



Exemption” should be eliminated, but the Market Monitor recommends elimination without exception.

## I. ANSWER

The Commission initiated an inquiry into whether PJM and other RTOs “may be implementing the [Immediate-need Reliability Exemption] in a manner that is inconsistent with what the Commission directed, and therefore may be unjust and unreasonable, unduly preferential and discriminatory.”<sup>6</sup>

LSP argues (at 1–2):

PJM’s Response demonstrates that the Commission was appropriately concerned as PJM’s implementation of the Immediate need Reliability Exemption [footnote omitted] violates the Commission’s Orders and PJM’s Operating Agreement. As a result, the Immediate-need Reliability Exemption to Order No. 1000’s requirement to eliminate rights of first refusal [footnote omitted] is no longer just and reasonable and should be removed from PJM’s Operating Agreement.

LSP Power argues (at 5) for “[e]liminat[ing] the Immediate-need Reliability Exemption, except when PJM demonstrates to the Commission on a case-by-case basis that an exception is warranted.”

The Market Monitor agrees that there is no reason to exclude projects from competition through the Immediate-need Reliability Exemption and the exemption should be eliminated. The Market Monitor does not agree that removal of the Immediate-need Reliability Exemption rule requires any case by case exception provision.

PJM has not demonstrated that a competitive process is infeasible.

If needed, PJM can adopt streamlined processes for competition for short lead time projects.

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<sup>6</sup> *Id.* at P 1.

PJM indicates (at 20–21) that short term projects can result from generation units deactivating with only 90 days notice. While it is correct that generating units can retire with only 90 days notice, PJM cited no evidence to support the assertion that short term projects result from generating units retiring with only 90 days notice. There is no evidence, and PJM has cited no evidence, that a significant number of units, or units of significant size, retire from the PJM markets with only 90 days notice and require transmission upgrades. Many generating units provide substantially more notice than 90 days. Many generating unit retirements do not require transmission upgrades. Most generating units which are capacity resources must and do provide notice of deactivation more than three years in advance based on the rules governing participation in the forward capacity market, although such units may purchase replacement capacity and retire sooner. PJM has not established a factual link between unit retirements and the need for short term transmission upgrades that cannot be made competitive.

The Market Monitor identifies generating units at risk of retirement on an ongoing basis. Such analysis, whether by the Market Monitor or PJM, can and should be better accounted for in the planning process and could provide advance warning of unit retirements and obviate the need for short term upgrades.

If the current retirement notice provisions are inadequate, as implied by PJM, and the Market Monitor agrees that they are, the PJM notice requirement for unit retirements should be significantly increased.<sup>7</sup>

The Immediate-need Reliability Exemption should be eliminated without exception. Instead of retaining rules that unjustly and unreasonably reduce competition, PJM should work to expedite competitive processes.

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<sup>7</sup> The Market Monitor has recommended increasing the notice period in its state of the market reports.

## 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>8</sup> 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.

## III. CONCLUSION

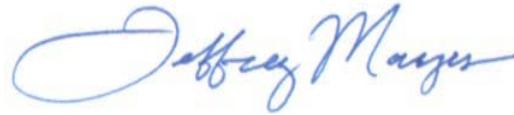
The Market Monitor respectfully requests that the Commission afford due consideration to this answer as the Commission resolves the issues raised in this proceeding.

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<sup>8</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 protest accepted because it provided information that assisted the Commission in its decision-making process).

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Respectfully submitted,



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Dated: February 12, 2020

## 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 12<sup>th</sup> day of February, 2020.



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