

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

Champion Energy Marketing LLC)))	Docket No. EL15-46-000
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COMMENTS OF THE INDEPENDENT MARKET MONITOR FOR PJM

Pursuant to Rule 211 of the Commission’s Rules and Regulations,¹ Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (“Market Monitor”), submits these comments on the complaint and request for waiver submitted by the Champion Energy Marketing LLC (“Champion”) on February 13, 2015. Champion seeks to be excused on complaint from responsibility for uplift charges billed to it for service received in January, 2014, or to have the rules that apply such charges waived. Because PJM correctly implemented its filed tariff, a complaint against PJM should not be granted. Because Champion’s request does not meet the conditions for waiver of a filed tariff rule, the request for waiver should be denied. Nevertheless, Champion has a legitimate grievance that deserves attention. Champion has been billed for capacity from suppliers who did not fulfill their obligation to provide energy when needed. Champion has been billed to cover PJM’s costs of buying replacement energy because the capacity resources on which PJM relied did not provide energy when needed. Champion is exposed to charges in addition to those addressed in its complaint, if, contrary to the Market Monitor’s comments and protests, pending requests to transfer the responsibility for losses associated with the costs of natural gas fuel that was purchased but not used to provide energy to PJM

¹ 18 CFR § 385.211 (2014).

customers are granted.² Champion's complaint illustrates the need to continue to determine why so much capacity failed to perform during the cold weather in 2014. Champion's complaint also illustrates why it is important to move forward expeditiously with PJM's Capacity Performance proposal, which is the best opportunity to add appropriate performance incentives for generation resources and avert future grievances like those identified in Champion's filing.³

Champion's complaint against PJM should not be granted. Excusing Champion from paying uplift charges could not be done on grounds that would not exclude all LSEs. PJM must charge uplift to pay for energy purchased. Champion has not shown that it is unjust and unreasonable to provide the funds to PJM needed to compensate those who supplied energy in accordance with the filed tariff rules.

Champion's waiver request fails to satisfy any of the elements that must be satisfied in order to obtain waiver of the filed rules.⁴ Champion has not demonstrated that it cannot pay the uplift charges billed to it. Champion has not shown that its request is limited; the basis for the request applies to all parties assessed uplift charges. Granting the waiver does not solve a concrete problem. PJM assigned responsibility for uplift consistent with the

² See *Duke Energy Corporation, et al. v PJM*, Docket No. EL14-45); *Eagle Point Power Generation LLC*, ER14-2075 (withdrawn); *Old Dominion Electric Cooperative*, ER14-2242); *Calpine Energy Services, L.P.*, ER15-376).

³ See PJM filing, Docket No. ER15-623-000 (December 12, 2014); PJM filing, EL15-29 (December 12, 2014).

⁴ The Commission will grant a request for a waiver that meets the following conditions: (i) the applicant has been unable to comply with the tariff provision at issue in good faith; (ii) the waiver is of limited scope; (iii) the waiver would address a concrete problem; and (iv) the waiver would not have undesirable consequences, such as harming third parties. See, e.g., *Invenergy Nelson*, 147 FERC ¶ 61,067 at 23 (2014); *Southwest Power Pool, Inc.*, 146 FERC ¶ 61,110 at P 10 (2014); *PJM Interconnection, L.L.C.*, 144 FERC ¶ 61,060 at P 12 (2013); *New York Independent System Operator, Inc.*, 144 FERC ¶ 61,147 at P 8 (2013); *New York Independent System Operator, Inc.*, 139 FERC ¶ 61,108 at P 14 (2012); *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,184 at P 13 (2011); *ISO New England Inc.*, 134 FERC ¶ 61,182 at P 8 (2011); *California Independent System Operator Corp.*, 132 FERC ¶ 61,004, at P 10 (2010).

purpose and intent of the rules. If the waiver request is granted, other load-serving entities (LSEs) who do not receive comparable waivers will pay Champion's share of uplift, and, if all LSEs are excused, PJM will not have the funds to compensate the suppliers who delivered energy. Accordingly, Champion's request for waiver should not be granted.

Champion's request for waiver and complaint fall so far short of what would be needed to grant relief that it appears that Champion has used this filing primarily to make the point that LSEs have not been well served by capacity market rules that do not impose real performance obligations on generating units to provide energy when it is needed.

Champion points to the Commission's non-public investigations into market manipulation as an alternative proceeding addressing the same issues that it raises in this proceeding.⁵ Suppliers who did not fulfill their obligations, particular if through manipulative behavior or behavior inconsistent with the tariff, are a more appropriate source from which to obtain relief than PJM, or, indirectly, the suppliers who did provide energy or other LSEs.

The issue raised by Champion demonstrates the need to reform the capacity market rules. It was plain that performance incentives were inadequate when RPM was implemented and since that time.⁶ There has also been a faulty conception of capacity as a summer only product that the winter weather exposes. The best way forward is the expeditious approval of PJM's Capacity Performance proposal, revised to remove excuses for non performance, to address market design errors and to make adequate provision for the ex ante detection and deterrence of the exercise of market power and manipulation.

⁵ Champion at 18–19, citing Commission and Industry Actions Relevant to Winter 2013-14 Weather Events, Docket No. AD14-8, Item No: A-4, October 16, 2014, FERC.gov, slide 9, p. 14, <https://www.ferc.gov/media/news-releases/2014/2014-4/10-16-14-A-4-presentation.pdf>.

⁶ See, e.g., 2010 State of the Market Report for PJM v.2 (March 10, 2011) at 365 ("The MMU recommends that the performance incentives in the RPM Capacity Market design be strengthened. The MMU recommends that capacity resources be paid on the basis of whether they produce energy when called upon during any of the hours defined as critical.").

The Market Monitor respectfully requests that the Commission afford due consideration to these comments as the Commission resolves the issues raised in this proceeding.

Respectfully submitted,



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Dated: March 5, 2015

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Eagleville, Pennsylvania,
this 5th day of January, 2015.



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