federal Power Act, which is a provision in the Energy Policy  
12 Act which gives the Commission authority to require greater  
13 open access by either non-regulated or unregulated  
14 transmitting utilities, a term of art. The Commission does  
15 not propose to exercise the 211(a) authority granted it by  
16 Congress last year in the OATT reform proposed rules.

17 So my addendum is complete. Why don't we get to  
18 the business at hand? Susan?

19 MS. COURT: Thank you, Mr. Chairman. Just a  
20 couple of introductory or preliminary remarks. This  
21 particular conference was noticed in early April to allow  
22 the market monitors in five RTOs and ISOs to make  
23 presentations to the Commission with respect to their roles  
24 and priorities in their respective markets. The Commission  
25 in the past couple years had asked the monitors to give

1       their state of the market reports at open meetings. After a  
2       couple of years, we decided to use this forum to focus  
3       really on the market monitors' roles, their priorities, as  
4       opposed to the state of the markets. All the RTOs and the  
5       monitors have, however, made presentations to Staff as well  
6       as to the general public on their state of the markets.

7                   The other thing I'd like to mention before we get  
8       started -- we're just going to go in alphabetical order, by  
9       the way; not by the monitor's last names but by the name of  
10      their particular organizations. We're very clever here, you  
11      know. So Joe, you're last.

12                   I want to mention one other thing about the  
13      notice. We noticed this particular meeting at an AB docket,  
14      which is the procedure that we've been following the last  
15      several years for these types of conferences. We also  
16      noticed the conference in an ER docket, a PJM docket, which,  
17      strictly speaking, market monitor proposal. But we noted in  
18      the notice that the purpose of this particular meeting is  
19      not to discuss that proposal. Joe realizes that that's not  
20      the purpose, but because it was a strictly speaking market  
21      monitor proposal, in an abundance of caution, we noted that.  
22      But there are other filings pending here at the Commission  
23      that might have a market monitoring aspect to them or  
24      element in them. To the extent that those particular  
25      matters are in a contested on the record proceeding, ex

1       parte rules, of course, prohibit our discussing those  
2       particular matters because those dockets were not noticed.

3               If by any chance we discuss that, we will put the  
4       transcript of these proceedings in those records. That's  
5       not a license to do that, of course, but I just wanted to  
6       mention that. So the general prohibition on this type of  
7       meeting -- the focus here again is on the role of the market

8       monitor, sort of a high level what they see their role as,  
9       what their priorities are and what their major issues are.

10              With that, Mr. Chairman, I'll turn it back over  
11      to you and your colleagues.

12              CHAIRMAN KELLIHER: I don't really have any long  
13      opening statement. I look forward to this. As Susan said,  
14      we've heard from the market monitors before in the state of  
15      the market presentation. I think this will be helpful. I  
16      believe -- is this the first time we've met with the market  
17      monitors since the policy statement or did we meet with them  
18      right after the policy statement?

19              MS. COURT: The policy statement from last May?  
20      I think this is the first time in this forum with the  
21      Commissioners. The market monitors did come in and meet  
22      with Staff in December. We've also over the last few days  
23      been meeting with the market monitors -- the Staff has been  
24      meeting with the market monitors. But I think this is the  
25      first time since the May 2000 policy statement.

1                   CHAIRMAN KELLIHER: I'm looking forward to this  
2 meeting. I think it will be interesting for us to kind of  
3 see how you do your work, because it does vary and I think  
4 it will help us to understand those variances.

5                   Colleagues, any questions, or shall we get right  
6 to it?

7                   COMMISSIONER KELLY: I was happy to spend some  
8 time with you in December. I know that you know that I  
9 really care about market monitoring. I was at the  
10 California ISO during the year 2000, so I saw firsthand up  
11 front personal the importance of market monitoring. I  
12 really appreciate your taking the time. I know that you're  
13 very, very busy and it's valuable to us to hear what you  
14 have to say. Thanks.

15                  CHAIRMAN KELLIHER: I've met with you as well and  
16 we've talked about delegation -- the "d" word sometimes.  
17 We've had very interesting discussions before. We'll just  
18 see where this discussion leads us.

19                  With that, going in alphabetical order -- any  
20 comments, Nora?

21                  COMMISSIONER BROWNELL: No.

22                  CHAIRMAN KELLIHER: Going in alphabetical order  
23 by organization, why don't we start with Mr. Casey.

24                  MR. CASEY: Thank you. Good afternoon, Chairman  
25 Kelliher, Commissioners Brownell and Kelly. It's a pleasure

1 to be here.

2 My name is Keith Casey, director of the  
3 department of market monitoring for the California ISO. I  
4 also have with me Eric Hildebrandt, one of the managers for  
5 the department of market monitoring.

6 What I'd like to do is just quickly touch on  
7 three topics you asked us to address today. They were our  
8 role as a market monitor in the ISO organization and our  
9 relationship with FERC, our resources and our priorities,  
10 particularly with respect to this summer.

11 Starting with our role as market monitors in the  
12 ISO organization and with FERC, I think simply put the ISO  
13 department of market monitoring's mission as we see it is to  
14 provide independent high quality analysis of key market  
15 issues in a fair, competent, thorough and professional  
16 manner. And I'm using the term "market issues" in a very  
17 broad sense. It really ranges from analysis, trying to  
18 understand key events that are happening in the market,  
19 whether it's price excursions, extremely low supply margins,  
20 to examining individual participant behavior, always with an  
21 eye toward identifying potential anti-competitive behavior  
22 or potential behavior violations with respect to other  
23 aspects of our tariff. That's what I mean by market issues.

24 In terms of the consumers of our analysis and  
25 reports, I think they cover a wide spectrum. Certainly we

1 view our reports and analyses as providing valuable  
2 information to enforcement staff here at the Commission, the  
3 Commissioners themselves, as well as state policymakers and  
4 regulators. Certainly our ISO governing board and ISO  
5 management are consumers of our product and also ISO  
6 internal departments -- I think oftentimes our operations  
7 department, as well as our market and products development  
8 departments benefit from our insights and analyses.

9 Finally but not least, ISO market participants.  
10 We try to provide, I think, an in depth understanding and  
11 kind of a longer term assessment and analysis of what's  
12 going on in the market using data that they don't see. So I  
13 think we provide some valuable information in that respect.

14 In terms of more specifically our primary  
15 responsibilities, I think our market monitoring unit, the  
16 responsibilities are largely consistent with those described  
17 in the Commission's policy statement on market monitoring  
18 units. Specifically a large part of what we do is to look  
19 at the market with an eye towards identifying ineffective  
20 market rules and tariff provisions and, to the extent we  
21 find those, to analyze and assess potential remedies to  
22 those issues. And it might involve changing part of our  
23 tariff. It might involve just changing an operating  
24 procedure in terms of how we implement a particular tariff  
25 provision.

1                   And, as I mentioned, certainly identifying  
2           potential anti-competitive behavior by market participants  
3           is a significant responsibility for us, to review and report  
4           on the performance of the wholesale markets. There's a lot  
5           of aspects to that. Certainly we look at the extent to  
6           which prices reflect competitive outcomes and we do some  
7           competitive benchmarking to try to gauge, using cost-based  
8           simulations, how well the market is simulating what we  
9           estimate to be a competitive outcome, also looking at the  
10          competitiveness from a structural standpoint in terms of  
11          market concentration and the ability of any single supplier  
12          to set market prices.

13                   Effectiveness of the market power mitigation  
14          rules, another area that our analysis addresses, and a  
15          couple of other areas: effectiveness of the market in  
16          signaling needed investment in generation, transmission and  
17          demand response infrastructure and, finally, identifying any  
18          potential barriers that might impede the market's ability to  
19          provide needed investments.

20                   Those are kind of the core functions. Another  
21          aspect of our responsibilities, as I believe you're aware,  
22          we have a set of enforcement protocols in our tariff that  
23          are essentially rules of market conduct.

24                   I won't get into the details in the interest of  
25          time, but it essentially sets some very specific actions

1       that we have identified through the Commission -- that the  
2       stakeholder process has identified as inappropriate market  
3       conduct. We are charged with administering those  
4       enforcement protocols. In fact, Eric -- his unit within our  
5       market monitoring group has responsibility for that.

6               Finally, interactions with the FERC Office of  
7       Enforcement. We interact often with the office. I would  
8       say we frequently interact with Steve Michaels and others  
9       typically several times a week. Sometimes it's little  
10      things like trying to get to the bottom of some five-minute  
11      price excursions. Sometimes it's a more substantive  
12      sustained issue that we do some on-going analysis on.  
13      Overall, I think we have a very productive and collaborative  
14      relationship with the Office of Enforcement. I think we  
15      both realize we have a very important role to do and that we  
16      can both do it better if we leverage our information and  
17      insights. I've been very pleased with that relationship, as  
18      I hope they are as well.

19             So moving on in terms of our specific monitoring  
20      resources, the department of market monitoring is comprised  
21      of 13 full-time employees: myself as director, we have two  
22      managers and we have eight analysts, most of whom have  
23      graduate degrees in business, economics or engineering. We  
24      also have two technical assistants. IT support is very  
25      important for us. We have essentially 1.5 full-time

1 employees that assist us in IT matters. As I'm sure you're  
2 well aware with your market monitoring center, we deal with  
3 huge volumes of data. And having the expertise to maintain  
4 these large databases, as well as maintaining the tools we  
5 use, the data is critical. So IT support is a very  
6 important resource for us.

7 We have a market surveillance committee comprised  
8 of essentially external independent experts on the markets.  
9 They provide independent expert advice and recommendations  
10 to our management as well as our governing board. The  
11 committee is currently comprised of three members. Frank  
12 Wallach is the chair of the market surveillance committee  
13 from Stanford University, James Bushnell from UC Berkeley  
14 and Benjamin Hobbs from Johns Hopkins University.

15 An extremely valuable resource for us. I think  
16 they bring a very different perspective to important market  
17 issues. They tend to have a broader perspective, looking at  
18 how markets are functioning throughout the country as well  
19 as throughout the world. And I think just the academia  
20 perspective is refreshing, to get that different  
21 perspective. If you're kind of entrenched in the issue,  
22 it's nice to have someone come in kind of as an outsider to  
23 provide that perspective.

24 Another important resource I want to mention is  
25 access to an interaction with other departments at the ISO.

1 That's extremely valuable to us. We interact quite  
2 frequently with our operations department as well as our  
3 market and product development department on various on-  
4 going market issues, as well as future enhancements to  
5 market design. Data is all well and good, but having the  
6 ability to conveniently and quickly access the people that  
7 are running the markets is a very important resource for us.

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8 With respect to our monitoring priorities, I'll  
9 just quickly touch on a few of them. As you saw in the  
10 presentation from the Office of Enforcement this morning, we  
11 have been seeing this spring quite a few price spikes in our  
12 real-time market. It's been particularly noticeable because  
13 there was definitely a correlation with raising the bid cap  
14 then seeing spikes that we had previously been seeing at or  
15 below \$250 go up to at or near \$400. As the Staff shared  
16 with you this morning, these spikes were predominantly  
17 during our critical ramping hours, early morning and evening  
18 hours. They're not persistent in that they occur day-in and  
19 day-out, but they do occur with some frequency.

20 I would point that one of the things exacerbating  
21 the available supply in our five-minute market is we've been  
22 blessed with, as you saw, a tremendous amount of hydro this  
23 year. That's created essentially a lack of participation in  
24 the five-minute market by some of the hydro resources  
25 because they tend to be running at full output. That's

1 definitely been a factor. So that's something we're closely  
2 monitoring.

3 It's also had an impact in participation in our  
4 ancillary services markets, again for the same reasons. If  
5 units are operating at their PMAX they're not able to  
6 provide things like regulation down as easily as they could  
7 in a less significant hydro year.

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8 With respect to summer market conditions a couple  
9 of areas we'll be closely monitoring are the competitiveness  
10 of the ancillary services market, particularly if we go to a  
11 split procurement where we're procuring ancillary services  
12 in the south separately from that in the north. That's  
13 something we want to keep an eye on from a competitive  
14 standpoint.

15 Also a recent issue that arose at the ISO  
16 concerns some of the operational procedures that will be  
17 used to make sure we have sufficient -- on a day-to-day  
18 basis sufficient unloaded capacity in the south to deal with  
19 potential contingencies such as the loss of a major  
20 transmission line. The ISO recently publicly posted an  
21 overview of some of the operational procedures they'll be  
22 taking with respect to identifying what the unloaded  
23 capacity needs are in the south and the procedures we'll use  
24 to make sure they have that capacity. I think that will be  
25 a very interesting issue for market participants, and we

1 will be weighing in on that one as well.

2 Resource adequacy as you heard this morning, this  
3 will be the first year for implementation of the CPUC  
4 resource adequacy program and, more generally, the  
5 reliability requirement programs for all load-serving  
6 entities in the ISO control area. We'll certainly have a  
7 role in reviewing the effectiveness of that program and

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8 compliance with some of the requirements under that program  
9 pursuant to our tariff. We'll also be following future  
10 enhancements to reliability requirements such as local  
11 requirements and potentially performance incentives for  
12 capacity that's awarded resource adequacy contract.

13 Finally, MRTU readiness is a very important issue  
14 for us as a monitoring group. It's a very different market  
15 than our current zonal market. We've been heavily involved  
16 over the past year in terms of identifying our data  
17 requirements, monitoring indices, software requirements and  
18 assuring our staff are trained on MRTU market design,  
19 particularly an LMP market design.

20 While I have the chance, I'd like to thank Hung-  
21 Po and Joe Bowring for graciously entertaining us a few  
22 months back. We visited both these market monitoring units  
23 to get their perspective on monitoring and LMP markets and  
24 got some variable insights and tips that I think will help  
25 us get a jump start with our monitoring program under MRTU.

1 I know I talked more than 10 minutes; I  
2 apologize. So I'll stop there and open it up for questions.  
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1                   CHAIRMAN KELLIHER: I usually like doing  
2 questions at the end of all presentations, because sometimes  
3 we'll have common questions. Can we do that? Why don't we  
4 hear from everyone, then we can have a long discussion at  
5 the end?

6                   COMMISSIONER BROWNELL: Not a long discussion,  
7 no.

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8                   (Laughter.)

9                   CHAIRMAN KELLIHER: Mr. Chao?

10                  MR. CHAO: Thank you. Good afternoon, Chairman  
11 Kelliher, Commissioners Brownell and Kelly. It's my  
12 privilege --

13                  CHAIRMAN KELLIHER: Dr. Chao, I apologize.

14                  MR. CHAO: Thank you. It's my privilege to be  
15 here along with my colleagues, Ray Hepper, who is Vice  
16 President and Assistant General Counsel.

17                  I joined ISO New England seven months ago. I  
18 have a long resume, and if you're interested, I can send it  
19 to you. I will not spend the time going through that here.

20                  What I found here -- what I plan to do here is to  
21 go over some general opinions on the role of market  
22 monitoring, and then I will dive into the specific role and  
23 resources and the priorities in the New England area.

24                  I must say that I will share many of the elements  
25 that Keith has already touched on. I will emphasize, from a

1 different perspective, probably from New England and also  
2 from my personal viewpoint.

3 The role of the market monitor is critical for a  
4 number of reasons.

5 (Slide.)

6 MR. CHAO: At a conceptual level, the electricity  
7 market not only has to follow the law of economics, supply  
8 and demand, which determines the price of electricity, but  
9 also physical laws which determine how electricity will flow  
10 through a network.

11 Therefore, in order to determine competitive  
12 prices and balance the power flows in real-time, the market  
13 monitor will have to be able to make a speedy response to  
14 ensure effective rules for competitive markets.

15 In particular, this implies that the market  
16 monitor must have access to the information and tools  
17 necessary to identify and mitigate the potential  
18 anticompetitive behavior by market participants, in a timely  
19 and accurate manner.

20 In general, the role of the market monitor is to  
21 provide informational and analytical support for FERC, state  
22 regulators, and the New England stakeholders, to ensure the  
23 success of wholesale electricity markets.

24 The attributes of successful electricity markets  
25 include: Producing competitive prices, supporting reliable

1 system operations in the short run, and, in the long term,  
2 you need to attract sufficient infrastructure investment.

3 To perform this role, involves several critical  
4 responsibilities, as Keith has already touched on:

5 Providing an understanding of how well the markets are  
6 performing and why, specifically, the market monitors must  
7 determine the extent to which market prices reflect

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8 competitive outcomes and not abuses of market power, and  
9 conduct periodic reviews and ad hoc reports on the  
10 performance of the markets in specific products, and also to  
11 assess the impact of some internal ISO implementation of  
12 changes on the market performance.

13 For each of these functions and activities, the  
14 market monitor focuses on how efficiently the markets are  
15 responding to customers' needs for reliable electricity at  
16 the lowest long-run cost.

17 (Slide.)

18 MR. CHAO: The organization of the market monitor  
19 in New England conveys a critical element to ensure that  
20 market access is to allow the internal market monitor a  
21 considerable degree of organization or independence within  
22 the ISO reporting structure.

23 Such a reporting structure, for example, the  
24 Director of Market Monitoring, reports directly to the CEO  
25 and has direct access to the Board of Directors.

1                   Also, this office will have direct access to an  
2                   internal, independent market monitor, which also directly  
3                   reports to the Board.

4                   This office also needs to interact regularly with  
5                   FERC. Our interaction is most closely connected with the  
6                   Office of Enforcement.

7                   The structure of the internal market monitor  
8                   includes three functional areas: Market assessment, market  
9                   compliance, and emerging markets, which I will describe more  
10                  later.

11                  (Slide.)

12                  MR. CHAO: The functions of the market monitor in  
13                  ISO to fulfill the critical responsibilities, the market  
14                  monitor performs four major functions: Monitoring,  
15                  analysis, solutions, and communications.

16                  These functions are performed in a continuous  
17                  process flow, which also involves a significant interaction  
18                  and feedback involving FERC, the New England stakeholders,  
19                  and regulators, and the wholesale markets themselves.

20                  Such interactions ensure that when market flaws  
21                  are detected, the market monitor is an active participant in  
22                  developing appropriate solutions with other parties  
23                  involved.

24                  (Slide.)

25                  MR. CHAO: In performing the major functions,

1 just described earlier, it requires that the market monitor  
2 undertake several specific tasks, which are required  
3 explicitly in the policy statement, also in the market  
4 participant agreement with ISO New England's participants.

5 These tasks are best categorized in terms of the  
6 recipients of the interaction. With FERC, we have bilateral  
7 support.

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8 ISO New England provides original and timely  
9 answers to specific questions from FERC. We provide  
10 referrals to potentially sanctionable market behavior, and  
11 communicate regularly and provide the recommendations on  
12 market policy issues.

13 With the New England stakeholders and state  
14 regulators, we have various levels of interactions to  
15 communicate and provide the recommendations on regional  
16 market development issues.

17 With the wholesale electricity markets, our  
18 functions are aligned in terms of our interaction. In the  
19 market compliance area, we monitor closely, market behavior,  
20 for compliance with market rules and tariffs.

21 We undertake day-to-day, real-time monitoring  
22 activities to ensure competitiveness.

23 In the market assessment area, we focus more on  
24 the longer timeframe, to analyze and report market  
25 performance and to identify opportunities for improvement in

1 market rules.

2 Emerging markets is a recently-created programs.  
3 This is in light of the need for continuous improvements and  
4 introduction and integration of new market elements into the  
5 established market design.

6 So, we monitor the market design and develop a  
7 process to minimize risks during integration of new rules.

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8 (Slide.)

9 MR. CHAO: In the area -- our resources here, as  
10 I have already described earlier, our direct access to the  
11 Board of Directors, is a significant part of our resources  
12 to ensure the independent position of the market monitor  
13 within the ISO and RTO.

14 It reinforces the senior management team's  
15 support, so we have access to other parts of the  
16 organization for the necessary information and for many of  
17 the routine supports.

18 Our consultation with the independent market  
19 monitor is another area that is extremely valuable. Our  
20 direct communication with the FERC's Office of Enforcement,  
21 adds another significant component.

22 Currently, we have 12 staff members, including  
23 the IT support. Our staff has backgrounds in economics,  
24 engineering, business, and operations analysis.

25 The dedicated IT support provides both the

1 production software for our on-call duty procedure, and also  
2 supports our market analysis and market simulations. When  
3 we introduced ancillary services markets, our current  
4 priority is that immediately to our monitoring plan to the  
5 summer, is to focus on the price changes in two specific  
6 load pockets: The Boston NEMA area, and Southwest  
7 Connecticut.

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8 This summer, we expected that with the addition  
9 of transmission projects, Phase I's completion, to relieve  
10 the Boston NEMA area, the situation in Boston NEMA is likely  
11 to be alleviated, but in Southwest Connecticut, we continue  
12 to monitor closely.

13 Earlier this morning, Commissioner Kelly asked  
14 the question about the Southwest Connecticut's 300 megawatts  
15 of demand-side program. We checked back at the office. The  
16 answer is that that program was fully activated once last  
17 year, in the summer, on July 27, when that was the peak day.  
18 That's the peak record in New England.

19 Another area: In the Fall, as our priority is  
20 that the integration of ancillary services market Phase II,  
21 ancillary services, Phase II, includes the location of  
22 forward reserves and real-time reserves into the existing  
23 market design.

24 In this area, this program just got FERC's  
25 approval. It's moving on according to schedule, to be

1 starting in early October, and, internally, the market  
2 monitor has also performed independent assessments to ensure  
3 the implementation is going to conform to the design  
4 objectives.

5 So far, it has received the Board's approval.  
6 Another, as our focus in the Winter, this is a cold winter  
7 operation, this is a unique challenge in New England.

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8 In the Winter, New England's system highly  
9 depends on natural gas, and during the Winter, as we have  
10 experienced in the past few years, a computing use of  
11 natural gas between electricity and heating natural gas,  
12 presented a challenge.

13 A dual-fuel unit provides the flexibility. The  
14 question here is, how the market rules will provide the  
15 incentives to attract efficient combination of units.

16 So far, we have seen significant investment in  
17 dual-fuel units, based on financial incentives. And in this  
18 coming Winter, we're gearing up our monitoring plan to draw  
19 upon the experiences to deal with the issues that may come  
20 up.

21 Then forward capacity markets: The forward  
22 capacity market settlement agreement outlines market  
23 monitoring's responsibility, explicitly, which ISO is  
24 reviewing as it begins the implementation plan that is  
25 underway.

1                   Lastly, but not leastly, is that we strengthened  
2                   our communication links with our stakeholders with the  
3                   market participants and state regulators. That's part of  
4                   our priorities in our market monitoring plan for the future.  
5                   Thank you.

6                   CHAIRMAN KELLIHER: Thank you, Dr. Chao. Before  
7                   I recognize Dr. Patton, I want to correctly identify Dr.  
8                   Casey. I referred to you as Mr. Casey. I'm seeing a  
9                   pattern develop.

10                   (Laughter.)

11                   CHAIRMAN KELLIHER: Why don't I now recognize Dr.  
12                   Patton? Thank you.

13                   MR. PATTON: Unfortunately, if anyone asks if  
14                   there's a doctor in the house, they're going to be in real  
15                   trouble.

16                   (Laughter.)

17                   MR. PATTON: I appreciate the opportunity to be  
18                   able to speak with you all today, Mr. Chairman and  
19                   Commissioners, on market monitoring and the roles and  
20                   responsibilities.

21                   (Slide.)

22                   MR. PATTON: You probably sensed that a lot of  
23                   what you heard, is very similar from market to market. What  
24                   I'm going to try to do, although sometimes we use different  
25                   words to say basically the same things, or it may create the

1 appearance of some more divergence than there might be, what  
2 I'm actually going to try to do, is to try to highlight  
3 things that are different, to facilitate the discussion, and  
4 try to go very quickly over things that are the same.

5 (Slide.)

6 MR. PATTON: I think, in terms of the role of  
7 market monitoring, I think it's fair to say that there are  
8 basically three areas that we're focused on. One is flaws  
9 in the market rules that create inefficient incentives or  
10 gaming opportunities.

11 That is very important, particularly given the  
12 newness of the MISO market; that there are many different  
13 rules related to -- well, you can almost not conceive of how  
14 many different rules can exist, that can significantly  
15 affect people's behaviors.

16 They can create risks that affect people's  
17 behavior in ways that might initially look like manipulation  
18 or market power abuse, but when you dig in deeper, you can  
19 identify that there may be a flaw in the rules. So we try  
20 to identify those as quickly as possible, and notify both  
21 FERC and the MISO and the market participants of those.

22 Secondly, and an important piece of our function  
23 that might be somewhat different, is -- I think this is done  
24 by everybody at some level, but it's a very important part  
25 of our function -- is identifying efficiency improvements in

1 the market operation, particularly in the procedures of the  
2 operator of the market.

3 I'm going to talk about that a little bit more in  
4 a moment.

5 Thirdly, it's to identify market power and abuses  
6 of market power, which I differentiate from the rule piece  
7 of the scope, because market power is much more fundamental.

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8 Market power exists, at least the way we would  
9 define it, when there's limited or no competition to resolve  
10 a particular need of the market, whether that is to keep the  
11 flow on a line below the limit; whether it's to support the  
12 voltage at a certain location, so you have to bring on a  
13 particular generator and you have no choice but to deal with  
14 one supplier.

15 Those are the sort of fundamental -- it's more  
16 fundamental, and can't easily be addressed through changes  
17 in the market rules, other than potentially market power  
18 mitigation rules.

19 With regard to the MISO -- MISO refers to its  
20 market monitoring function as an independent market monitor.  
21 The reason our name is independent market monitor, is that  
22 we are entirely independent of the MISO, corporately.

23 We are external to the MISO, and there are a  
24 variety of protections built into the relationship between  
25 ourselves and the MISO, to ensure the independence, in fact,

1 conditions that FERC put on the relationship between us, to  
2 ensure that independence.

3 This is probably the number one market monitoring  
4 issue in the development of a plan. I spent more time  
5 talking to participants about this issue than anything else.

6 In the states, it was clearly their number one  
7 issue. They filed more paper on how to ensure that the

8 market monitoring function is independent, than anything  
9 else, and the participants, as well.

10 Largely, I think that's because there's a  
11 recognition that no entity affects the outcome of the market  
12 more than the operator of the market, and under the MISO  
13 plan, the Midwest ISO is a monitored entity, and a big  
14 portion of our charge is to review the actions that they're  
15 taking, that are not visible to anybody, that could  
16 undermine the efficiency of the market, distort the prices.

17 Now, part of the reason that's important, is  
18 because they are charged with maintaining the reliability of  
19 the system, and when the market doesn't perceive a  
20 reliability requirement, in other words, the natural running  
21 of the market doesn't satisfy the reliability requirement,  
22 invariably, you're going to rely on manual actions by the  
23 operators, and those manual actions will always affect the  
24 outcomes of the market, how they do those things and whether  
25 those actions are justified in all circumstances and whether

1       their procedures minimize the impacts on the market, are all  
2       very important topics and things that we focus a lot of our  
3       resources on.

4               Another difference in MISO is that there are a  
5       lot of provisions in the setup of the MISO that create a  
6       concern that the Commission has asked us to watch, so there  
7       are carve-outs of congestion charges for certain

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8       participants. There are many, many control areas that were  
9       not consolidated, which, in every other market, operates a  
10      single control area. There were concerns about that.

11             In each of those areas, the Commission explicitly  
12      defined as part of our role, to monitor how those  
13      arrangements might affect behavior and whether they're  
14      undermining the performance of the market.

15             In terms of the resources, I think they are  
16      basically the same as the other market monitoring  
17      organizations. The function really requires an  
18      interdisciplinary team of individuals, so we have electrical  
19      engineers, both with expertise on transmission, as well as  
20      generation; economists; folks that are specialists in  
21      software development; and, altogether, we have 14  
22      professionals that perform the market monitoring function,  
23      not including any administrative support.

24             Part the reason we have market developers, is  
25      that it requires an extensive software system to do it well,

1 including data interfaces that transfer data continuously.  
2 We have staff onsite at MISO, but also at our headquarters.

3 We're receiving data on a 3-second basis at our  
4 headquarters. For example, when a five-minute -- the real-  
5 time market runs on a five-minute basis.

6 We get the results within seconds of its being  
7 posted, so that's the market monitoring that can be a truly  
8 real-time function.

9 (Slide.)

10 MR. PATTON: As far as the activities that we  
11 perform, they really fall into three categories: There's  
12 real-time screening and analysis, which I'll call real-time  
13 market monitoring; there's investigations of anomalies or  
14 market outcomes or conduct in the market that we perform;  
15 then there's periodic analysis and reporting.

16 Following your example, which I thought was very  
17 useful this morning, on E-1, I'll tell you what we don't do:  
18 I'm not aware of any enforcement authority that we have, or  
19 other powers that have been delegated to us by the FERC.

20 There were sanctions in the mitigation measures,  
21 but in approving those, you structured it in a manner where  
22 we make recommendations, then you impose. I think that is a  
23 very useful structure.

24 Having market monitors engage in enforcement, I  
25 thought, is not optimal. I think it's good to have that

1 clarified.

2 Secondly, we don't engage in actions that are  
3 intended to compel participants to change their behavior.

4 Third, we don't have the authority to do any sort  
5 of changing of the market rules or procedures that would  
6 affect the outcomes of the markets. We don't have authority  
7 to do that. I was going to say "without approval from

8 FERC," but I'm not even sure there's a process for us to  
9 appeal to FERC to change something, without the ISO making a  
10 filing.

11 Then, lastly, we don't have any other  
12 discretionary authority to affect either outcomes of the  
13 market, with the exception of periodic adjustments to  
14 reference levels that are used in the bright-line test for  
15 the mitigation measures.

16 That discretion is employed very infrequently. I  
17 think there's actually -- you should warn me if we shouldn't  
18 talk about that, because it is actually something that, a  
19 while back, you asked for comments on in a docket on  
20 reference prices, that I'm not sure if that's one of our ex  
21 parte --

22 MS. COURT: That wasn't a docket of an on-the-  
23 record proceeding. I think that was a rulemaking.

24 MR. PATTON: It was a kind of docket that I don't  
25 remember.

1                   CHAIRMAN KELLIHER: Are you talking about  
2 reference prices?

3                   MR. PATTON: Yes, the reference prices.

4                   MS. COURT: That was done in a generic  
5 proceeding.

6                   MR. PATTON: Okay. As far as real-time market  
7 monitoring goes, we rely primarily on our automated software  
8 to continuously screen the data for many things, but things  
9 that include attempts to exercise market power by  
10 withholding resources, running generation uneconomically, to  
11 cause overloads of transmission constraints, which is, I  
12 think, a particular issue in the Midwest, because there are  
13 a variety of constraints where the location of a very small  
14 number of generators has a big effect on the constraint, in  
15 ways that other generation has a difficult time unloading  
16 the constraint.

17                   So, that's an issue we've seen in the Midwest,  
18 that, frankly, I haven't seen in other markets.

19                   Other inefficient conduct and then the operator  
20 actions: We also get real-time information on actions the  
21 operators are taking, so that we can attempt to understand  
22 what they're doing and why they did it at the time that  
23 they're doing it.

24                   Part of the real-time market monitoring function  
25 and system, involves the software sending automated alerts

1 to beepers and e-mails of my staff, so that the function can  
2 be thought of as being effective on a 24/7 basis.

3 Real-time market monitoring: I don't know if  
4 you'd call this market monitoring, but our function also  
5 includes the implementation of the prospective mitigation  
6 for economic withholding. That's a real-time function.

7 (Slide.)

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8 MR. PATTON: In terms of investigations and  
9 complaints, this is where we look into certain things that  
10 aren't subject to bright-line mitigation. We attempt to  
11 understand the issues that we see.

12 Most often, the investigations are triggered by  
13 real-time market screening, but it can also be triggered by  
14 requests from states, FERC, market participants, the MISO  
15 staff, or the Board of Directors.

16 There's some conduct that you can only address,  
17 really, through investigation. For example, fiscal  
18 withholding, if a key generator in a load pocket is  
19 unavailable, derated, or forced out of service, there's no  
20 way of knowing, and it creates a large price effect, there's  
21 no way of knowing if that's a legitimate outage that's  
22 technically necessary, without doing some level of  
23 investigation.

24 In that regard, part of our process is to collect  
25 information on things like that, to be able to come to

1 conclusions, and, when appropriate, make referrals to FERC.

2 One thing I would say about the investigation  
3 process and the real-time market monitoring, is, we interact  
4 extensively with the Office of Enforcement, not just when we  
5 make referrals, but multiple times a week.

6 There are informal communications anytime  
7 something anomalous or otherwise interesting occurs on the  
8 system. We're talking about why it occurred and why it  
9 happened.

10 There are also regular weekly meetings, and also  
11 a regular monthly meeting with a broader set of FERC Staff,  
12 where we discuss the performance of the markets and any  
13 issues that are emerging.

14 That process is very useful and valuable, I  
15 think, to both of us; at least I hope it's valuable to both  
16 of us. It's valuable to me, for sure.

17 Lastly, as part of the investigation process,  
18 there are referrals that we make to FERC under two separate  
19 provisions. One is the sanction provisions in the MISO  
20 tariff that prohibit or that address market power abuse,  
21 and, secondly, the enforcement provisions under the Energy  
22 Policy Act, which you've now codified and are covered by the  
23 market monitoring policy.

24 As far as periodic reporting on market  
25 performance, the biggest single product is our State of the

1 Market Report. It's the most in-depth evaluation of how the  
2 market's operating, and includes most of the longer-term  
3 recommendations for things that need to be addressed.

4 MISO is a new market. We're probably going to  
5 have ten to 20 recommendations on various aspects of the  
6 market rules, how the software operates and other issues  
7 that are a direct result of things that we saw happen in  
8 2005.

9 For example, in the area of market-to-market  
10 coordination with PJM and MISO, a non-trivial portion of our  
11 State of the Market Report focuses on how well that's worked  
12 and how it can be improved to capture the full benefits of  
13 that coordination.

14 Then also, in terms of the regular reporting, I  
15 talked about the regular meetings we have with FERC Staff.  
16 We also meet quarterly with the states to talk about things  
17 that we're seeing and to answer their questions about things  
18 that they are concerned about.

19 The last one of those has provoked a number of  
20 requests by states for information about things that are  
21 affecting the market, which we have provisions in our tariff  
22 to provide information to the states.

23 Also, we provide a monthly report to the Midwest  
24 ISO Board, and make presentations to the market participant  
25 committees on both what we've seen in the past, but also on

1 design changes or rule changes that are either provoked by  
2 our recommendations, or things they're just generally doing,  
3 for instance, the development of ancillary service markets  
4 we would be involved in evaluating the proposals on how  
5 those markets would be structured.

6 Lastly, as far as the Summer goes, I think our  
7 priorities are largely the general areas that I talk about,

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8 but, in terms of specifics, there are two or three specific  
9 areas: One is the reserve margin in the East, where it is  
10 as low as anywhere in the country, the east part of the  
11 Midwest ISO system.

12 That's not necessarily a large concern, because  
13 there are so many interconnections in that area of the  
14 Midwest ISO and every other region, nevertheless, under very  
15 hot conditions, we're going to make sure that we identify  
16 market concerns.

17 The Ontario issue, I think, is fairly important.  
18 We export power routinely to Ontario, particularly in the  
19 Summer. To the extent the demand export increases all the  
20 flows into Michigan and can isolate Michigan as a load  
21 pocket area, in the past year, it wasn't very frequently  
22 binding, but the Michigan can become a load pocket and there  
23 are potential market issues there.

24 Lastly, the coal issue: To the extent that there  
25 are any disruptions in the delivery of coal coming from the

1 MAPP area, that can raise significant concerns. We've  
2 actually talked to a few participants who are worried about  
3 their coal piles, and largely they talk to us, because they  
4 are taking steps to reduce their output to try to manage  
5 their coal piles so that they have maximum availability in  
6 the summertime.

7 But we certainly don't have a complete set of  
8 data on the coal piles, by the units. Lastly, just as a  
9 general issue in the Midwest -- and I've said this a minute  
10 ago -- there are a variety of situations that arise on the  
11 MISO system where there's only one supplier that can resolve  
12 the reliability concern or the transmission constraint, and  
13 those are issues that we seek to identify, even ahead of  
14 time, so we can be screening for the conduct by those  
15 participants.

16 And they really occur all over the system. Some  
17 of them occur due to very specific issues.

18 In the eastern part of the system, there's about  
19 a month last year when the outage of a big steam unit caused  
20 us to have to commit gas turbines every day. The gas  
21 turbines were owned by a single entity.

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1                   It's an issue where you essentially have a  
2 monopolist for a period of time. That sort of market power  
3 is what we worry the most about, because it's relatively  
4 severe. It's not a matter of three or four entities where  
5 you have imperfect competition. It's an issue where you  
6 basically have no competition. So we seek to identify those  
7 and that's high on our priority list.

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8                   CHAIRMAN KELLIHER: Thank you, David.

9                   I mangled your name once, sir. Can you do it for  
10 me this time?

11                  MR. BOECHLER: I'll try, Mr. Chairman. My name  
12 is John Boechler. I will break the pattern of doctor; I am  
13 not a doctor. I'm an engineer, too, by the way. But  
14 hopefully David and Joe won't mind me sitting between them  
15 here. You do have a few slides there in front of you, I  
16 believe. I'll use those as an outline just to discuss the  
17 role and responsibilities of the market monitoring function  
18 at the New York ISO.

19                  (Slide.)

20                  The first is an organization chart which probably  
21 nobody can read on the board over there. I just wanted to  
22 use it to point out that following substantial corporate  
23 reorganization last fall of the New York ISO, the market  
24 monitoring -- or the internal market monitoring function was  
25 brought under the market structures organization. That

1       probably was the one organization within the structure that  
2       was changed the most.  Notably I'll just point out here  
3       because I'll come back with it later it's grouping the  
4       market monitoring organization together with the  
5       responsibility for market design and enhancement changes,  
6       which is under the product management function.  That may  
7       not be obvious, but that's where it is..  But also with the

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8       strategic planning organization as well as the enterprise  
9       risk and compliance.  Those are all areas that interact  
10      significantly and substantially with the market monitoring  
11      function as well.  That's one of the reasons that that part  
12      of the reorganization took place.

13                 Shortly after that time, I assume the role as  
14      acting vice president of market structures.  I'm here today  
15      to speak about market monitoring, since we do not have a  
16      manager of market monitoring in place right now, although we  
17      hope to shortly.  I'd like to recognize Lisa Trevali, who is  
18      with me, who is our supervisor of market monitoring and  
19      mitigation.

20                 Also the market monitoring function has another  
21      critical element in New York which is somewhat different  
22      than all of the others of us here.  There's an independent  
23      market advisor who is selected by and reports directly to  
24      the board of directors who also advises the CEO, senior  
25      staff, and the internal market monitoring unit.  I will talk

1 more about that in a moment. Those are the two major  
2 elements of the market monitoring function in New York.

3 (Slide.)

4 As far as the internal organization goes, the  
5 internal market monitoring organization is named market  
6 monitoring analysis and performance to reflect the major  
7 functional responsibilities that it has. As you are

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8 certainly well aware, the very purpose of forming ISOs and  
9 RTOs in the first place was to assure the reliable operation  
10 of the electric system within our footprint and to ensure  
11 the reliable efficient and fair wholesale market operation  
12 with competitive outcomes. Certainly the role of the market  
13 monitoring function, as has been mentioned before, is  
14 critical in achieving those outputs and also and perhaps as  
15 importantly, if not more importantly, to ensure against the  
16 exercise of market power.

17 How do we do this in New York? Simply through  
18 the administration of our FERC-approved tariff and market  
19 monitoring plan. Within those documents are a series of  
20 well-defined -- David used the terminology bright line  
21 threshold and screening devices which we administer. That  
22 gives us the principal direction.

23 Outside of those bright line authorities, our  
24 tariff specifically provides for making a filing with the  
25 Commission to propose new market rules, to propose

1 modifications to our mitigation measures possibly and, to  
2 some degree, FERC approval. That would be our authority  
3 responsibility also to do so. As David mentioned, we may  
4 also refer issues to the Commission in accordance with the  
5 market monitoring policy statement that was referred to  
6 earlier.

7 So what are these major responsibilities? Yes,

8 they are similar to those mentioned by my colleagues here.  
9 First of all, market monitoring. In our day to day market  
10 monitoring activity, which Lisa is primarily responsible  
11 for, we monitor market participant behavior and we monitor  
12 market outcomes in the various markets that we administer.  
13 We also have the responsibility and authorization to conduct  
14 mitigation again under certain bright line tests. As I'll  
15 cover in a moment, that's performed on both an automated  
16 basis, also through manual procedures. We have a unit that  
17 is responsible for investigations, doing things such as  
18 David had referred to: monitoring performance of units in  
19 compliance with specific tariff requirements in areas such  
20 as ICAP, for one, which imposes specific bidding  
21 requirements, verifying unit outage rates and unit  
22 performance characteristics. We also, within the framework  
23 of our tariff, have the ability to recommend sanctions for  
24 violations of some of those conditions.

25 We also have an analysis function. That involves

1 both historic analysis and we also have an ability to  
2 perform market simulations to aid in that analysis as well.  
3 As part of the analysis function, we will look at our market  
4 performance, look at our market rules and recommend  
5 improvements to those. The market monitoring unit and  
6 function is intimately involved in all proposed enhancements  
7 to market rule changes within the ISO structure and  
8 governance process.

9 Finally, what I call performance. We have a  
10 daily market review function within the market monitoring  
11 organization, I guess very similar to the daily function  
12 that Steve's group has here, although we look at a much more  
13 granular level at issues of specific participant behavior  
14 within our markets. We also publish a monthly market  
15 performance report which goes to our board, which goes to  
16 our market participant committees and which is posted on our  
17 website and which is available to Staff certainly as well.

18 Importantly also, as others have mentioned, is  
19 our interface with FERC Staff and the Office of Enforcement.  
20 We have important input on questions that Staff may have or  
21 which we may want to bring to their attention. We have had  
22 for quite some time a monthly conference call meeting which  
23 deals generally with issues of broader concern and an on-  
24 going kind of agenda that we hold there. Then we have the  
25 semi-annual meetings such as we've been having over the past

1 couple of days with the Office of Enforcement. I certainly  
2 agree wholeheartedly with David that those have been very  
3 useful. We view those as a very important two-way street to  
4 benefit as well as hopefully we, ourselves.

5 Moving on to the role and responsibilities of the  
6 independent market advisor.

7 (Slide.)

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8 Dr. Patton serves that role for the New York ISO.  
9 In that role he advises the ISO board, CEO and senior  
10 management, as I mentioned previously, on market design and  
11 performance issues, certain issues of market participant  
12 behavior, and also recommends market design improvements.  
13 Dr. Patton and his organization also advises and assists the  
14 internal market monitoring unit in similar areas and, more  
15 specifically, in the implementation of specific mitigation  
16 methods and protocols that we administer.

17 Finally, in New York it is the independent market  
18 advisor that performs the annual state of the market  
19 assessment for the New York ISO and that is presented, in  
20 turn, to our board, to the Commission and to NISO  
21 stakeholder committees. And again that's a public document  
22 at this point as well.

23 (Slide.)

24 A question of the resources we use to carry out  
25 these functions. The internal marketing unit has a staff of

1       23 personnel, including managerial and administrative. That  
2       staff includes three Ph.D. economists. We similarly have  
3       engineers with an operations background, as well as  
4       analysts. By function we have six personnel dedicated to  
5       the monitoring and mitigation, the daily monitoring and  
6       mitigation function. We have four whose primarily  
7       responsibilities are the investigations and we have six in  
8       the analysis and performance group. Certainly our  
9       resources, as mentioned before, include our independent  
10      market advisor, Potomac Economics.

11               We have daily and continued communications with  
12      most of the other ISO departments, notably operations and  
13      market structures, as I mentioned at the outset. Certainly  
14      legal and regulatory as well. We also have outside counsel  
15      that are expert in the areas we are talking about here as  
16      well, and those sections of our tariff that deal with the  
17      market monitoring plan and mitigation authorities.

18               We have automated tools that I'll call -- some of  
19      which are production grade software, such as the automated  
20      mitigation process that is in fact a part of our day-ahead  
21      and real-time market operations software. We also have many  
22      off-line tools that have been developed in order to derive  
23      data from our production line systems and form that data in  
24      a fashion that's useful and needed for the market monitoring  
25      function, again, similar to what Steve's group has had to

1 develop here as well.

2 We also have simulation tools. We have a model  
3 called PROBE which was developed for us to enable us to do  
4 scenario analysis and analyze. It's a shadow system, if you  
5 will; it runs much faster than our day-ahead market software  
6 itself. We also have the ability off-line in a dedicated  
7 system to run our actual day-ahead market models for the

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8 purposes of analysis and market monitoring analysis. We  
9 also have quite a volume and series of manual policies and  
10 procedures associated specifically with the market  
11 monitoring responsibilities.

12 Our other resources are certainly consultation  
13 with regulatory Staff and consultation with market  
14 participants which in fact is called for under certain  
15 provisions of our market monitoring plan. Often you will  
16 see something that looks like an unusual or just a change in  
17 market participant behavior. That is usually explainable by  
18 communicating rather than just jumping to conclusions. We  
19 found that the consultation process is very useful in  
20 carrying out our responsibilities.

21 Current priorities.

22 (Slide.)

23 Certainly our most important current priority is  
24 our daily market monitoring activities and responsibilities.  
25 I should point out and I believe the Chairman had some

1 discussion with Mark Lynch last week about this. We had a  
2 corporate-wide excellence in execution initiative that has  
3 just begun and has received the support of our board of  
4 directors as well as Mark and the senior officers.

5 How does this relate in particular to the market  
6 monitoring function? I'd itemize three specific areas here.  
7 We'll be automating more of the currently manual processes

8 that we have that will hopefully have the effect of  
9 increasing our efficiency and performance. We will also be  
10 moving many of the offline systems that I referred to into  
11 our IT production-grade testing and quality assurance  
12 environment, which again hopefully will improve the quality  
13 of those tools and improve the performance of those tools,  
14 frankly.

15 Then finally this overall excellence in execution  
16 initiative is having on a corporate-wide basis but certainly  
17 no more important an area than in market monitoring an  
18 increased focus on overall controls and compliance and more  
19 automation certainly should assist in that as well.

20 Another goal we have is to improve our analysis  
21 capabilities. One of the areas is a rather significant  
22 software program -- I'm sorry, IT enhancement of our data  
23 storage and accessibility and archiving of historical data  
24 which the market monitoring unit in particular is highly  
25 dependent upon to do our own analysis to respond to

1 questions from the Commission and others. So we're involved  
2 deeply in that project.

3 We also, by improving efficiencies, plan to and  
4 intend to increase our analytical capabilities and our  
5 ability to perform longer-range analysis and to support the  
6 newly-created strategic planning function, which again is  
7 part of market structures. Indeed, to populate that

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8 function, we stole a few people out of the analysis group of  
9 market monitoring because we believe those are the kind of  
10 skills that are needed in order to look at future evolution  
11 of the markets. You certainly need to have a pretty good  
12 idea of how they operate right now and what the issues might  
13 be.

14 Finally, a sort of strange issue you might think  
15 here, but we've had some discussion with Staff over the  
16 months on this, environmental issues. Both existing and new  
17 environmental initiatives. In the northeast, as you're  
18 aware, as in many other places, we have in New York state a  
19 renewal portfolio standard requirement which has on our  
20 doorstep a rather significant number of wind power  
21 applications, as I'm sure you're aware, which will have an  
22 impact on the operation of our system and which have certain  
23 implications for the market as well.

24 Also we have begun an initiative to communicate  
25 with our local environmental regulators. There's the

1       northeast Reggy program on greenhouse gases just to educate  
2       them -- or it's our intention to educate them as to the  
3       impacts of environmental restrictions and regulations on the  
4       operation of our markets and the ability to have the  
5       resources available without disrupting competitive market  
6       outcomes without resorting to must-run type configurations  
7       and things like that.

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8                       So that's pretty much where we are.  Thank you  
9       for the opportunity.

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1 CHAIRMAN KELLIHER: Thank you, Mr. Buechler.

2 Joe?

3 (Laughter.)

4 CHAIRMAN KELLIHER: That works for me.

5 MR. BOWING: Mr. Chairman, Commissioners, thank  
6 you for the opportunity to be here. I'm undoubtedly going  
7 to repeat much of what my colleagues said, having the

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8 opportunity to go last, standing between you and the fun  
9 part of the afternoon, which is hopefully the Question &  
10 Answer period. I'm not sure what comes after that.

11 COMMISSIONER BROWNELL: My birthday party.

12 (Laughter.)

13 MR. BOWING: I'm actually standing between you  
14 and the real fun. Happy birthday, Commissioner.

15 COMMISSIONER BROWNELL: Hold that thought.

16 MR. BOWING: What I'm going to try to do is  
17 address fairly quickly the three topics that were raised by  
18 the Commission in their notice.

19 First, what is our role as market monitor? Our  
20 role as market monitor, as I primarily stated in the policy  
21 statement, is to assist the Commission in enhancing the  
22 competitiveness of RTO markets. I would extend that to say  
23 assisting the RTO, assisting the state PUCs and assisting  
24 the members as well. Clearly, they have somewhat different  
25 roles and your role is predominant. But, nonetheless, all

1       those additional three categories of participants have a key  
2       interest in enhancing the competitiveness of the RTO  
3       markets.

4               Our first role is analysis. We look at market  
5       structure, market participant behavior and market  
6       performance. It seems like every other economist in the  
7       room and even the engineers do. The real problem is going,

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8       obviously, from economic theory to accounting for the real  
9       details of multiple interacting markets based on a network  
10      of generation and transmission from market structure. There  
11      are some well-defined market structure metrics. But, again,  
12      the problem is refining those market structure metrics to  
13      the applicable to actual power market realities. That's one  
14      of the key analytical tasks in looking at market structure.

15             Market participant behavior we're constantly  
16      monitoring for violation of either RTO or FERC behavioral  
17      rules, looking for exercises of market power. In either  
18      case, we, on a real time basis, discuss those and the issues  
19      that arise with the Office of Enforcement and, when  
20      required, make referrals to the Commission. And, in  
21      addition, propose rule changes to resolve those issues, if  
22      appropriate. Overall market performance -- obviously, the  
23      fundamental question -- easy to say, harder to measure,  
24      although there are some pretty good metrics. Our market  
25      outcome is competitive.

1           The second question we try to address is, do  
2           market power mitigation measures work effectively where they  
3           only have only limited types of market power mitigation  
4           measures? They're automated. They're actually run by  
5           market department engineers rather than market monitoring,  
6           but our rule there is to evaluate how they are enforced and  
7           to ensure, for example, that PJM is implementing those rules  
8           correctly.

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9           Last, but not least, and probably the central  
10          question, the ultimate test our market design is, are  
11          markets sustainable? So one of our tasks, clearly, of  
12          market performance is the extent to which there are adequate  
13          investment incentives that arise out of competitive outcomes  
14          given the mix of markets and the market design. In addition  
15          to analysis of markets, we also look at market rules. The  
16          real RTO markets, as you know very well, are defined by  
17          complex market rules. I don't know how many pages are in  
18          our operating agreement, but it's too many to count most of  
19          the time. A key part of our task is to identify rules which  
20          provide incentives not consistent with competitive outcomes.  
21          And we find that out when we see the actual behaviors that  
22          are incented or permitted by the rules and to propose  
23          changes to the RTO and ultimately to the Commission to  
24          modify those rules.

25          In addition, one of our rules with respect to

1 rules is to define and propose targeted behavioral  
2 mitigation that can be applied in real time using real-time  
3 data on market structure behavior and market impacts much  
4 like we are now applying and have been since March -- the  
5 three pivotal supplier test in both our real-time and day-  
6 ahead market.

7 As someone mentioned, there's something that's  
8 not included. That is enforcement. The market monitoring  
9 at PJM has no enforcement role. That is consistent with the  
10 policy statement and the evolving policies of the  
11 Commission. We're not directly involved in enforcing local  
12 market power mitigation, as they say. We monitor the way  
13 it's applied and make sure it's applied properly, but we do  
14 not have that authority. And, in fact, have no separate  
15 enforcement authority.

16 The final piece of our role is that in order to  
17 effectively assist the Commission in enhancing the  
18 competitiveness of RTO markets it's essential the that the  
19 market monitoring unit be independent. That we be  
20 independent of members from all sectors. That we be  
21 independent of the RTO. I think the Commission and the RTO  
22 market participants all want market monitoring unit views on  
23 marketing issues and our independent views. While agreement  
24 with market monitoring views is not required, unfortunately  
25 -- just kidding --

1 (Laughter.)

2 MR. BOWING: I wouldn't want that. Market  
3 monitoring views and the analytical reasons for them should  
4 be clear and transparent to all market participants, to the  
5 Commission, to the RTO and to market participants in order  
6 to inform a rational decision-making process. In my mind,  
7 the policy debate should also be transparent. That  
8 facilitates the understanding of real markets by all those  
9 involved.

10 With respect to resources, we have a staff of 15  
11 at PJM. I hired all engineers in the beginning and I've  
12 relented and hired some MBAs and economists. But, as was  
13 pointed out, you really need engineers in order to  
14 understand the underlying physical and economic realities of  
15 the system. We also use consultants for specific knowledge  
16 and expertise -- everything from IT consultants to experts  
17 in generation engineering. We rely on certain PJM  
18 resources, particularly maintaining servers and things like  
19 that. That is IT support from PJM. One of our key  
20 resources is data. When I first got to PJM, it was very  
21 difficult, actually, to get data from the market side  
22 because PJM was primarily an operating organization  
23 interested in running the markets and running them reliably,  
24 not so interested in looking back and seeing what had  
25 happened and analyzing it.

1 Over time, we have built a database, a data store  
2 which is high-quality production grade, of course. And, in  
3 fact, a database which is so good that the rest of PJM is  
4 now coming to us looking for their data. But the market  
5 monitoring and analytical needs require these extensive  
6 databases. As I say, we've systematically developed them  
7 and continuing to maintain those databases and continuing to  
8 build them to meet our needs is a critical resource to the  
9 market monitoring unit.

10 Our current priorities -- see, I'm even going to  
11 make it in 10 minutes. Our current priorities -- obviously,  
12 continuing to improve our performance and extend our  
13 analysis to new areas. Some examples, as were indicated by  
14 some of my colleagues, we're continuing to define our real  
15 time monitoring tools; continuing to increase the level of  
16 automation; refining our metrics; proposing, for example,  
17 targeted mitigation for the regulation market for the newly  
18 combined regulation market and PJM; continuing to pursue  
19 improvements in operating reserve rules; continuing to  
20 participate in the process associated with the RPM  
21 mitigation rules; proposing and being involved in the  
22 process for developing the correct or series of correct  
23 approaches to the economic evaluation of transmission  
24 investments. Last, but not least, ensuring that we continue  
25 to try to share information with state regulators. There's

1 a great need for information at the state level. We hear it  
2 in various polite and impolite forms almost every day and we  
3 recognize that it reflects a real need and we're trying to  
4 do that. We're actually putting out monthly reports to the  
5 states, continuing to talk to the states about more gradual  
6 information that might be of use to them.

7 A final priority, and David mentioned this as

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8 well, is to improve and extend the market monitoring unit  
9 role in monitoring the RTO. In fact, monitoring the RTO in  
10 the operational markets, as David said, that clearly does  
11 have a very significant impact on market outcomes. In  
12 particular, we're looking at the price-setting process --  
13 the interaction between marginal units, the transmission  
14 system and the way prices are actually being set, the  
15 decisions by operators. We're looking at the way PJM is  
16 implementing scarcity pricing. We're also looking at the  
17 way in which PJM is actually applying the three pivotal  
18 supplier tests in real time in the day-ahead market, which  
19 is very easy to describe, but very complex to implement and  
20 implement correctly.

21 Thank you.

22 CHAIRMAN KELLIHER: Thank you very much.

23 Colleagues, do you want to start?

24 COMMISSIONER KELLY: Thank you, Joe.

25 I'd like to talk about the nature of your

1 relationship with the RTO. It seems to me that whether you  
2 are an employee or whether you're an independent contractor  
3 the degree of your independence and the nature of your  
4 relationship to your employer should be the same.  
5 Frequently, I hear people talk about in a market monitor  
6 that has a contract as somehow being more independent than a  
7 market monitor who is an employee. I view you as having the  
8 same degree of independence or not because in either case  
9 you work for the RTO. You're hired by the RTO. You're paid  
10 and potentially fired by the RTO. So, to me, it's  
11 immaterial whether you have a contract or are an employee.  
12 I want to continue in my monologue before I ask, but I'd  
13 like your response to that -- if you think I'm right or  
14 wrong.

15 COMMISSIONER KELLY: This then gets me to the  
16 second point, which is, what should your relationship be to  
17 the RTO? Being employed by the RTO there's a potential for  
18 conflict, particularly, if your job, in addition to looking  
19 at how effective the rules are, the market outcomes, the  
20 market participants, as Joe as talked about here -- if  
21 you're also looking at how well the RTO is implementing the  
22 rules, that raises even more potential for conflict to the  
23 extent that you are looking at the efficiencies of the  
24 rules, the flaws in the rules and the effectiveness of the  
25 rules. There could be buy-in by the RTO and the rules.

1       There could be some potential pressure not be careful about  
2       what you say to the extent you're looking at market outcomes  
3       or the behavior of market participants. It would seem to me  
4       there's potential pressure. I'm sure you deal with a lot of  
5       potential conflicts and those are my initial observations.

6               Because of those observations, some of the  
7       questions I have for you are, how should we be helping you  
8       do your job and how much independence should you have from  
9       your employer? What's the best way to use your expertise?  
10      Should we be looking at the contract you have with the RTO  
11      or your job description? Should we be looking at that to be  
12      sure that that's appropriate? That you have the appropriate  
13      amount of independence? Something like an administrative  
14      law judge here. They're our employees, but they have a lot  
15      of independence. Should there be a code of professional  
16      responsibility? Is this becoming a profession like an  
17      auditor or a lawyer or a judge where you have an employer to  
18      whom you are responsible, but you also have a job to uphold  
19      something else-- the law or the rules or the regulations  
20      that somehow can put you in conflict with your employer?  
21      Should there be a code of professional responsibility? And  
22      also, as we go about approving independent coordinators of  
23      transmission, I had that same question. Should you have a  
24      direct obligation to FERC? Should we require you to report  
25      to us as well as to your board or to your management? Would

1       that help you in your independence? Would that hurt you?  
2       Should we ask you for comments on proposed rules or would  
3       that hurt you in your independence or would that help you in  
4       your independence.

5               Obviously, we could use your expertise. But is  
6       there a fiduciary relationship? Or is the nature of your  
7       relationship to your employer such that that would put you  
8       in a compromising situation?

9               Those are my thoughts. I know the questions  
10      aren't very pointed, but I'd really appreciate your thoughts  
11      on that.

12              MR. BOWING: Shall I start?

13              CHAIRMAN KELLIHER: The last shall be first.

14              (Laughter.)

15              MR. BOWING: And the meek and all that.

16              COMMISSIONER BROWNELL: Not that, Joe.

17              (Laughter.)

18              MR. BOWING: Let me try to respond to some of the  
19      questions. First of all, I agree with you that there's  
20      nothing magic about being internal or external. I think  
21      there are clear benefits to being internal. There are some  
22      issues with being internal as well. There are some other  
23      issues to being external. But I think, as you correctly  
24      stated, there needs to be clear rules defining what  
25      "independence" means. There need to be very clear rule,

1 clear, transparent rules. Hopefully, ultimately, rules  
2 approved by the Commission in much the way that David's  
3 rules and David's contract are approved by the Commission.

4 I never thought I'd say this and David never  
5 thought I'd say this, but, in fact, I think that the  
6 institutional guarantees of David's independence as my  
7 submarket monitor, independent market monitor are actually a  
8 very useful model. They're very clear. They make it very  
9 clear to whom he's responsible and in what why he's  
10 responsible. In fact, in PJM, the rules are not anywhere  
11 near as transparent or clear.

12 COMMISSIONER KELLY: Could they be, Joe, as part  
13 of a job description?

14 MR. BOWING: Yes. I think there's absolutely no  
15 question that they could be as clear. I think a hybrid  
16 model which incorporated those kinds of guarantees of  
17 independence with benefits remaining internal is a very  
18 attractive model.

19 In response to some of your later questions, I  
20 think it will be appropriate, and in a sense I think we  
21 already are responsible to report directly to the Commission  
22 in certain areas. That's certainly not a conflict with our  
23 role in the RTO. A key part of our role is to keep the  
24 Commission informed. Clearly, reporting would be consistent  
25 with that. There's no conflict with PJM market monitoring

1 unit's duties to the RTO. I also think it's a good idea,  
2 from my perspective, if the Commission were to ask us for  
3 comments, when you're interested in our comments, that's the  
4 most direct way to get them.

5 I think it is important for market monitors to be  
6 able to communicate formally and publicly and directly with  
7 the Commission on areas where you want our input rather than  
8 necessarily having that constraint by going through the RTO.  
9 Clearly, there are some functions which are appropriately  
10 reserved to the RTO like making 205 filings, but responding  
11 to requests for comments and making reports I don't think  
12 fall in that category. Ultimately, what independence means  
13 is that neither the members nor the RTO can limit the  
14 ability of the market monitoring unit to perform the  
15 mandated functions by requiring or changing our  
16 recommendations.

17 Clearly, we don't expect all the recommendations  
18 to be accepted. That's part of the discipline of the  
19 marketplace of ideas. We're not going to make ridiculous  
20 proposals because they are public and the process is  
21 transparent. Even if we started that way, we'd soon learn  
22 that it didn't make much sense. That's my answer.

23 COMMISSIONER KELLY: Code of professional  
24 responsibility, are we there? Is there a fiduciary duty to  
25 a market? Some type of duty akin to an auditor or a lawyer

1       that would be helped by having some kind of code of  
2       professional responsibility?

3               MR. BOWING:  Yes.  I mean the clearer the rules  
4       and the clearer the responsibilities for market monitors the  
5       better off everyone is.  I'm not sure exactly what a code of  
6       professional responsibility means technically.  But, as I  
7       say, the clearer and more explicit the rules are so that  
8       everyone can understand them the better off everyone is.

9               COMMISSIONER KELLY:  Thanks.

10              MR. BUECHLER:  I agree with Joe.  I agree with  
11      you, Commissioner.  That I don't think there's a difference  
12      between a contract relationship or an employee relationship  
13      in this regard.  What the ISO is trying to do is the kind of  
14      two-part responsibility for market monitoring, as I  
15      mentioned before.  Both having an independent unit and an  
16      independent advisor reporting directly to the Board to  
17      address that independence questions.  In that regard, I'm  
18      aware of some of the historical debates that have taken  
19      place in this very area.  I would liken it to the internal  
20      audit function which reports administratively to myself, but  
21      directly to the Board audit committee in that case.

22              I can assure, from having worked with the  
23      national Board since its inception, that the board of  
24      directors takes very seriously all of their responsibilities  
25      for areas such as audit and heeds the advice of its

1 independent advisor for any significant rule change or  
2 enhancement that's proposed.

3 MR. BUECHLER: The internal market monitoring  
4 unit I view as being an implementor our tariff requirements  
5 operating principally within the boundaries of the tariff  
6 requirements. Yes, we do also advise, analyze, consult,  
7 recommend in terms of market rule changes and so forth.

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8 COMMISSIONER KELLY: John, does everybody have  
9 that same dual function of both implementing the rules and  
10 then monitoring the rules? Or in other RTOs are those  
11 responsibilities divided of implementing the markets versus  
12 monitoring the markets?

13 MR. PATTON: None of us implement the markets.

14 MR. BUECHLER: I was talking in terms of  
15 implementing a market monitoring responsibility under the  
16 market monitoring plan.

17 COMMISSIONER KELLY: Sorry.

18 MR. BUECHLER: No. The operations organization  
19 in the New York OSI implements and administers both the  
20 reliability as well as the market operation. What I was  
21 going to say in that regard is, in the annual state of the  
22 market assessment, the independent market advisor does look  
23 at implementation, as David was talking about, in terms of  
24 MISO. He also does look at implementation in terms of,  
25 again, his recommendations and analysis in that fashion.

1                   COMMISSIONER KELLY: John, if the market monitor  
2 was required to report to FERC, along with the Board, would  
3 that be good, bad? Are you indifferent about it? Would it  
4 put you in a difficult position with your own management?  
5 Would it inhibit you from saying what you might otherwise  
6 say? Would it help you to say what you want to say?

7                   MR. BUECHLER: Again, I think similar to Joe's  
8 position -- maybe you can clarify what you mean by "report  
9 to." I guess I think we already do that. We already do  
10 have, first of all, an obligation to do so, but we already  
11 do communicate on a regular basis with FERC and I believe  
12 are forthcoming in terms of the questions asked and  
13 information requested and so forth on a direct basis between  
14 ourselves as the market monitoring unit and the Office of  
15 Enforcement. Those communications don't go through --  
16 they're not screened, if you will, by the ISO, however you  
17 would view that.

18                  COMMISSIONER KELLY: How about comments on  
19 proposed rules -- your independent comments? If we asked  
20 you for your independent comments -- I'm trying to figure  
21 what the best for us to use your expertise.

22                  MR. BUECHLER: I think that would probably be a  
23 good idea. I don't see any problem with that.

24                  COMMISSIONER KELLY: Thanks.

25                  MR. PATTON: I will give a slightly different

1 view of this I think than some of my colleagues. I think  
2 part of the reason why, perhaps, we would give a different  
3 answer to your questions is that I'm not aware that anyone  
4 feels that their management has ever attempted to assert  
5 great influence over them.

6 COMMISSIONER KELLY: I didn't mean to imply that  
7 I know of any of that.

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8 MR. PATTON: I know. But I think it's absolutely  
9 clear that -- to me at least, the independence is remarkably  
10 different being not an employee, but being a contractor  
11 because the number, the degree of control they have over  
12 various things as an internal entity your staff can be  
13 reassigned. It can affect how you hire people, fire people,  
14 what you pay people, your procurement of computers. There's  
15 any number of things that the ISO management has gained  
16 control of when you're an employee of an organization versus  
17 a contractor.

18 As an external entity, the number of levers they  
19 can use to attempt to compromise my independence are very  
20 few. Basically, the renewal of my contract may be the only  
21 one I can think of. And I think what Joe's talking about in  
22 terms of the protection is you really oversee that decision  
23 and it's a decision by the Board rather than the ISO. But  
24 you oversee that so that it would be difficult, if not  
25 impossible, for them to credibly use that as a means to try

1 to undermine my independence. I would think that safeguards  
2 for an internal unit that has employees could be designed.  
3 They just would have to be able to address any number of  
4 other ways in which influence could be exerted on them.

5 As far as the code professional conduct, ethics,  
6 I think that's actually a good idea. I enforce the code  
7 that you enforce on FERC employees on my employees or use

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8 that as a model. So everything from they can't own stock.  
9 They can't go work for a participant. All those things I  
10 enforce on them, recognizing that that was basically just  
11 something I chose to do, not a requirement of being a market  
12 monitor.

13 Other questions as far as reporting to FERC, I  
14 guess I thought I had an obligation to report to FERC at  
15 least in terms of explicitly on referrals, but also on the  
16 relationship that we've set up with the Office of  
17 Enforcement. That's certainly an informal way in which we  
18 report to FERC on various things. There's no way --  
19 certainly, all of our management know that we're interacting  
20 with FERC staff on a regular basis. I can't see how a  
21 requirement to do so would change the nature of things.

22 Lastly, I think, at least in the MISO context,  
23 the structures, the independence is also guaranteed by the  
24 fact that we don't report to the management. We report to  
25 the Board and the Board places extreme value in the fact

1       that our opinion is not being filtered. Because it's very  
2       important to them that they get an unvarnished, untampered  
3       with view of what's going on, even if what's going on is  
4       there's some way in which the staff is implementing the  
5       market that may not be tariff-compliant or may be causing  
6       harm. It's similar, in my mind, to an external auditor  
7       who's reporting to the Board and has no responsibility to  
8       the management.

9               COMMISSIONER KELLY: When you report to the  
10       Board, is it a pre-existing regular obligation? Or do you  
11       report as you see a problem? Or do you report as requested?  
12       Do you report with respect to particular Board initiatives?

13              MR. PATTON: All of the above. In addition to  
14       that, I'm reporting to the Board in a public session that  
15       participants can attend. I also report to them in executive  
16       session when we're talking about particular participants or  
17       confidential information. I also report to them without the  
18       Midwest ISO present in closed session if there are any  
19       issues that involve the staff. So it happens in sort of a  
20       variety of ways.

21              COMMISSIONER KELLY: Thank you.

22              MR. CHAO: In my short tenure of experience with  
23       ISO New England, what I said about my resume that was meant  
24       to be a joke.

25              (Laughter.)

1 MR. CASEY: Oh, you're looking for a job.

2 (Laughter.)

3 MR. CHAO: My feeling is it seems to me that the  
4 system in New England seems to work well in addressing many  
5 of the concerns that were discussed so far. We have both  
6 internal and independent. That combination seems to address  
7 all different aspects.

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8 I will take another viewpoint here. Broadly  
9 speaking, the market monitor's job involves two aspects to  
10 catch bad behavior or to catch bad rules. Broadly speaking,  
11 in the bad behavior, we follow the bright line test. There  
12 is no ambiguity about most of the things. If we have any  
13 concerns, we always can have some advanced consultation with  
14 the FERC with the right parties. Management has no qualm  
15 about anything that the market monitor does in that area.  
16 So their independence is not really an issue. It's probably  
17 more important in dealing with analysis that involve  
18 judgment.

19 The independent, so far, that ISO has been given  
20 to the position is that the market monitor can tee up issues  
21 at any point as you see it and take that seriously. And  
22 also, when a study is conducted, the external and internal  
23 market monitors would conduct different parallel studies to  
24 minimize risks and to compare different results and also  
25 give the Board some assurances of independent assessment.

1 In dealing with the rule changes, what is useful is to keep  
2 an eye on the bottom line. What we are trying to accomplish  
3 is the same thing really the success of the wholesale market  
4 and there are very objective criteria out there. While it  
5 may be difficult to get an analysis done to cover all the  
6 ground in terms of overall arguments, pros and cons, in  
7 arguing about those rules, it's not likely that, in my view,

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8 in New England so far -- that whole experience of problems  
9 and pressures from different parties. ISO, as a whole, is  
10 an independent organization sharing exactly the same goal.

11 MR. CHAO: What I see in relation to FERC -- the  
12 thought about soliciting comments from market monitors,  
13 generally, I think that's a good thing. On the other hand,  
14 we also feel that our interaction with the FERC -- and often  
15 when we have issues going through a more informative process  
16 to have exchanges to try to bring solutions to the problem.  
17 That also will be very constructive. That kind of support  
18 will strengthen so-called "independence" within the ISO.  
19 That will help our colleagues to see, through this process,  
20 we're more likely to bring solutions to an issue in a way  
21 that it is likely to get more cooperation. The process can  
22 go on and become very productive.

23 COMMISSIONER KELLY: Thank you.

24 MR. CASEY: Commissioner Kelly, I think you've  
25 raised a very important issue on independence.

1                   To answer your question, the potential for  
2           conflict I would agree is there in theory. I think, in  
3           practice, with the California ISO it has not been an issue.  
4           I think, in large part, it's due to less so to how our rule  
5           is defined in the tariff. Because I think, if you read the  
6           ISO tariff provisions on the role of our market monitoring  
7           unit, it describes our responsibilities but not a lot of

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8           discussion about our independence. That discussion is more  
9           allocated to our market surveillance committee.

10                   I think our independence comes more from our  
11           organizational structure at the ISO and a recognition and  
12           appreciation by management of the important role we play.  
13           For instance, I think our reporting directly to the CEO  
14           helps to bolster our independence. The CEO is not involved  
15           in the day-to-day business production of the organization,  
16           not caught up in the fire drills. So, not have to report,  
17           for instance, to an operations department or market and  
18           products development department gives us greater  
19           independence. Also, in terms of organizational structure,  
20           the fact that management looks in the first instance to its  
21           other business units on decisions of market design as well  
22           as operational issues, we're viewed really as kind of an  
23           autonomous group that can weigh in on particular proposals  
24           or issues that we think are important.

25                   The fact that they're not looking to us on the

1 first instance on market design I think give us greater  
2 discretion. At the end of the day, when they present market  
3 design proposals to our governing board, you're going to  
4 hear from the market and product development group on why  
5 this design is a good idea. Then the Board has explicitly  
6 asked that our market monitoring group be prepared to weigh  
7 in on any market design issues that are presented to them,  
8 so they clearly see us as a separate entity within the ISO  
9 that provides recommendations and opinions apart from ISO  
10 management.

11 I'd also point out the market surveillance  
12 committee, I think, gives us an extra level of independence  
13 similar to what David was saying. The market surveillance  
14 committee reports directly to the governing board, not to  
15 the ISO CEO. And they can report matters directly to FERC.  
16 For us, our reports have to be first reviewed by the ISO  
17 CEO.

18 COMMISSIONER KELLY: In the real world, is there  
19 any reason to have two internal and external --

20 MR. CASEY: There is a complementarity there in  
21 that we are really the boots-on-the-ground organization that  
22 deal with the day-to-day data, interact with the operators.  
23 We really develop a really fundamental understanding of  
24 what's going on in the market. The market surveillance  
25 committee have day jobs. So they're really relying on our

1 expertise, looking for us to provide the information they  
2 need to make their assessment. I really think there's a  
3 complimentary relationship with the committee and our market  
4 monitoring group.

5 On the issue of who's monitoring the ISO, I would  
6 say that we certainly view keeping an eye on the ISO in  
7 terms of the impact some of their operational practices may

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8 be having in the market as important. There have been  
9 numerous instances where we've identified things and  
10 oftentimes it's just simply a lack of transparency or  
11 consistency in how operating procedures are being carried  
12 out and we've put forward recommendations to make those  
13 procedures more explicit and transparent to the market.  
14 Operations has been very receptive to that kind of thing.

15 I think the organization is called an independent  
16 system operator for a reason. They want to be independent.  
17 They want to do the right things, but reliability is  
18 priority 1 with this organization. Oftentimes, they don't  
19 appreciate some of the market impacts or perceptions of a  
20 lack of transparency -- how detrimental that can be. So we  
21 have an important role there.

22 Finally, with respect to reporting to FERC, I  
23 would caution against looking to the market monitoring group  
24 as kind of the default reporting entity at the ISO on any  
25 tariff or market design change that the Commission might

1       adopt. The reason I caution you on that is, as you've seen,  
2       we have limited resources. We're a relatively small group.  
3       We need to leverage those resources where we think it's most  
4       important. Oftentimes, some of the routine reporting could  
5       be on things that really don't have a direct connection to  
6       potential anti-competitive behavior or significant market  
7       inefficiencies. If we spend a lot of time on that, it would  
8       pull us away from being able to focus on what really matters  
9       most from our standpoint.

10               I'm not saying you should never ask us to provide  
11       reports on that, but I'm just suggesting you be judicious in  
12       what you steer towards us, recognizing that our top priority  
13       is keeping an eye on how the market's performing. I would  
14       also add that we always have the option of providing  
15       comments. So, even if you're hearing from an ISO with  
16       routine reports on a particular market issue, to the extent  
17       we're seeing something different and we think it's important  
18       for you to hear that, we always have the option of providing  
19       that information to our board and then, in turn, to you.

20               I'll stop there.

21               COMMISSIONER KELLY: Thank you.

22               CHAIRMAN KELLIHER: Birthday girl?

23               COMMISSIONER BROWNELL: Thank you so much. And  
24       remember any time taken away here is being taken away from  
25       the birthday party.

1                   I have some generic questions and then some  
2                   generic information I'd like to get. When you talk about  
3                   market-to-market issues -- I think, David, you mentioned --  
4                   I hear it all over in the case of California. As we get  
5                   more mature, it's going to be market-to-non-market. But do  
6                   you all meet together on a regular basis to talk about that?

7                   One of the challenges that I hear is that the  
8                   ISOs themselves have kind of a not-invented here mentality.  
9                   So they're kind of reluctant to harmonize some of the things  
10                  that would get rid of the problems. Do you all share that  
11                  information and could you help us work through some of those  
12                  issues? Is there more we should be asking of the ISOs to  
13                  deal with this because it has implications for efficiencies,  
14                  for arbitrage opportunities, but also for cost?

15                  MR. PATTON: Are you speaking of do we meet  
16                  together on market monitoring issues or specifically on  
17                  arbitrage between areas?

18                  COMMISSIONER BROWNELL: You talked about  
19                  identifying market-to-market issues, which I assume would,  
20                  under any set of circumstances, have market monitoring  
21                  implications. I'm wondering do the market monitors get  
22                  together to talk about issues like that. Do you get  
23                  together, other than here, to talk about issues at all?

24                  MR. PATTON: Yes. I think most frequently the  
25                  interaction would be bilaterally. For example, I talk to

1 Joe frequently about issues between MISO and PJM. When I  
2 refer to the market-to-market processes, there are explicit  
3 automated procedures for jointly managing transmission  
4 constraints that both PJM generation and MISO generation  
5 affect. So there reference to market-to-market wasn't  
6 generic. It was to those specific procedures. We talk  
7 about that. We also talk about other coordination issues  
8 and transaction sorts of issues. In the Northeast, it's a  
9 routine part of the market reports to analyze how well the  
10 power is traded between markets and how that can be better  
11 facilitated so that the efficiencies of a dispatch that  
12 covers the entire eastern interconnect can be captured.  
13 That is something we talk with each about. It happens to be  
14 something that each market monitor generally has data  
15 available to evaluate unilaterally. It's not something  
16 where I have to call Joe because he has data that I need in  
17 order to evaluate. Mostly, what you need to evaluate is, is  
18 the transactions which we both can see and the prices. To  
19 the extent there is behavior by a participant that's  
20 aggravating some constraints that effects both of us, that  
21 maybe something only one of us can see and we do talk about  
22 those sorts of issues.

23 COMMISSIONER BROWNELL: I'm actually talking more  
24 about what are sometimes highly nuanced differences that  
25 cause problems and that are difficult for us because they

1 are sometimes so nuanced -- different definitions, different  
2 protocols, very difficult for us to put our arms around. It  
3 has something certainly to do with market power. But,  
4 frankly, to me, market inefficiencies -- I'm just wondering  
5 if the market monitors might be an independent resource for  
6 us to identify those issues on a more timely basis and get  
7 some recommendations about how to deal with them.

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8 MR. PATTON: I think we're in a good position to  
9 do that.

10 MR. BOWING: I would agree with that. I talk to  
11 David and talk to David's people fairly frequently about  
12 issues in the MISO and PJM markets. I think that both MISO  
13 and PJM are actively engaged in trying to make it work  
14 better. But I also agree with David that the market  
15 monitors -- and we've talked about this recently -- could be  
16 a source of information to you all -- a source like any  
17 other you have and a source of independent review of that.

18 COMMISSIONER BROWNELL: Thank you.

19 Some specific questions. David, you said you  
20 were going to have 10 to 20 recommendations for MISO in  
21 terms of tariff changes, market rules. Did I understand  
22 that correctly?

23 MR. PATTON: Yes.

24 (Laughter.)

25 MR. PATTON: They're not all tariff issues. Some

1 are operational issues. But, yes.

2 COMMISSIONER BROWNELL: Did you want to wait  
3 until the market was underway for a year to get experience?  
4 Have you been making these along the way so that we can fix  
5 things as they're happening without waiting a year -- you  
6 know, how does the process work?

7 MR. PATTON: Some of these are recommendations  
8 that we've made along the way or issues that we've  
9 identified as we've gone along. A couple of them are issues  
10 we identified before the market started, but some experience  
11 was needed in order to determine how valuable it would be to  
12 make certain changes to how the software functions. But,  
13 generally, if there are pending issues that need to be  
14 addressed or would be valuable to address, we try to  
15 consolidate those in the annual report with the analyses of  
16 the prior year that show what kind of impact that may have.  
17 It becomes something the RTO can use to help prioritize.  
18 Because all the RTOs tend to be IT-resource limited. It's  
19 difficult for them unless an issue comes up that is an  
20 emergency that's causing so much dysfunction that they have  
21 to drop everything and do it now. It's difficult for them  
22 to take recommendations that happen sporadically throughout  
23 the year and somehow fit it into their software  
24 prioritization, so having them consolidated is of some  
25 value.

1                   COMMISSIONER BROWNELL: The RTOs are IT limited,  
2 but they're also IT driven. That is where a large amount of  
3 the costs come from. I continue to wonder why at this point  
4 in the history of RTOs and ISOs we don't anticipate more and  
5 consequently have to incur costs afterwards of software  
6 changes. Software updates are one thing. Dramatic software  
7 changes because we didn't anticipate some element of a  
8 market design just cause me concern. As we move to  
9 California, and life after the meltdown, do we know enough  
10 to help California anticipate some of those? Is there  
11 better modeling of design rules that should be done up front  
12 so we can avoid some of these mistakes?

13                  MR. PATTON: I'll tell you in my case, with these  
14 recommendations, most of these are fairly incremental  
15 changes. Where the largest costs come in is where you're  
16 trying to complete the set of markets. So none of these  
17 changes that I can think of will require significant  
18 software costs. What will require significant software  
19 costs are implementation of the ancillary services market,  
20 which are critical in the long term to having an efficient  
21 set of price signals that will sustain the capacity in the  
22 Midwest, but that's not something that was unforeseen. It's  
23 just a matter of it wasn't in the plan to roll out all the  
24 markets at one time.

25                  COMMISSIONER BROWNELL: But have we learned

1 enough from the design and experience and evolution of other  
2 ancillary service markets to maybe avoid making some of the  
3 mistakes -- and everybody makes mistakes in their ventures.  
4 I just sometimes wonder if we learn from each other so we  
5 can avoid it in the future.

6 MR. PATTON: I feel like we do. People don't  
7 apply all the lessons. There's something that happens in  
8 this industry where people want to feel like they've  
9 invented something the first time.

10 COMMISSIONER BROWNELL: That would be my point.

11 (Laughter.)

12 MR. PATTON: If they can't invent it, they invent  
13 a new acronym.

14 (Laughter.)

15 MR. PATTON: One of my challenges is trying to  
16 keep TCCs and FTRs and CRR, so there is that issue.  
17 Sometimes people just aren't willing to accept that this is  
18 a lesson necessarily applicable to that region, so they  
19 might do something slightly different. But I think, in  
20 general, people do learn and the issues you see one place  
21 that are dealt with are more quickly dealt with other  
22 places. The reality is these markets are more complex than  
23 anything I can think of just because of the physical  
24 realities that you have to balance against the economic  
25 realities just makes them inherently very complex.

1                   MR. CASEY: I would add, Commissioner Brownell,  
2                   with respect to California and its market design initiatives  
3                   in general, we often do talk with other ISOs rather than  
4                   reinvent the wheel. We try to gain insights from how they  
5                   approached it. What are the pros and cons of their  
6                   approaches. Oftentimes, there is no silver bullet.  
7                   Different ISOs adopt different approaches. They both have  
8                   their pros and cons, and we have to choose among those,  
9                   taking into consideration the particulars of our grid and  
10                  our stakeholder interest. That kind of interaction does go  
11                  on fairly frequently in the design process.

12                 MR. BUECHLER: Just to add on, while it may not  
13                 be transparent to yourselves, the ISOs and RTOs certainly  
14                 have many avenues of communication -- formalized or less  
15                 formalized, we have been probably to speak with all of our  
16                 colleagues from time to time on very specific implementation  
17                 market design issues. I know you're aware that the council  
18                 has a number of committees among which are the markets  
19                 committee, who are meeting as we speak actually, where folks  
20                 are involved who are responsible for the market design of  
21                 all the ISOs, including our Canadian neighbors. They meet  
22                 on a regular basis. There's an IT committee that, again,  
23                 I'm sure you're aware of as well that have tried to and have  
24                 made inroads in terms of trying to conform practices and  
25                 gain efficiencies there as well. There's a planning

1 committee from the council as well.

2           Aside from that, if I can just speak to the  
3 Northeast, we have agreements with all of our neighbors that  
4 specifically address market issues and there's a inter-  
5 regional planning agreement as well among the Northeast ISOs  
6 and obviously there's one in the Midwest with PJM, TVA and  
7 so forth. But there are many instruments and areas of

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8 communication where we constantly try and attempt to learn  
9 from each other and to better coordinate our operations in  
10 various ways.

11           COMMISSIONER BROWNELL: I appreciate the effort.  
12 I think there's great process. I think we carry process out  
13 to an extreme, never before seen. But I think we can't  
14 confuse process with progress. I'm thinking maybe asking  
15 more questions about outcomes, and when we see different  
16 solutions maybe we need to be more rigorous of asking why  
17 they need to be different. I appreciate different  
18 stakeholder profiles, but I'm not sure that the overall  
19 market design is always best served by responding to some  
20 very narrow needs of stakeholders. I think we certainly saw  
21 that in the development of MISO.

22           Really quickly, Keith, is your market advisory  
23 group -- are they under contract? Are they paid? Is that a  
24 volunteer?

25           (Laughter.)