UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Independent Market Monitor for PJM	)	
v.	)	Docket No. EL19-27-000
PJM Interconnection, L.L.C.	)	

ANSWER AND MOTION FOR LEAVE TO ANSWER OF THE INDEPENDENT MARKET MONITOR FOR PJM

Pursuant to Rules 212 and 213 of the Commission's Rules and Regulations,[1] Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor ("Market Monitor") for PJM Interconnection, L.L.C. ("PJM"),[2] submits this answer to the answer submitted by PJM on January 25, 2019 ("January 25th Answer").[3] The Market Monitor also answers PJM's motion to dismiss, which does not require leave. The January 25th Answer, among other errors, offers no defense to the substance of the Market Monitor's complaint. PJM instead concedes that the subject fuel cost policy does not actually include the provision on which PJM relies on for its failure to impose a penalty. Such a defense reveals PJM's reluctance to take seriously fuel cost policies and the essential protection they

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1 18 CFR §§ 385.212 & 385.213 (2018).

2 Capitalized terms used herein and not otherwise defined have the meaning used in the PJM Open Access Transmission Tariff ("OATT"), the PJM Operating Agreement ("OA") or the PJM Reliability Assurance Agreement ("RAA").

3 Arguments similar to PJM's included in pleadings filed by some other parties are also addressed in the course of responding to PJM.

are designed to provide against market power and market manipulation. PJM's motion to dismiss reveals PJM's continued, and inexplicable, reluctance to accept the independence of the market monitoring function. PJM's motion and answer should be disregarded and the relief requested by the Market Monitor should be granted.

I. ANSWER

A. PJM Concedes the Complaint.

PJM concedes that the approved fuel cost policy at issue does not include the provision on which PJM relies on for its failure to impose a penalty.[4] PJM concedes the only issue to be decided here. PJM should be directed to impose a penalty for failure to follow the approved fuel cost policy.

1. The Fuel Cost Policy Does Not Include the Provision Relied Upon by PJM to Excuse the Seller.

Fuel cost policies define systematic and verifiable rules that permit the calculation of fuel costs based on stated inputs. Fuel costs policies are basically equations that take inputs and generate outputs.[5] Market participants write their own fuel cost policies subject to review for conformance with the rules by the Market Monitor and PJM and approval by PJM. PJM concedes that the approved fuel cost policy does not include the condition on which PJM relies: "{REDACTED}."[6] Fuel cost policies cannot be read flexibly, any more than an equation can be read flexibly. There is no such thing as an extenuating circumstance in a fuel cost policy. All conditions that the participant wishes to cover are addressed

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4 PJM at 16.

5 For example, see slide four of: PJM Fuel Cost Policy and Hourly Offers Filing, "PJM Presentation to the Market Implementation Committee" (March 8, 2017), which can be accessed at: <*http://www.pjm.com/~/media/committees-groups/committees/mic/20170308/20170308-item-07a1-fcp-update.ashx*>.

6 PJM at 16.

explicitly and unambiguously. Ex ante identification of all such conditions is the point of having fuel cost policies. For that reason, no extenuating circumstances are defined or even mentioned in the fuel cost policy. PJM goes on to state that "{REDACTED}"[7] PJM has it backwards. PJM's approach would make the fuel cost policy unverifiable, by definition. PJM would permit the market seller to develop its fuel cost without following its fuel cost policy. But that is inconsistent with the definition and meaning of a fuel cost policy. A fuel cost policy cannot be verifiable if the market seller can change the rules after the fact. That is the antithesis of verifiable. Verifiable means that PJM or the Market Monitor can, after the fact, take the defined inputs that were available to the market seller in real time, use the fuel cost policy rules that were defined prior to the events and calculate exactly the same fuel cost that the market seller calculated in real time.

2. {REDACTED}.

{REDACTED}

3. Market Impact or Harm Is Not A Requirement for Imposition of a Penalty.

In its order issued June 17, 2016, in Docket No. ER16-372, the Commission required that PJM implement a penalty structure that applies whenever a market seller submits a cost-based offer that does not adhere to its fuel cost policy or any other requirement of Operating Agreement Schedule 2.[8] The Commission approved penalty structure does not require market harm. The Schedule 2 penalty provisions make no reference to intent, magnitude of the error, market power, or market harm. PJM's argument that the Market

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[7] PJM at 16.

[8] *PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,282 at P 63.

Seller's error was harmless is irrelevant to the applicability of the penalty.[9] PJM has not made this argument in any prior cases in which PJM imposed penalties.

Allowing PJM to dismiss penalties based on after the fact reinterpretations of the fuel cost policy, that were clearly not contemplated during the fuel cost policy approval process, undermines the integrity of the cost-based offer verification process. Without consistent application of penalties and consistent interpretation of all fuel cost policies, market sellers would have the ability to exercise market power in PJM. If PJM's subjective approach of changing the policy after the fact and allowing for extenuating circumstances were to be implemented, market harm would result when applied on high gas cost days. {REDACTED}. The precedent created by the failure to impose this penalty would create market harm.

The point of rules like the penalty rule is to deter the exercise of market power and market manipulation in an efficient and effective manner. The penalty rule appropriately recognizes that use of fuel costs not based on the approved fuel cost policy is prohibited and does not require a showing of harm. Rules like the penalty rule likewise do not require a showing of intent. Such rules are an efficient and effective alternative to filing 100 cases against individuals for not calculating fuel costs on a verifiable and systematic basis.

B. The Motion to Dismiss Should Be Rejected

PJM argues (at 1) that the Market Monitor's complaint should be dismissed because the Market Monitor is "not authorized to file the instant complaint against PJM." PJM's arguments are unavailing and should be rejected.

The Market Monitor must be allowed to exercise its independent judgment to fulfill its commitments under the PJM OATT. Like any other person, the Market Monitor is authorized to file a complaint, including against PJM, under the Commission's regulations.

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[9] *See* PJM at 20.

Such authorization is repeatedly and expressly reinforced in Section IV of the PJM Market Monitoring Plan. In addition, the Commission explicitly directed the Market Monitor to file complaints against PJM for the particular matters that this complaint involves. The Commission explicitly considered and correctly rejected PJM's proposed alternatives to complaints that PJM argues for again in this proceeding.

The motion to dismiss reflects PJM management's continuing reluctance to accept the independence of its market monitoring function. Denying the Market Monitor, uniquely, the ability to file complaints achieves no useful purpose. It would shield PJM management from informed and actionable criticism of its actions when administering its OATT. It would allow PJM to avoid forums where the Commission has a clear and confident path to take corrective action.[10] The Market Monitor should not be confined to forums with no developed procedural framework, transparency, timelines or remedies. Independence means the Market Monitor chooses how it interacts with the Commission and the public. PJM does not and should not play any role in that choice.

1. The OATT and Commission Regulations Authorize the Market Monitor's Complaint.

PJM argues (at 4 n.9) that the complaint is not authorized by the OATT:

> Simply put, nowhere in PJM's filed rate, including Tariff, Attachment M or the existing or new Market Monitoring Service Agreement, is the Market Monitor authorized to file the instant Complaint regarding disagreements over Fuel Cost Policy implementation.

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[10] *See* PJM at 2 ("The PJM Market Monitor is expected to raise such concerns both with PJM management and with the PJM Board. It is expected to raise such concerns with the Market Seller involved. It can raise such concerns, at least to the point confidential information is not compromised, with states, consumer advocates, and other Market Participants. Finally, the PJM Market Monitor should raise such concerns with the Commission to the Office of Enforcement, the Office of Energy Market Regulation, and/or the Office of Administrative Law Judges and Dispute Resolution, as it may deem appropriate.").

The following provisions authorize the Market Monitor to file complaints, including in the circumstances of this case:

- OATT Attachment M § IV.C: The Market Monitor is required to "monitor PJM's implementation of the PJM Market Rules and operation of the PJM Markets." When "the disagreement cannot be resolved informally, the Market Monitoring Unit may inform the Commission." Contrary to PJM's argument that complaints are uniquely prohibited, the provision contains no such prohibition. "Inform" is stated broadly. PJM implicitly concedes that "inform" includes all the vehicles PJM prefers. It also includes filing complaints, one that PJM does not prefer.

- OATT Attachment M § IV.D-1: This section specifically provides, "If the Market Monitoring Unit detects a compliance issue and determines that there is an issue about the proper and lawful application of a rule, and the Market Monitoring Unit makes a preliminary determination that no misconduct is evident and the issue involves a difference about the appropriate calculation of the level of an input, the Market Monitoring Unit may file a petition or initiate other regulatory proceedings addressing the issue." This complaint is authorized under this provision, as the concern here is "the proper and lawful application of a rule." PJM is solely responsible to apply the rule for when to assess penalties for violating a fuel cost policy. The complaint is squarely within the authorization conferred under this provision.

- OATT Attachment M § IV.E-1: This section specifically concerns the review of sell offers "for a determination of whether they raise market power concerns." Interpretations of fuel cost policies, which were created to allow for the verification of sell offers, fall squarely within the scope of such concerns. This section provides, "In the event that a market participant determines to use an offer or cost input at a level or value that the Market Monitoring Unit has found to involve a potential exercise of market power, the Market Monitoring Unit may file a petition or initiate other regulatory proceedings addressing the issue." The Market Monitor here objects to certain offers squarely within the indicated grounds. The purpose of Fuel Cost Policies is to protect against the exercise of market power. The Market Monitor directs its complaint at PJM because PJM's administrative determination prevents application of a penalty to a Market Participant that violated its fuel cost policy. PJM's actions undermine the ability of fuel cost policies to serve their purpose.

- OATT Attachment M § IV.J.2: The Market Monitoring Plan includes a catchall provision that ensures that that Market Monitor has the independent

> authority and discretion to "make appropriate regulatory filings" to address "compliance, market power, other issues." This complaint falls squarely within this provision, even if it were not specifically authorized under Section IV.D-1.

Even if the Tariff did not explicitly authorize the Market Monitor to file complaints, the Commission's Rules of Practice and Procedure determine who may file a complaint against whom:

Rule 206 states:

> Any person may file a complaint seeking Commission action against any other person alleged to be in contravention or violation of any statute, rule, order, or other law administered by the Commission, or for any other alleged wrong over which the Commission may have jurisdiction.

Rule 105(d) defines a "person:"

> [P]erson means an individual, partnership, corporation, association, joint stock company, public trust, an organized group of persons, whether incorporated or not, a receiver or trustee of the foregoing, a municipality, including a city, county, or any other political subdivision of a State, a State, the District of Columbia, any territory of the United States or any agency of any of the foregoing, any agency, authority, or instrumentality of the United States (other than the Commission), or any corporation which is owned directly or indirectly by the United States, or any officer, agent, or employee of any of the foregoing acting as such in the course of his or her official duty.[11]

The Market Monitor meets the broad definition of a "person" and Rule 206 applies to the Market Monitor just as it does to any other person. PJM meets the definition of an "other person" who may be named in complaints. Accordingly, the Rules of Practice and

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[11] 18 CFR § 385.102(d); *see Competitive Transmission Developers v. New York Indep. Sys. Operator, Inc.*, 156 FERC ¶ 61,164 at P 31 n.80 (2016) ("A "person" is broadly defined as "an individual . . . an organized group of persons, whether incorporated or not . . ."""); *American Elec. Power Serv. Corp.*, 153 FERC ¶ 61,167 (2015).

Procedure permit the Market Monitor to name PJM in a complaint. PJM provides no basis in the tariff or the Commission's regulations for its assertion of immunity from complaints filed by the Market Monitor. PJM provides no basis why, uniquely among the entities in the PJM community, the Market Monitor cannot file complaints.

2. The Commission Has Directed PJM to Provide for Market Monitor Complaints to Address Exactly the Issues Raised in this Proceeding.

In the proceeding that addressed the review and approval of fuel cost policies and the assessment of penalties, PJM attempted to include rules for resolving disputes over policy approvals and penalty assessments that relied on the Market Monitor's referral process.[12] The Commission issued an order that addressed the issue as follows:

> 83. PJM proposes that, in the event PJM or the IMM disagree over *whether the penalty should apply*, the matter should be referred to the Commission's Office of Enforcement for resolution. PJM's proposed Schedule 2(k) establishes an annual review process by which all Market Sellers in PJM must either submit to PJM and the IMM, no later than June 15 of each year, an updated Fuel Cost Policy that complies with Schedule 2 and Manual 15, or confirm that their currently effective Fuel Cost Policy remains compliant, pursuant to the procedures and deadlines specified in Manual 15. [footnote omitted.] [Emphasis added.]
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> **i. <u>Comments and Protests</u>**
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> 84. With respect to PJM's proposed referral to the Commission's Office of Enforcement in the event PJM or the IMM disagree over *whether a penalty should apply*, the IMM argues that the "Office of Enforcement will be unable to defend determinations that participants exercised market power when PJM has approved such behavior in advance even if it agrees with the Market Monitor that cost based offers were not competitive. The IMM argues that the result would be a weakening of the competitiveness of the PJM Energy Market." [footnote omitted.] The IMM adds that to satisfy the Commission's directives in the

[12] *See* Docket No. ER16-372.

> June 2016 Order, it has developed alternative Tariff language that it believes would: (1) preserve and enhance the incentives to submit accurate cost-based offers that do not raise market power concerns; (2) not permit non-zero offers from participants whom PJM determines have not complied with the Tariff; and (3) *provide for penalties when PJM determines that Market Sellers do not comply with the Tariff* or when the IMM determines that the level of cost-based offers raise market power concerns. [footnote omitted.] [Emphasis added.]
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> 85. P3 also adds that the Office of Enforcement does not handle disputes, and that it is the Office of Administrative Law Judges or the Alternative Dispute Resolution process that would be appropriate for resolving a matter outside of a formal process. [footnote omitted.] [Emphasis added.]
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> **ii. Commission Determination**
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> 86. We require PJM to remove its proposed Tariff revisions that would refer disputes between PJM and the IMM relating to PJM's approval of a generator's Fuel Cost Policy to the Commission's Office of Enforcement. Resolution of such disputes between an RTO and its market monitor is not the role of the Office of Enforcement. Instead, *such disputes are the province of the Commission and its Administrative Law Judges to address in response to a complaint* when appropriate, or for its Administrative Dispute Resolution process to resolve outside of formal processes. Accordingly, we require PJM to remove the proposed Tariff revisions regarding referrals to the Office of Enforcement on compliance, within 30 days of the date of this order. [Emphasis added.]

PJM here raises the same arguments rejected by the Commission. PJM dismisses as "passing mention" (at 5) the core of the Commission's holding that complaints are the proper vehicle to resolve disputes over tariff administration issues. PJM asserts that the failure to carefully specify disputes over penalty assessments in addition to disputes over fuel cost policy approvals has some significance, even though a fair reading of the above passage in context shows that the Commission is also addressing disputes over penalty assessments. Even if complaints about penalties had not been explicitly identified in the discussion, as they are, the Commission's logic would still apply. PJM's misplaced

arguments provide no rationale that would distinguish disputed fuel cost policy approvals from disputed penalty assessments. The Commission wisely resisted (at P 86) PJM's attempt to convert disputes over correct tariff interpretation and administration of the market rules into disputes over motives. The Office of Enforcement is directed at malfeasance. It is not clear why PJM prefers to resolve disputes through the referral process where PJM's motives are impugned, to a process without such connotations. The Market Monitor's Complaint simply asks that PJM be required to follow the Market Rules. PJM does not explain why its manufactured assertions of conflicts between the Market Monitor and PJM and confusion about the Board's role would not be exacerbated in a context where PJM's motives are questioned. PJM's motion to dismiss constitutes a collateral attack on a prior order and should be rejected.

3. The Market Monitor Has Standing to File Complaints at the FERC.

PJM manufactures a problem (*e.g.*, at 3) concerning the Market Monitor's standing in Commission proceedings. The Commission has determined under the existing governance rules applicable to the Market Monitor that the Market Monitor has standing to participate in Commission proceedings.[13]

In doing so, the Commission directly addressed the dicta from the decision of the U.S. Court of Appeals for the District of Columbia Circuit cited by PJM (at 3).[14] The Commission stated (at PP 13 & 14):

> In 2014, the Commission, acting pursuant to section 206 of the FPA, instituted a proceeding to ensure that generation or non-generation resource owners in the PJM footprint will no longer receive reactive power capability payments after their units are deactivated. [footnote omitted] As a result of that proceeding and the accompanying tariff changes, dozens of entities have

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13 *See PA Solar Park, LLC*, 164 FERC ¶ 61,118 (2018).

14 *See id*.

> submitted revised reactive power rate schedules to the Commission, and the Commission has separately instituted a number of new proceedings under section 206 of the FPA to change existing reactive power rate schedules in PJM. …
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> The IMM was an active participant in that broader effort, [footnote omitted] and has been a regular intervenor in individual reactive power rate proceedings since then. The Commission has routinely granted – both prior to [footnote omitted] and after issuance of the *ODEC* decision [footnote omitted]–timely-filed motions to intervene by the IMM in reactive power rate proceedings. Consistent with that precedent, and in recognition of the IMM's ongoing role in monitoring the provision of reactive power service within PJM, we find that the IMM's participation in this case is in the public interest under Rule 214(b)(2)(iii). We further conclude that *ODEC* does not mandate a contrary conclusion. [n.25: We note that the court in *ODEC* made determinations based on the requirements for Article III standing, which are distinct from the requirements to participate in administrative proceedings. *See, e.g., Fund Democracy, LLC v. SEC*, 278 F.3d 21, 27 (D.C. Cir. 2002) ("Because agencies are not constrained by Article III, they may permit persons to intervene in the agency proceedings who would not have standing to seek judicial review of the agency action."); *Envirocare of Utah, Inc. v. NRC*, 194 F.3d at 74 ("Agencies . . . are not constrained by Article III of the Constitution; nor are they governed by judicially-created standing doctrines restricting access to the federal courts. The criteria for establishing 'administrative standing' therefore may permissibly be less demanding than the criteria for 'judicial standing.'").]

The Market Monitor has standing to file complaints that it initiates for the same reasons that it has standing to participate in complaint proceedings initiated by the Commission.[15]

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[15] Standing to file complaints and to intervene should be the same. *Cf. SFPP, L.P.*, 102 FERC ¶ 61,240 at P 33 (2003) ("This potential impact to its economic interests gave the State standing to intervene or to file a complaint on its own behalf.").

4. Order No. 719 Does Not Limit Market Monitoring Units' Ability to File Complaints Against RTO/ISOs.

PJM states:

> Order No. 719 correctly understood that differing views on electricity market, operations and planning questions between RTO management and monitors meant that monitors should not report, or be accountable, to RTO management. [n.22; Order No. 719 at P 339.] The Order instead directed that RTO monitors report, and be accountable, to the RTO board. [23: *Id*.]

PJM concludes:

> But either Order No. 719 expected the RTO board to determine a singular corporate action, reconciling or selecting between competing management and monitor recommendations, or it simply did not anticipate or wish to address what would arise if the monitor disagreed with an RTO board decision.

PJM conclusion is unsupported and illogical. It is, in fact, contradicted by the cited portion of Order No. 719, which states (at P 339):

> We adopt the NOPR proposal requiring MMUs to report to the RTO or ISO board of directors, with management representatives on the board excluded from this oversight function. Removing the MMU from reporting to management will *give it the separation needed to foster independence*. [Emphasis added.]

Order No. 719 further explains (at P 341):

> This solution allows the RTO or ISO to structure its MMU function in the way it deems most suitable, while also *ensuring that the market monitor that performs the core MMU functions enjoys the independence from management that reporting to the board accomplishes*. [Emphasis added.]

The point of having the Market Monitor report to the Board only and not to PJM management is to protect the independence of the market monitoring function. As agreed to by the PJM Board and the Market Monitor, and as approved by the Commission, "reporting" means, as set forth in Section 27 of the Market Monitoring Services Agreement ("MMSA"): "The PJM Board has the authority and responsibility to determine the adequacy

of the performance of the independent market monitoring function, but has no authority to manage or direct the activities of such independent function." Independence means the ability to develop positions, communicate and take actions without interference from PJM management, either directly or indirectly through the Board imposition of a uniform position. The MMSA affords sufficient protection against any such imposition. Section 27.1 of the MMSA provides: "The PJM Board expects … that IMM will express its professional opinions, consistent with its independence, even where such positions differ from the positions of PJM management..."

PJM offers no support for its unsupported and ahistorical contention that the Commission wants or expects the Board to compel "singular corporate action, reconciling or selecting between competing management and monitor recommendations" and thereby conceal from any or all of the Commission, stakeholders or the public differences on market design or tariff administration. The point of market monitoring is to provide to the Commission, stakeholders and the public an independent and objective perspective on such matters. This allows entities other than just the PJM Board, including the Commission, to avoid excessive reliance on PJM management for information and advice on how the complex markets it operates should be designed and administered. The Commission benefits from hearing such a perspective and having a clear path for action based on such perspective.

The essence of PJM's argument is that the Commission expected the PJM Board to operate as a conduit for PJM management to exercise control over the Market Monitor's positions. Order No. 719 had the opposite objective.

PJM's argument appears to be an attempt to reprise its position from 2007 and to ignore the difficult process that led to Order No. 719, to the agreement among market participants, PJM and the Market Monitor, to the MMSA, and to the creation of an external

and Independent Market Monitor. Dr. Bowring's statements to the Commission on April 5, 2007, referenced by PJM, were prompted by PJM management's efforts to enforce a "singular corporate action" over the independence of the Market Monitor.[16] That view was rejected by market participants, by PJM and by the Commission in 2007. It should be rejected here.

There is no evidence that the PJM Board shares PJM management's goal to mandate conformity of views. On the contrary, the Board recently directed PJM to prepare a filing concerning the Minimum Offer Price Rule (MOPR) that included separate and exclusive proposals from the Market Monitor and PJM management from which the Commission could choose.[17] PJM's dual filing did not create a conflict of interest for the Board. PJM has not shown any reason why the PJM Board cannot perform all of the tasks assigned to it in the Operating Agreement consistent with the independence of the Market Monitor.

The PJM Board has made clear what it expects from the Market Monitor. In evaluating the Market Monitor's performance, "[t]he Board expects that the IMM will be a vigorous and competent advocate for efficient PJM markets… The Board shall consider whether the IMM has taken adequate steps to detect and call attention to … faulty operation of the markets."[18]

There is no conflict of interest and PJM can cite to no such conflict. As specified in the MMSA and understood by all, the PJM Board has no authority to manage or direct the activities of the independent market monitor. PJM's arguments concerning the goals of

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16 PJM at 12, citing Prepared written statement of Joseph E. Bowring, FERC Technical Conference, "*Review of Market Monitoring Policies*," Docket No. AD07-8, (April 5, 2007), which can be accessed at: <*http://www.monitoringanalytics.com/Filings/2007/20070405-bowring-comments.pdf*>.

17 *See* Capacity Repricing or in the Alternative MOPR-Ex Proposal: Tariff Revisions to Address Impacts of State Public Policies on the PJM Capacity Market, ER18-1314-000 (April 9, 2018).

18 Market Monitoring Services Agreement § 27.2.

Order No. 719 and the Board's alleged conflict of interest that result from the establishment of an Independent Market Monitor have no merit and should be rejected.

5. The Existing Governance Structure Works, But Could Be Improved.

PJM claims that a finding that allows the Market Monitor to independently "prosecute Section 206 complaints against PJM;" "advocate positions that differ from PJM's in state or federal legislative or judicial proceedings;" or "separately contract with PJM" means that "the Commission can no longer accept a governance structure whereby the Market Monitor is accountable and reports to the PJM Board." PJM argues that current governance structure (as it has existed since August 1, 2008) is untenable because it "places the PJM Board in an unworkable and divided position," "creates public confusion about the "whether a stated position is that of PJM, the PJM Board, or the Market Monitor," and "does not afford the Market Monitor clear standing to advocate its positions."

PJM can cite to no such confusion. As known by anyone who has paid attention to the PJM stakeholder process and to filings by PJM and the Market Monitor, there is no such confusion. It is abundantly clear to all when stated positions are from PJM management, the PJM Board and the Market Monitor.

PJM even cites Dr. Bowring's testimony to the Commission in 2007 at the commencement of the dispute about independence that lead to spinning off PJM's market monitoring function into a separate company: "[I]t's critical … that the market monitoring units be accountable to some entity other than the RTO."[19] The point of course was to protect the independence of the market monitoring function from the actions of PJM management, as the complete statement of Dr. Bowring makes clear. The MMSA that the Market Monitor negotiated with the Board protects such independence. PJM offers no examples or separate statements supporting its assertions of unworkability or confusion.

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[19] PJM at 12, citing Testimony of Joseph Bowring, FERC Technical Conference Transcript, Docket No. AD07-8-000 (April 5, 2007) at 92:5–9.

The only action required in this proceeding is the rejection of collateral attacks on the Commission's prior determination that the Market Monitor should resolve disputes over fuel cost policy approvals and penalty assessments through complaints filed under Section 206 of the Federal Power Act and not through unsuitable mechanisms such as referrals of PJM to the Office of Enforcement.

II. MOTION FOR LEAVE TO ANSWER

The Commission's Rules of Practice and Procedure, 18 CFR § 385.213(a)(2), do not permit answers to answers or protests unless otherwise ordered by the decisional authority. The Market Monitor is permitted to answer PJM's motion without leave. The Commission has made exceptions for answers to an answer, however, where an answer clarifies the issues or assists in creating a complete record.[20] In this answer, the Market Monitor provides the Commission with information useful to the Commission's decision-making process and which provides a more complete record. Accordingly, the Market Monitor respectfully requests that this answer be permitted.

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[20] *See, e.g., PJM Interconnection, L.L.C., 119 FERC ¶61,318 at P 36 (2007) (*accepted answer to answer that "provided information that assisted … decision-making process*"); California Independent System Operator Corporation*, 110 FERC ¶ 61,007 (2005) (answer to answer permitted to assist Commission in decision-making process); *New Power Company v. PJM Interconnection, L.L.C.*, 98 FERC ¶ 61,208 (2002) (answer accepted to provide new factual and legal material to assist the Commission in decision-making process); *N.Y. Independent System Operator, Inc.*, 121 FERC ¶61,112 at P 4 (2007) (answer to protest accepted because it provided information that assisted the Commission in its decision-making process).

III. CONCLUSION

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

Respectfully submitted,

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Dated: February 11, 2019

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 11th day of February, 2019.

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