

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

PJM Interconnection, L.L.C.)	Docket No. EL15-29-000
v.)	
PJM Interconnection, L.L.C.)	
)	
PJM Interconnection, L.L.C.)	Docket No. ER15-623-000
)	
)	
)	(Not Consolidated)

**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 for PJM (“Market Monitor”), submits this answer to, and moves for leave to answer, the answer filed by PJM Interconnection, L.L.C. in Docket No. EL15-29 and Docket No. ER15-623 on February 13, 2015.² The Market Monitor has requested that PJM be directed to file, as part of PJM’s Capacity Performance (CP) Proposal, tariff provisions that include market power review processes that are consistent with the Market Monitor’s role as currently defined elsewhere in the tariff.

¹ 18 CFR § 385.212 & 213 (2014).

² See PJM filing, Docket No. ER15-623-000 (December 12, 2014) (“ER15-623 Filing”); PJM filing, EL15-29 (December 12, 2014) (“EL15-29 Filing”) (collectively, “CP Proposal”).

PJM's unsupported proposal would limit the Market Monitor in meeting its market power monitoring obligations under Attachment M of the OATT. PJM's position in each case is inconsistent with the approach currently specified in Section 12A of the OATT and inconsistent with the comparable review processes currently in the OATT Attachment M-Appendix. PJM's arguments are flawed or irrelevant. The requested review processes should be explicitly included in the OATT to facilitate the Market Monitor's fulfillment of its tariff defined duties.

Explicit rules for Market Monitor review processes under CP are needed to ensure that market power is not exercised based on an orderly and efficient review of unit specific operational parameters and the physical basis for offers. The existing and appropriate tariff provisions define a process under which the Market Monitor engages in detailed, fact intensive bilateral communications with participants about their offers, to develop an informed position regarding the offers, to inform market sellers about whether such sellers' offers, including offer parameters, raise market power or manipulation concerns, and to come to a reasoned agreement or disagreement with market participants about their offers.

I. ANSWER

A. PJM Does Not Justify Its Failure to Include a Process for Market Monitor Review of Unit-Specific Operational Parameters.

The Market Monitor requests that approval of the CP Proposal be conditioned on approval of the revisions to the CP Proposal that define a process for review of unit specific parameters consistent with Section 12A of the OATT and consistent with the current process for the review of unit specific parameters for exceptions.

PJM does not respond to the Market Monitor's request. PJM responds only to a misrepresentation of that request.

PJM states, “The IMM’s proposed language appears to seek to assign the IMM a role to negotiate parameter limits with resources, which is not appropriate.”³ PJM states further, “the Commission specifically determined that the determination of ‘the physical parameters of offers (e.g., ramp rates and start-up times) at or before the time they are considered in a market solution’ is prospective mitigation which market monitoring units are prohibited from conducting.”⁴

The Market Monitor does not, never has and does not here propose to “determine” offer parameters nor to “conduct prospective mitigation,” which is prohibited in the Commission’s regulations. The Market Monitor cannot require market participants to submit offers, including offer parameters, at levels that the Market Monitor determines and does not propose to have such authority. PJM “conduct[s] prospective mitigation” when, for example, it applies the three pivotal supplier tests in course of operating the energy, capacity and regulation markets and when it clears offers that include operational parameters developed under the PJM Market Rules.

Although the Market Monitor cannot conduct prospective mitigation, the Market Monitor has a Commission-approved and tariff-defined role in the review of the inputs for prospective mitigation.

The PJM Market Rules also do not allow PJM to determine the level of offers or offer parameters. The PJM Market Rules do not allow PJM to make determinations about whether the level of offers or offer parameters raise market power issues. Section 12A of the OATT specifically provides, “The Office of the Interconnection does not make determinations about market power, including, but not limited to, whether the level or value of inputs or a decision not to offer a committed resource involves the potential

³ EL15-29 at 21.

⁴ *Id.*

exercise of market power.” Monitoring the level of mitigation inputs for market power concerns is a Market Monitor function.⁵

Contrary to PJM’s claim, the Market Monitor does not seek authority to “negotiate” unit specific operational parameters. What the Market Monitor does seek is continuance of the existing and longstanding practice for the review of mitigation inputs, which affords a formal process for review by the Market Monitor without interfering with the right and responsibility of Market Participants to submit their own offers and without interfering with PJM’s role in administering the OATT. The proposed review process has functioned well for as long as PJM has operated markets. Section 12A of the OATT, which defines PJM’s and the Market Monitor’s roles regarding the review of offers was filed with broad support from stakeholders.⁶

⁵ See OATT § 12A (“The Market Monitoring Unit has the exclusive authority to perform the functions set forth in Attachment M and the Attachment M-Appendix”); OATT Attachment M § IV.E-1 (“Determinations about market power are the responsibility of the Market Monitoring Unit under Attachment M and Attachment M - Appendix. The Market Monitoring Unit shall review all proposed sell offers for a determination of whether they raise market power concerns. The Market Monitoring Unit shall determine whether the level of offer or cost inputs raises market power concerns. The Attachment M-Appendix sets forth the Market Monitoring Unit’s role in evaluating these offer or cost inputs. The Market Monitoring Unit and market participants shall, in accordance with the applicable procedures and as set forth elsewhere in the Tariff, attempt to come to agreement about the level or value of offers or cost inputs. The Market Monitoring Unit shall make a determination about whether offer or cost inputs or a decision not to offer a committed resource is physical or economic withholding or otherwise involves a potential exercise of market power. 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. If the potential exercise of market power is related to a Sell Offer submitted in an RPM Auction, the Market Monitoring Unit may file a complaint with the Commission addressing the issue. If, at the time of filing, market prices that have been settled and posted could be impacted by the subject of the complaint, the Market Monitoring Unit shall refrain from requesting relief from the Commission that would upset such market prices and shall limit the requested relief to appropriate restitution and/or penalties from the implicated market participant or participants.”).

⁶ See PJM filing, Docket No. ER13-149-000 (October 16, 2012) at 21–23.

PJM argues that “the roles that PJM proposes for the IMM and for itself in the unit-specific PLS determination is [sic] wholly consistent with the Commission’s determination of the roles of the IMM versus PJM in Order No. 719 and related orders.”⁷ PJM is not correct. Order No. 719 provides for market monitors to monitor the behavior of market participants and to monitor PJM’s implementation of the rules. Although the Market Monitor routinely provides its advice to PJM as PJM implements and interprets the rules, the provision of advice is not a core MMU function and does not need to be specified in the PJM Market Rules.

PJM claims, “there is no defined role for the IMM in a *unit specific PLS* review process in PJM’s current Tariff because there is no existing process to determine unit-specific PLS values” (emphasis in original).⁸ PJM’s claim is both false and irrelevant. The claim is false because there are current rules for determining unit specific operational parameters when a unit shows that it is eligible for an exception, and the Market Monitor’s role in that process is defined.⁹ The claim is irrelevant because the Market Monitor’s issue is not whether the Market Monitor’s role in CP was or should have been defined in the rules prior to the CP Proposal. The issue is that the Market Monitor’s role should be defined in the CP Proposal. PJM provides no justification for the omission of an explicit, structured role for review of offers by the Market Monitor, consistent with current practice.

The CP Proposal should be modified to include the revisions to the Market Monitor review process applicable to unit specific operational parameters that the Market Monitor provided in its January 20th comments (at 34–35).

⁷ EL15-29 Filing at 31.

⁸ EL15-29 Filing at 20.

⁹ See PJM Operating Agreement Schedule 1 § 6.6.

B. PJM Does Not Justify Its Failure to Include a Process for Market Monitor Review of the Physical Basis of Capacity Performance Offers.

The Market Monitor requests, consistent with Section 12A of the OATT, that PJM be directed to include provisions for a Market Monitor review process to determine whether offers represent capacity that meets quality standards for reliability and are intended for physical delivery.

PJM does not respond to the Market Monitor's request and the reasons for that request. Instead, PJM states: "some commenters believe the IMM should have authority to reject an offer in its own right," citing the Market Monitor (and PPL and PSEG). PJM states (*id.*) that PJM's proposal strikes a balance to allow the IMM to provide input in the analysis of a questionable offer, but not a separate layer of review."¹⁰ PJM states that its proposed approach is consistent with Order No. 719, "under which PJM is responsible for prospective mitigation, such as accepting or rejecting a Capacity Market Sell Offer."¹¹

PJM mischaracterizes the Market Monitor's position. The Market Monitor does not request the authority to reject offers. The result of the Market Monitor's review is a Market Monitor position on the physical nature of offers that is communicated to the market seller. The Market Monitor's positions have no independent effect. The Market Monitor does not have and does not request the authority to reject offers. If there is disagreement, any final decision must be made by the Commission.

The Market Monitor does not seek to participate in a "layer" of review. The Market Monitor's review does not depend on PJM's findings, and it does not bind PJM to any findings. The processes work in parallel. The Market Monitor will respond to PJM's requests for its views, but this is not a part of the requested process. The requested process is between the Market Monitor and a market seller.

¹⁰ ER15-623 Filing at 36.

¹¹ *Id.* at 36-27.

The Market Monitor (unlike PPL and PSEG) does not object to the process specified in PJM's proposal. The Market Monitor agrees with PJM that, consistent with Order No. 719, Section 12A of the OATT and other application law and regulations, PJM should have the authority to review offers to determine whether they comply with the tariff, including provisions requiring that offers be physical, and to reject offers found not to comply. If a market seller disagrees with PJM, such seller has recourse to the Commission.

The Market Monitor does not object to PJM's review process, provided that PJM observes tariff defined limits to that role. PJM's role is not to address market power issues. Section 12A of the OATT provides, "The Office of the Interconnection does not make determinations about market power, including, but not limited to, whether the level or value of inputs or a decision not to offer a committed resource involves the potential exercise of market power."

Market power issues do need to be explicitly and specifically addressed in the CP Proposal, and that requires specification of the Market Monitor review process. The Market Monitor objects to the failure to include such a process pursuant to which the Market Monitor reviews market sellers' activities in the PJM capacity market that raise potential market power and manipulation concerns. Asserting that the Market Monitor's only role is to advise PJM is not consistent with Section 12A of the OATT.

The Capacity Performance proposal should be modified to include the revisions to the Market Monitor review process applicable to the review of the adequacy of CP offers that the Market Monitor provided in its January 20th comments (at 41-42).

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.¹² 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.

¹² 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: March 20, 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 20th day of March 2015.



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