

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

PJM Interconnection, L.L.C.	)	Docket No. ER23-729-000
	)	
PJM Interconnection, L.L.C.	)	
	)	
v.	)	
	)	
PJM Interconnection, L.L.C.	)	Docket No. EL23-19-000
	)	

**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,<sup>1</sup> Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (“Market Monitor”) for PJM Interconnection, L.L.C. (“PJM”),<sup>2</sup> submits this answer to the answers submitted in this proceeding on February 9, 2023, by the PJM Power Providers Group (“Power Providers”) and by the Electric Power Supply Association (“EPSA”). Nothing argued by Power Providers or EPSA is relevant to the merits of either of PJM’s filings. PJM’s proposed revisions should be accepted and approved.

**I. ANSWER**

Power Providers argue (at 3–4) that because PJM has or should have completed all of the steps related to the Base Residual Auction in December 2022 for 2024/2025 Delivery Year,

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<sup>1</sup> 18 CFR §§ 385.212 & 385.213 (2022).

<sup>2</sup> 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”).

PJM's filings in this proceeding should be rejected. Power Providers provide no basis for rejecting PJM's filings. Power Providers misunderstand the process. PJM is very clear about the events. Offers were submitted, PJM ran the capacity market software in order to ensure that the tariff was being followed, and PJM determined that there was an issue. This is all standard practice. Power Providers imagine that there is a single run of the market clearing software that happens once and is the final, immutable answer. That is incorrect. PJM runs auction software to ensure compliance with the tariff and market logic, and there can be multiple runs of the software and issues may be identified and fixed in that process. The fact that multiple runs occur does not make the results of each such run a filed rate.<sup>3</sup> The auction is not complete and the market is not cleared until PJM approves and posts the final results.

Power Providers argue (at 5–6) that the results of the BRA for the 2024/2025 Delivery Year were foreseeable. The foreseeability of the issue is not relevant to an evaluation of the filings. Foreseeability is not a standard under which either filing must or should be evaluated.

Power Providers argue (at 6) that Section 5.11(e) of Attachment DD to the OATT, which would permit PJM to follow a process to “post modified results” does not apply. The argument is not relevant to the BRA for the 2024/2025 Delivery Year because no results have been posted. Whether or not PJM could have modified the results had they been posted is not an issue in these proceedings.

Power Providers assert (at 7) and EPSA (at 13–14) that PJM has not met its burden under Section 206 to show that its existing rules produce unjust and unreasonable results. PJM has explained in detail how the existing rules would produce unjust and unreasonable results if uncorrected. The Commission has held that a logical explanation is sufficient to

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<sup>3</sup> The Market Monitor runs its own auction software in parallel and provides those results to PJM. The Market Monitor posts the results of the Market Monitor's model and generally matches the PJM results exactly.

show that a provision is unjust and unreasonable.<sup>4</sup> It is significant that PJM's explanation of the market design flaw is unrefuted in the record. PJM has made clear the impact of that flaw on market clearing prices, and the Market Monitor agrees based on independent analysis. PJM is not required to show that existing provisions are unjust and unreasonable under Section 205. Once PJM has satisfied its Section 205 burden, as it has, Power Providers and EPSA must provide sufficient countervailing argument that the proposal to remedy the flaw is not just and reasonable. They do not.

Power Providers argue (at 8–14) and EPSA (at 6–9) that PJM misconstrues the filed rate doctrine. PJM has not indicated that it seeks to apply any proposed tariff provision retroactively. PJM requests prospective effective dates under both filings. Neither the Section 206 complaint nor the Section 205 filing require resolution of the scope of the filed rate doctrine in order to be decided. Again, Power Providers fail to understand the market clearing process. Running the auction software does not create a filed rate.

Power Providers argue (at 14–15) (and EPSA at 7) that the Market Monitor improperly applies a standard in this proceeding, “whether the prices that PJM ultimately posts are a result of the actual supply of and demand for capacity in DPL-[South].” The Power Providers miss the point. The Market Monitor's standard is that the outcome is efficient and competitive. That is the outcome when the actual supply and demand result in market clearing prices. This approach is basic economics. This is the standard that the Market

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<sup>4</sup> See *Managing Transmission Line Ratings*, Order No. 881-A, 179 FERC ¶ 61,125 at P 13 (2022) (“Because such changes may affect all transmission lines, the economic logic underlying the AAR requirements applies to all transmission lines. By establishing and relying on the basic economic logic underlying the relationship between more accurate transmission line ratings and wholesale rates,[footnote omitted] the Commission had ample support to conclude that applying the AAR requirements to all transmission lines will lead to just and reasonable wholesale rates.”), citing *Sacramento Mun. Util. Dist. v. FERC*, 616 F.3d 520, 531, (D.C. Cir. 2010) (recognizing that it is “perfectly legitimate for the Commission to base its findings . . . on basic economic theory”); *Assoc. Gas Distributors v. FERC*, 824 F.2d 981, 1008 (D.C. Cir. 1987) (“Agencies do not need to conduct experiments in order to rely on the prediction that an unsupported stone will fall.”).

Monitor has used to evaluate the competitiveness of PJM's market from the beginning of PJM markets.<sup>5</sup> The requirement that prices reflect the actual supply of and demand for capacity is not and has never been controversial. The standard is at the core of the Commission's policy of regulation through competition.<sup>6</sup> Power Providers offer no reason for departure from the Commission's longstanding policy of relying on competition to ensure just and reasonable prices.<sup>7</sup> Competitive prices are essential for just and reasonable rates when rates are regulated through competition.<sup>8</sup> There is ample Commission precedent for considering market

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<sup>5</sup> See Market Monitoring Unit, *PJM Interconnection State of the Market Report 1999* (June 2000) at 52.

<sup>6</sup> See, e.g., *EDF Trading N. Am., LLC*, 181 FERC ¶ 61,221 (December 16, 2022) ("These standards allow for a presumption of just and reasonable tariff rates based on a 90-day liquidity review period. 54 The purpose of the demonstration using these index liquidity standards is to determine whether a hub is a reliable measure of the market forces of supply and demand in the area."), citing *El Paso Elec. Co.*, 148 FERC P 61,051, at P 7 (2014), *Idaho Power Co.*, 121 FERC P 61,181, at P 27 (2007), *PacifiCorp*, 95 FERC P 61,145, at 61,463 (2001), *Pinnacle W. Energy Corp.*, 92 FERC P 61,248, at 61,791 (2000); *Midcontinent Indep. Sys. Operator, Inc.*, 180 FERC ¶ 61,141 at P 277 (2022) ("The UCAP/ISAC ratio also prevents the need to modify its LOLE model and convert Reserve Requirements and Local Clearing Requirements into SAC terms, and maintains an appropriate supply and demand balance in the Auction. We agree with MISO and Potomac Economics that the proposed ratio is reasonable.").

<sup>7</sup> See *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs. ¶31,089, mimeo at 144–145324 (1999) ("Order No. 2000") ("The Commission has a responsibility under FPA sections 205 and 206 to ensure that rates for wholesale power sales are just and reasonable, and has found that market-based rates can be just and reasonable where the seller has no market power. The Commission has determined that to show a lack of market power, the seller and its affiliates must not have, or must have adequately mitigated, market power in the generation and transmission of electric energy, and cannot erect other barriers to entry by potential competitors" (citing *Heartland Energy Services, Inc.*, 68 FERC ¶61,233 at 62,060 (1994); *Louisville Gas & Electric Company*, 62 FERC ¶61,016 at 61,143-44 (1993); *Louisiana Energy and Power Authority v. FERC*, 141 F.3d 364 (D.C. Cir. 1998) (court upholds Commission's use of market-based rate authority)), *order on reh'g*, Order No. 2000-A, FERC Stats. & Regs. ¶31,092 (2000), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001).

<sup>8</sup> See, e.g., *Public Citizen, Inc. v. FERC*, 7 F.4th 1177, 1193 (2021) ("Market-based rate regulation is based on the premise that, '[i]n a competitive market, where neither buyer nor seller has significant market power, \* \* \* the terms of their voluntary exchange are reasonable, and \* \* \* [the] price' they negotiate will be 'close to marginal cost, such that the seller makes only a normal return on its investment.' ... On that understanding, we have held that the Commission can rationally allow markets to set 'just and reasonable' prices as long as the Commission takes the necessary steps to ensure that market participants cannot wield anticompetitive market power.").

conditions, including supply and demand fundamentals, when making determinations of whether markets are competitive and market prices are just and reasonable.

EPSA argues (at 9–16) that if either of PJM’s filings is accepted, sellers must be permitted to “resubmit their offers into the 2024/2025 BRA.” EPSA notes but fails to refute PJM’s and the Market Monitor’s argument that “there is no need to permit sellers to resubmit their offers because resources can be expected to submit offers based on their marginal costs, and ‘any updates to the Locational Deliverability Area Reliability Requirement should [therefore] not impact a resource’s offer in the RPM Auctions.’” EPSA neither explains why new offers are needed to ensure that they are competitive nor addresses concerns that allowing new offers could result in offers that are not competitive. EPSA has not demonstrated that allowing new offers is necessary for acceptance of either of PJM’s filings. EPSA shares Power Providers’ misunderstanding about the nature of PJM’s clearing process. PJM would not restart the auction. PJM would run the market clearing software to correctly reflect supply and demand conditions. Regardless of how many times PJM runs the software, the auction is not complete and the market is not cleared until PJM approves and posts the final numbers. There is no filed rate doctrine issue and there is no restarting of the auction.

## 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 Commission has made exceptions, however, where an answer clarifies the issues or assists in creating a complete record.<sup>9</sup> In this answer, the Market Monitor provides the

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<sup>9</sup> 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

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.

### III. CONCLUSION

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

Respectfully submitted,



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Dated: February 16, 2023

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protest accepted because it provided information that assisted the Commission in its decision-making process).

## 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 16<sup>th</sup> day of February, 2023.



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