

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

PJM Interconnection, L.L.C.)	Docket No. ER11-2875-001
)	ER11-2875-002
)	
PJM Power Providers Group)	
)	
v.)	Docket No. EL11-20-001
)	
PJM Interconnection, L.L.C.)	
)	

**POST TECHNICAL CONFERENCE COMMENTS
OF THE INDEPENDENT MARKET MONITOR FOR PJM**

Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (“Market Monitor”), is pleased to provide these comments following its participation in the Staff Technical Conference on Self Supply and PJM’s Minimum Offer Price Rule convened July 28, 2011.¹ These comments respond to the discussion questions for the technical conference and address the related MOPR issues. In its order of April 12, 2011 (“April 12th Order”),² the Commission took an appropriate and clear position in defense of its long standing policy promoting restructuring and regulation through competition of the electric industry and the development of competitive organized wholesale power markets. The Commission’s core holding is that offers into RPM must be competitive, defined as no lower than actual costs and based entirely on revenues from PJM markets and not on out-

¹ See Notice Establishing Post-Technical Comment Period (July 28, 2011).

² *PJM Interconnection, L.L.C.*, 135 FERC ¶61,022 (2011).

of-market subsidies. No party has offered any reason why the Commission should deviate from that clear and consistent course. The essence of the central objections is that the MOPR infringes on the ability of some participants to conduct long-term planning and includes scrutiny of business decisions.

The concerns raised about the potential for the revised Minimum Offer Price Rule (“MOPR”) to interfere with the ability to enter into long term capacity contracts and integrate such contracts into RPM is legitimate, but the solution is not to water down or confuse the clear and logical standard approved by the Commission for MOPR, that competitive offers means offers that reflect expectations of recovery through PJM markets. In order to address the concern without undermining the MOPR rule, the Market Monitor proposes a solution that would allow new and existing resources to compete to enter into long term contracts to supply capacity. The proposed approach would provide a straightforward answer to the identified problem but preserve the MOPR standard intact.

Additional specific provisions addressing issues raised by public power entities may also be appropriate. In some cases, very specific circumstances may require specific requirements for different acceptable long-term processes, and the Market Monitor has continued discussions with stakeholders and PJM about what such criteria and alternative process would include. However, the basic need for scrutiny of the competitive basis of RPM offers cannot be compromised. The wholesale markets remain regulated markets characterized by structural market power. Under a regulatory model based on regulation through competition, there is no alternative to close monitoring of all market participants behavior.

I. COMMENTS

A. An Effective MOPR Ensures that New and Existing Resources Compete on a Level Playing Field.

The goal of the MOPR is to prevent the artificial suppression of prices by or on behalf of buyers, regardless of intent. It is essential to the effective functioning of the capacity market in PJM.

Investors will build new generation capacity when they expect to earn a return on that investment commensurate with their perceived risks. The capacity market design, RPM, is intended provide price signals that incent entry when it is needed. If investors believe that once they have committed to an investment, market buyers can act to systematically suppress prices in future years, the result would be to significantly undermine their confidence that they can achieve projected returns. Under such circumstances, no one is likely to build on the basis of market expectations. New capacity would be built only when those risks are assumed by others under long-term guaranteed contracts. Customers would bear the costs and risks of such contracts. The result would be that customers would not receive the benefit of regulation through competitive markets, including the transfer of risks from customers to investors.

Alternative procurement strategies are also consistent with competitive markets. For example, long term contracts should be available to meet LSEs' capacity obligations if they are entered into as the result of an open, competitive and non-discriminatory process.

RPM auctions result in the purchase of capacity for one year, three years in the future. When participants expect that market rules will permit market outcomes to reflect market fundamentals, such RPM auctions provide an appropriate investment signal. Nonetheless, some market participants have complained that opportunities for long term

contracting have been unavailable due, among other things, to a perceived unwillingness of suppliers to enter into long-term arrangements on reasonable terms.³ The use of a competitive and non-discriminatory process for procurement on a longer basis would allow that Commission to directly address this issue.

B. Competitive, Non-Discriminatory Long Term Procurement Process Can Be Integrated In RPM

The Market Monitor agrees that the concerns raised by a number of parties about the impact of the revised MOPR on the ability of LSEs to enter into long term contracts and to arrange for self supply must be addressed. The Market Monitor recommends an additional process that would address these concerns through provision for a competitive, non-discriminatory procurement process entirely consistent with the MOPR.

³ See, e.g., *Wholesale Competition in Regions with Organized Markets*, Order No. 719, 125 FERC ¶61,071 at P 293 (2008), order on reh'g, Order No. 719-A, 128 FERC ¶61,059 at P 293 (2009) ("Many commenters argue that the Commission did not address in its proposed regulations the actual causes behind the lack of long-term contracts in the market. Several commenters point to the structure of markets within the RTO system, which they assert causes an over-reliance on spot markets and a lack of long-term contracts. They say this structure includes LMP pricing, which provides a disincentive for producers to contract for lower prices on a long-term basis. For instance, APPA points to studies including one performed by Synapse Energy Economics, Inc., indicating that there are structural barriers to long-term contracting in the organized markets. Other commenters point to the need for stability of market rules and uncertainty about climate change policies as key factors in keeping parties from contracting on a long-term basis.[fn: See, e.g., SoCal Edison-SDG&E at 4; EPSA at 11–12.] Reliant indicates that the issue is actually a difference in perceptions between buyers and sellers about the appropriate price of energy and the allocation of risk between the buyers and sellers. NRECA points to several other issues that affect long-term contracting in organized markets, including price volatility, price risk, delivery risk and resource availability. Ohio PUC echoes some of these concerns, noting that risks with recovering capital costs are preventing new generation from being built in states with retail access, and that unpredictable congestion charges and uncertainty surrounding the working of RTO markets are also hurting long-term contracting.").

The Market Monitor recommends that if the self supply is acquired under a competitive and non-discriminatory procurement process, it could be offered in the RPM auction without a MOPR limit. Such a process would constitute an allowable exception to MOPR under the defined exception process.

A procurement process would be discriminatory, for example, if it accepted offers solely from new units and not from existing units. No RPM rules should inhibit competitive responses to market signals. Market entities including public power agencies and LSEs may wish to enter into long term contracts for physical supply, or to buy or build under a range of options not incorporated in the one year RPM auctions. If the market entity conducts a verifiably open, competitive, non-discriminatory process for acquiring such a contract, the resultant contract with the lowest cost supplier would pass MOPR under the exception process. If the self build option were similarly demonstrated to be the least cost option using a competitive process, even if it were funded using the standard regulatory rate base rate of return approach, then it would also pass MOPR under the exception process. Supply procured under either approach could be offered into RPM auctions without a lower bound. Lowest cost could be defined using a net present value criterion as well as current expectations of future energy market revenues.

Self supply, when it is based on a discriminatory acquisition process, would be subject to the MOPR. For example, if the acquisition process restricted participation to only new units, the process would be discriminatory and any associated offers would be subject to making an offer at no less than the minimum price specified in the MOPR. However, it would not be discriminatory to limit capacity imports into an LDA to the import capability.

Clearly, rules must be created to govern the definition of non-discriminatory and competitive, but such rules are straightforward in concept and this approach is practical

and workable. Non-discriminatory should be defined to permit competition from all capacity which is deliverable to the LDA. Competitive should be defined to exclude subsidies. For example, a plant with a separate stream of guaranteed, non-market revenues would not be permitted to offer into such a non-discriminatory, competitive auction.

This approach would meet the legitimate concerns raised by LSEs, by public power entities, by the New Jersey Board of Public Utilities and by the Maryland Public Service Commission in a manner entirely consistent with the April 12th Order, and the Market Monitor continues to support developing such a rule in the PJM stakeholder process or pursuant to an additional compliance directive in the FERC proceeding. This approach offers a simple, clear, workable and consistent solution, that is also consistent with the directives in the April 12th Order.

The Market Monitor recommends a settlement process to define the structure of such procurements, including appropriate provisions to address the requirements of public power entities, which could also include voluntary auctions for longer term capacity operated by PJM and which would all be consistent with the functioning of a competitive capacity market in PJM.

1. LCAPP Was Inconsistent with Market-Based Paradigm

The New Jersey LCAPP (Long Term Capacity Agreement Pilot Program) approach, as currently implemented, is not consistent with the operation of a competitive capacity market. LCAPP, as currently implemented and similar programs would result in: the procurement of capacity that is not needed for reliability; the procurement of capacity through a process that is discriminatory because it excludes existing generation; and the requirement to offer the procured capacity so that it clears in the PJM capacity auctions. The result of offering LCAPP capacity purchased through this auction structure into the PJM

capacity market at prices less than cost would be to artificially depress prices in the PJM capacity market both inside and outside of New Jersey. This would therefore negatively affect the incentives to build new generation both inside and outside of New Jersey and would likely result in a situation where only subsidized units would ever be built in New Jersey. The Market Monitor's report, previously submitted to the New Jersey Board of Public Utilities, shows the detailed results that support the conclusion that such offers would depress capacity market prices below competitive levels.⁴

It is unlikely that the LCAPP offers would pass the MOPR as recently defined by FERC, although whether LCAPP offers pass MOPR is a function of whether the offers reflect the cost of new entry net of PJM market revenues, and the clearing prices in the relevant PJM capacity auction. There is no condition in LCAPP that requires the winning bidders to offer capacity in RPM auctions at the price offered to LCAPP. This could result in an offer in an RPM auction from an LCAPP resource that passed MOPR but that was below the LCAPP price. If that occurred, it would demonstrate the benefits of a non-discriminatory, competitive procurement process over the LCAPP process.

C. The Exception Process Worked As Intended in the Base Residual Auction Conducted in April, 2011

The April 12th Order established clear terms for an acceptable MOPR. The April 12th Order defined the parameters for an offer to pass the MOPR screen. The order also defined an exception process under which a sell offer would be submitted to the MMU for review

⁴ See Market Monitor, *"Impact of the New Jersey Assembly Bill 3442 on the PJM Capacity Market"* (January 6, 2011) ("Bill 3442 Report") which can be accessed at: <http://www.monitoringanalytics.com/reports/Reports/2011/NJ_Assembly_3442_Impact_on_PJM_Capacity_Market.pdf>.

subject to a clearly defined standard (at P 122). Offers would be consistent with the MOPR standard even if they were less than the defined parameters (e.g. 90 percent of net CONE) as long as they were based on the actual costs and revenues of the project.

The April 12th Order states (at P 122):

In conducting an individualized generation review, PJM proposes that: a sell offer would be permissible when such offer is consistent with the competitive, cost-based, fixed, nominal levelized, net cost of new entry were the resource to rely solely on revenues from PJM-administered markets. We find that this standard is appropriate for reviewing such cost estimates and that PJM must include this language in its revised tariff.

But the April 12th Order did not explicitly address the issue of long term contracts. The Market Monitor has recommended in FERC filings and in testimony to the New Jersey Board of Public Utilities an approach that fits with competitive capacity markets and permits long term contracts consistent with the public policy goals of New Jersey and others.

Despite some assertions at the technical conference, the exception process worked as it was intended to. The April 12th Order issued 24 days prior to the submission deadline for offers in the 2014/2015 BRA. The Market Monitor received requests for exceptions from both public and private entities and despite the short time period performed a thorough review and reached agreements on cost-based offers.

The exception process is essential to the MOPR because it permits any entity with a cost-based offer below the MOPR threshold which can be supported by evidence to submit that offer in an RPM auction.

The requirement in the April 12th Order that the offered resource “to rely solely on revenues from PJM-administered markets” means that the impact of guaranteed payments on the cost of the resource has to be evaluated by the IMM in the exception process, subject

to final review by the Commission. The most direct impact of such guarantees is on the cost of capital, which can be expected to be lower in the presence of revenues from outside PJM-administered markets in the form of guarantees which require payment regardless of the RPM clearing prices. Such guarantees can take the form, among others, of long term contracts or rate base rate of return regulatory treatment.

There are other advantages received by investors that are not prohibited by the April 12th Order because they do not mean reliance on non-PJM market revenues. Examples of such advantages addressed during the Technical Conference include the authority to issue tax exempt debt, the reduction of local property taxes for power plants or the various incentives provided to power plants by technology type. The reflection of any cost advantages from these and comparable sources would be consistent with a cost-based offer and thus consistent with the exception process.

D. The Issues with RPM that Motivated State Action in this Proceeding are Real and Should Be Immediately Addressed.

1. RPM Must Send Correct Price Signals

Individual states clearly have the right and the obligation to address their own reliability needs if they do not think they are being adequately addressed through the PJM markets. Indeed, states have legitimate concerns about the design and operation of the PJM capacity market that must be addressed.

In the energy market, transmission constraints mean that less expensive power from the west is not always available in parts of eastern PJM when loads in eastern PJM increase. The higher energy prices that result when the transmission constraints are binding reflect the higher marginal costs of producing the energy in the constrained areas to meet the load in the constrained areas at those times. This is a logical, efficient and competitive outcome.

When transmission constraints create local energy markets and there is structural market power in those local markets, the three pivotal supplier test and market power mitigation rules ensure competitive outcomes. The offer caps that are imposed reflect the marginal costs to generate energy.

In the capacity market, transmission constraints mean that less expensive capacity from the west is not always available in parts of eastern PJM. The higher capacity prices that result when the transmission constraints are binding reflect the higher marginal costs of capacity in the constrained areas to meet the requirement for capacity in the constrained areas at those times. This is a logical, efficient and competitive outcome. Under these conditions, a single capacity price for the entire PJM footprint would not provide the appropriate incentives to build in constrained areas when capacity is needed to maintain reliability and meet the loads there. When transmission constraints create local capacity markets in specific RPM Locational Deliverability Areas (LDAs) and there is structural market power in those local markets, the three pivotal supplier test and market power mitigation rules ensure competitive outcomes. The offer caps that are imposed reflect the incremental costs to provide capacity.

The Market Monitor's analysis shows that capacity markets are necessary in PJM in order to ensure that the incentives are adequate to provide the desired level of reliability.⁵ Energy market net revenues are not adequate to keep a significant portion of existing units, across all technology types, financially viable. Net revenues from the energy market alone are less than the annual going forward costs for a significant level of capacity, across all

⁵ See the *2010 State of the Market Report for PJM*, Volume II, Section 5, "Capacity Market," for a more detailed discussion.

generation technologies. When a unit receives less than its annual going forward costs in net revenue, it is more profitable for the unit to retire than to continue operation. Capacity market revenues make up that difference and provide the incentive for units to continue operation.⁶

In addition, energy market net revenues are not sufficient to incent new entry. The net revenues from the energy market are less than the annual going forward costs plus annual fixed costs of new units. In some zones, the sum of capacity market revenues and energy market net revenues is adequate to incent new entry. In those cases, capacity market revenues make up the difference and provide a key component of the incentive for new entry.⁷

The PJM capacity market is not perfect. The capacity market design has not permitted market fundamentals to be revealed in the market outcomes. The Market Monitor has identified specific issues including the use of a 2.5 percent reduction in demand; the definition of the demand side response (DR) product in the capacity market; the use of CETO/CETL analysis to determine locational capacity market conditions; the generation interconnection process; the use of different criteria to evaluate the need for capacity in the capacity market, the need for additional resources under RTEP, and the need to retain units under RMR (reliability must run) contracts for reliability; the inclusion in the

⁶ See the *2010 State of the Market Report for PJM*, Volume II, Section 3, “Energy Market, Part 2,” Table 3-36.

⁷ See the *2010 State of the Market Report for PJM*, Volume II, Section 3, “Energy Market, Part 2,” at 175–189.

RTEP planning process of units that do not clear in the capacity market; the confusing NEPA rule; and the retirement notification period.⁸

The resolution of these issues will tend to result in capacity market outcomes that better reflect the economic fundamentals of supply and demand. This will make capacity market outcomes more predictable and reduce uncertainty as a barrier to new entry. For example the 2.5 percent offset resulted in lower capacity prices in PJM in the 2014/2015 BRA, but for which new capacity might have cleared in that auction.

2. Use of Out-of-Market Mechanisms to Protect Reliability Indicates Design Defects in RPM That Must Be Addressed.

There appears to be a disconnect between the New Jersey view of its capacity needs and the capacity needs of New Jersey reflected in the capacity market (RPM). There is no evidence incorporated in the capacity market that New Jersey is short of capacity. But, New Jersey has a legitimate basis for concerns about reliability, including: the delays in the Susquehanna-Roseland transmission line; the existence of the Hudson Unit No. 1 RMR contract; state and federal environmental requirements; potential unit retirements; and siting issues for generation and transmission facilities.

With correct information inputs, markets are a flexible, least cost way to address these issues and uncertainties. Markets work best when the market design permits market outcomes to reflect the market fundamentals. Markets result in an appropriate assignment of risks and incentives between developers and customers. Markets may not work well if the market design does not permit market outcomes to reflect the market fundamentals.

⁸ See the 2010 *State of the Market Report for PJM*, Volume II, Section 5, "Capacity Market," for a more detailed discussion. In addition, the MMU publishes reports on each capacity auction, which can be found at <http://www.monitoringanalytics.com/reports/Reports/2011.shtml> and related pages.

A clear lesson from this proceeding is that PJM stakeholders, including the interested states, PJM and the Market Monitor, need to engage fully on the issues to ensure that the inputs to the markets are right, that the reliability situation of individual states and LDAs is fully and accurately reflected in market inputs and that the market design permits market outcomes to reflect these market fundamentals. For example, if New Jersey decides that they want certain older units to shut down for environmental reasons, New Jersey should take actions which will directly produce that result. When the information about the reduced capacity which results is incorporated in the capacity market, the economic fundamentals will change correspondingly and the market will address any resultant shortfall in capacity. This is a direct and targeted approach to resolving the environmental problem in this example. Entering into long term contracts with new units and forcing the new units into the market without directly addressing the environmental issues at existing plants is an indirect and inefficient approach to the problem in this example which does not resolve either the reliability or the environmental issues and creates significant unintended consequences.

As another example, if New Jersey does not believe that there should be an RMR contract for Hudson, New Jersey should raise the issue of why the RPM design results in Hudson not clearing in the auction but requiring an RMR contract to prevent its retirement. Entering into long term contracts with new units and forcing them into the market does nothing to resolve the market design issue that led to the RMR contract in the first place. Addressing that market design issue would directly result in a closer match between the capacity market outcomes and the reliability needs of New Jersey.

States' inputs on the other RPM issues are also critical to the functioning of the capacity market and to ensuring that the capacity market can meet New Jersey's need for

reliability. Those issues, like the 2.5 percent offset or the treatment of units that do not clear in the capacity market, could have a significant impact on how the capacity market defines and addresses reliability issues. Ultimately the states need to be assured that the defined market parameters will lead to reliability. Full engagement on the issues and the willingness of stakeholders to address the issues raised by New Jersey and Maryland are essential to ensuring that the PJM capacity markets can meet their goals of providing reliability at the lowest possible cost through competitive markets.

It is essential that any approach to the PJM markets and the PJM capacity market incorporate a consistent view of how the preferred market design is expected to work to provide competitive results in a sustainable market design over the long run. A sustainable market design means a market design that results in appropriate incentives to retire units and to invest in new units over time such that reliability is ensured as a result of the functioning of the market. There are at least two broad paradigms that could result in such an outcome. The market paradigm includes a full set of markets, most importantly the energy market and capacity market, which together ensure that there are adequate revenues to incent new generation when it is needed and to incent retirement of units when appropriate. This approach will result in long term reliability at the lowest possible cost. The market paradigm also fits well with New Jersey's competitive approach to the provision of retail service. The quasi-market paradigm includes an energy market based on LMP but addresses the need for investment incentives via the long-term contract model or the rate base/rate of return model. In the quasi-market paradigm, competition to build capacity is limited and does not include the entire PJM footprint. In the quasi-market paradigm, customers absorb the risks associated with new investment through guaranteed payments under either guaranteed long term contracts or the rate base/rate of return

approach. In the quasi-market paradigm there is no market clearing pricing to incent investment in existing units. The FRR paradigm is a subset of the quasi-market paradigm as it establishes an area outside the capacity market that requires regulatory payments to cover the costs of investment, but is preferable to the full quasi-market paradigm in that it limits the negative impacts on the balance of the market and assigns full responsibility for reliability to the FRR entity.

While the market paradigm is the preferred alternative, it is essential that the current choices about incentives and regulatory approaches be made with an explicit understanding of the short run and long run implications of these choices for the design of wholesale power markets and the interaction between wholesale power markets and retail markets. If a state chooses the quasi-market paradigm, that paradigm will have to be extended to all generation facilities if it is to be sustainable and is unlikely to result in the lowest cost of reliability in the long run.⁹ Supporters of that paradigm should be prepared to support the logical extension of the paradigm required for the approach to be sustainable. If states choose to proceed with recommendations to modify the PJM capacity market to better reflect the states' reliability realities, that would be choosing the market paradigm. Supporters of that paradigm should be prepared to support the extension of the paradigm to all generation in PJM. If states choose to create a competitive, non-discriminatory procurement process, that is consistent with the market paradigm, albeit with the choice of a particular approach to hedging the future costs of capacity. It would

⁹ See Bill 3442 Report; Market Monitor, Impact of Maryland PSC's Proposed RFP on the PJM Capacity Market (January 28, 2011), which can be accessed at (see Attachment): <http://www.monitoringanalytics.com/reports/Reports/2011/IMM_Comments_to_MDPSC_Case_No_9214_20110128.pdf>.

not be necessary for all capacity to be purchased under long term, guaranteed contracts because this approach is consistent with the functioning of competitive markets.

The April 12th Order will improve long term resource planning by helping to ensure that capacity markets reflect market fundamentals, including levels of supply and demand and the actual costs of supply. If demand were withheld, prices would fall below the competitive level. If supply were withheld, price would rise above the competitive level. Strong market power mitigation rules prevent prices greater than the competitive level. When the market is long, the clearing price is set by the incremental costs of existing resources. When the market is short, price is set by the cost of new capacity. It is essential that the clearing price be determined by the appropriate costs in both cases. The result is the appropriate incentive to build new capacity or provide new demand side resources.

E. Self Supply Provisions in RPM Prior to April 12th Order

RPM includes a number of tariff provisions governing self supply defined self supply as capacity resources that were constructed, owned or purchased outside an RPM auction, and used to meet an LSE's obligations to purchase capacity.¹⁰ The tariff indicates

¹⁰ PJM Open Access Transmission Tariff (OATT) Attachment DD §§ 1, 2.5, 2.65 (“‘Self-Supply’ shall mean Capacity Resources secured by a Load-Serving Entity, by ownership or contract, outside a Reliability Pricing Model Auction, and used to meet obligations under this Attachment or the Reliability Assurance Agreement through submission in a Base Residual Auction of a Sell Offer indicating such Market Seller’s intent that such Capacity Resource be committed regardless of clearing price. An LSE may submit a Sell Offer with a price bid for an owned or contracted Capacity Resource, but such Sell Offer shall not be deemed ‘Self-Supply,’ solely as such term is used in this Attachment.”), 3.1, 5.1–4, 6.6, 16.1, 16.3, Attachment DD-1; PJM Reliability Assurance Agreement (RAA) §§ 1.77, 7.3 (“A Party obligated to pay a Locational Reliability Charge for a Delivery Year may partially or wholly offset amounts it must pay for such charge by offering Capacity Resources for sale in the Base Residual Auction or an Incremental Auction applicable to such Delivery Year; provided such resources clear such auctions. Resources offered for sale in any such auction must satisfy the requirements specified in this Agreement and the PJM Manuals. Such a Party may choose to nominate a resource in the Base Residual Auction as Self-Supply, may

that capacity designated as self supply would clear first in an auction to assure that the self supply capacity was matched with the obligation to buy. Under the tariff provisions, existing capacity, designated as self supply, would offer at a zero price or a positive price. Capacity, designated as self supply at a zero price was given first priority in clearing, then sell offers at zero, then offers in order of price.

RPM was not and is not a residual capacity market. Capacity procured through RPM, together with capacity included in FRR Plans, constitutes the complete capacity market and resource adequacy programs for the PJM Region. RPM incorporates must offer obligations and must buy requirements as central design features.¹¹ All capacity resources, including self supply, must offer into each auction. All load is required to purchase capacity. This is the only way that RPM can work.

If a self supply offer had failed MOPR prior to the April 12th order, MOPR rules would have applied. Self supply did not create an exception to MOPR. Such an exception would have rendered MOPR meaningless.

choose to designate a price offer for such resource into any such auction, or may indicate in its offer that it wishes to commit such resource regardless of the clearing price, in which case the Party shall receive the marginal value of system capacity and the price adders for any applicable binding locational constraint in accordance with Attachment DD of the PJM Tariff. Each such Party acknowledges that the clearing price it receives for a resource offered for sale and cleared, or Self-Supplied, in an auction may differ from the Final Zonal Capacity Price determined for the applicable Zone for the applicable Delivery Year, and that the Party shall remain responsible for the Locational Reliability Charge notwithstanding any such difference between the Capacity Resource Clearing Price and the Final Zonal Capacity Price. In addition, such Parties recognize that they may receive an allocation of Capacity Transfer Rights which may offset a portion of the Locational Reliability Charge, and that they may offset a portion of the Locational Reliability Charge by nominating ILR, or by offering and clearing Qualifying Transmission Upgrades in the Base Residual Auction.”) 7.6, Schedule 6–7.

¹¹ PJM OATT Attachment DD §§ 1, 6.6; PJM RAA §§ 2, 7.6.

The impacts of self supply do not depend on the portion of an LSE's load that is met by self supply or the size of the LSE. A small portion of a given load met by self supply could affect the market price paid for the balance of the capacity requirement. A large portion of a given load met by self supply could have a larger impact on the market price and affect those prices over a longer period. In either case, the impact is proportional to the MW of self supply in the affected market. The impacts of self supply do not depend on intent.

The same is true for the new MOPR rules. Market power could be exercised by self supply resources if exempted from MOPR if they offer at below cost in RPM auctions. There are no cases where exempting new self supply resources would not present the opportunity to exercise market power. More importantly, there are no cases where exempting new self supply resources does not create a potential negative market impact. This does not imply intent or mean that market power would be the necessary outcome, but only that such exemptions create the opportunity. The exercise of market power in such cases, regardless of whether or not such exercise was intended, would be difficult to detect and even more difficult to enforce ex post.

Self supply is an entirely legitimate and appropriate way for any LSE to meet its capacity obligations and the RPM design should and does accommodate self supply. The Market Monitor proposes an approach to self supply that would permit economic self supply to be exempt from MOPR, so as to preserve flexibility for market participants to acquire capacity in the manner they choose, as long as that process is non-discriminatory and competitive and thereby protects RPM from market power or uneconomic price suppression.

II. CONCLUSION

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

Respectfully submitted,



Jeffrey W. Mayes

Joseph E. Bowring
Independent Market Monitor for PJM
President
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Valley Forge Corporate Center
Eagleville, Pennsylvania 19403
(610) 271-8051
joseph.bowring@monitoringanalytics.com

General Counsel
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Valley Forge Corporate Center
Eagleville, Pennsylvania 19403
(610) 271-8053
jeffrey.mayes@monitoringanalytics.com

Dated: August 29, 2011

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 29th day of August, 2011.



Jeffrey W. Mayes
General Counsel
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Valley Forge Corporate Center
Eagleville, Pennsylvania 19403
(610)271-8053
jeffrey.mayes@monitoringanalytics.com