

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

Enerwise Global Technologies, LLC d/b/a	)	
CPower,	)	Docket No. EL24-128-000
v.	)	
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,<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 answer submitted by PJM on August 5, 2024, to the complaint filed by Enerwise Global Technologies, LLC d/b/a CPower (“CPower”) on July 16, 2024 (“Complaint”).

The Complaint alleges that PJM’s June 13, 2024, Guidance Letter violated PJM Market Rules because PJM excludes EE installed during the 2021/2022 and 2022/2023 Delivery Years from the EE MW that can be claimed for the 2025/2026 BRA. CPower objects that PJM’s Guidance Letter was provided too late. CPower objects to the provision of PJM’s Guidance Letter establishing that LED lightbulbs in residential lighting are considered standard practice or baseline when asserting savings in M&V Plans. CPower inexplicably objects to providing information to the Market Monitor that the Market Monitor requires to evaluate

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<sup>1</sup> 18 CFR §§ 385.212 & 385.213 (2024).

<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”).

CPower's offers and that is well within the IMM's assigned functions under the Tariff and that CPower is required to provide.

Both the Complaint and PJM's answer concern the details of PJM's review of EE sellers' plans. Because none of the plans identify EE as it is defined in the market rules, none of the plans, even if they lead to the installation of projects, are a valid basis for payment of EE.<sup>3</sup> The Market Monitor has raised these issues in its complaint filed in Docket No. EL24-126. If the Market Monitor's complaint in that docket is granted, the issues in this proceeding become moot. Although the Market Monitor addresses the specific details of the arguments raised in this proceeding and supports rejecting the Complaint on that basis, the Complaint should also be dismissed because the plans in this proceeding do not include EE as defined in the rules. Under the rules, there is no EE in the capacity market construct because EE is included in PJM's peak load forecast.

PJM responds in its answer (at 2) that "CPower's repeated reliance on the permissive language in certain cherry-picked provisions ignores restrictions that are plainly set forth in the language and context of PJM's Governing Documents and Manuals."

The Market Monitor agrees with PJM (*id.*) that "CPower's position is irrational from an economic or operational perspective and is grounded in a gross misinterpretation of the Tariff, RAA, and PJM Manual 18B."

The Complaint has no merit and should be denied.

## **I. BACKGROUND**

On June 13, 2024, PJM provided a Guidance Letter to all EE sellers intending to submit M&V Plans for the 2025/2026 BRA.<sup>4</sup> The Guidance Letter included five points for EE Resources to comply with when submitting their M&V Plan for the 2025/2026 BRA and post

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<sup>3</sup> See RAA Schedule 6 § L.1; OATT Attachment DD-1 § L.1.

<sup>4</sup> See Complaint, Ex. A, Updated EE Guidance for 25/26 BRA at 2 ("Guidance Letter").

installation M&V Report for the 2024/2025 Delivery Year. The Guidance letter provided specifically: (1) EE providers could only submit Nominated EE Values for their approved installation periods; (2) for the 2024/2025 baseline, LED lightbulbs were considered the standard baseline for residential general lighting unless a more stringent standard applied; (3) EE providers needed to explain in their 2025/2026 M&V Plans how they intended to provide reasonable assurances that claimed EE resources could not be claimed by any other EE Resources; (4) M&V Plans had to be submitted to the RPM Hotline and the IMM; and (5) EE Resources were required to use PJM's Nominated EE Values template.<sup>5</sup> CPower's Complaint challenges the guidance provided in 1, 2, and 4.<sup>6</sup>

## II. ANSWER

### **A. CPower's Interpretation of the Tariff, RAA and Manual 18B regarding Eligible Energy Efficiency Resource Installation Periods Is Incorrect.**

CPower erroneously claims that it is entitled to offer EE projects in the 2025/2026 BRA that had been installed in prior delivery years. Under the compressed auction schedule, the EE from two of the installation periods CPower seeks to offer were already fully accounted for under PJM's approach and therefore cannot be offered in the 2025/2026 auction.

Under the standard three year forward capacity auction schedule and PJM's implementation of EE, the 2025/2026 BRA would have been conducted in May of 2022 and EE installed for the 2021/2022, 2022/2023, 2023/2024 and 2024/2025 Delivery Years would have been eligible for the 2025/2026 auction. That is no longer correct under the compressed auction schedule use for the 2025/2026 BRA.

PJM's guidance was fully consistent with the RAA, Tariff and manuals that EE from the 2021/2022 and 2022/2023 Delivery Years were excluded from the EE MW for the 2025/2026

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<sup>5</sup> *Id* at 2.

<sup>6</sup> *See* Complaint at 5 ("CPower's primary concerns relate to points 1, 2 and 4, as discussed below.").

BRA given that those two delivery years were already completed and any impacts of EE installed during those periods were already incorporated in PJM's base usage data.

The instruction in PJM's Guidance Letter with respect to limiting the eligible Energy Efficiency Resource installation periods was entirely consistent with the RAA, Schedule 6 Section L and Attachment DD-1, Section L.1 of the Tariff and Manual 18B.

CPower's Complaint on the eligibility matter is incorrect and should be rejected.

**B. PJM Provided Notice of Excluded Installation Periods Well in Advance of the June 17, 2024, Due Date for Energy Efficiency M&V Plans.**

CPower asserts that "PJM has issued eleventh-hour guidance that precludes the participation in the market of initially cleared capacity for up to four years as to the 2025/26 Delivery Year."<sup>7</sup> The characterization by CPower is not correct.

PJM notified market participants of the anticipated ineligibility of certain EE installation periods under the compressed RPM auction schedule as far back as January 2022. PJM repeatedly issued updates to the anticipated ineligibility of certain EE installation periods during the months leading up to PJM's June 13, 2024, guidance letter ("Guidance Letter"). These updates took the form of presentations at PJM stakeholder meetings, postings to the PJM website and directed communications with EE resources sellers.

On January 14, 2022, PJM made a presentation at the Demand Response Subcommittee to provide an updated auction schedule and to provide guidance that, when an auction is occurring less than three years in advance of the delivery year, certain EE installation periods would be ineligible.<sup>8</sup> No EE sellers challenged this guidance when it was provided.

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<sup>7</sup> Complaint at 21.

<sup>8</sup> See PJM, Demand Response Subcommittee, Capacity Auction Schedule Changes, <<https://www.pjm.com/-/media/committees-groups/subcommittees/drs/2022/20220114/20220114-item-02a-eligible-ee-installation-periods-presentation.ashx>> (January 14, 2022).

On February 5, 2024, PJM made a presentation at the Distributed Resources Subcommittee detailing the schedule and eligible installation periods for upcoming RPM auctions. PJM again provided guidance that, when an auction is occurring less than three years in advance of the delivery year, certain EE installation periods would be ineligible.<sup>9</sup> This presentation explicitly stated that only installation periods 2023/2024 and 2024/2025 would be eligible for the 2025/2026 BRA.<sup>10</sup> This presentation was delivered to stakeholders 133 days prior to the June 17, 2024, due date for M&V Plans for the 2025/2026 BRA.

On April 25, 2024, PJM posted material to its website detailing the schedule and eligible installation periods for upcoming auctions.<sup>11</sup> PJM again provided guidance that, when an auction is occurring less than three years in advance of the delivery year, certain EE installation periods would be ineligible. This guidance explicitly stated that only installation periods 2023/2024 and 2024/2025 would be eligible for the 2025/2026 BRA. This was posted to the PJM website 53 days prior to the June 17, 2024 due date for M&V Plans for the 2025/2026 BRA.

CPower's allegation that PJM provided guidance too late is without merit and contrary to the facts and should be rejected.

### **C. Inclusion of LED Lightbulbs in the Standard Baseline is Appropriate.**

CPower objects to PJM's direction in its June 13, 2024, Guidance Letter that LED lightbulbs in residential lighting should be considered standard practice for purposes of using the standard baseline when applied in M&V Plans.<sup>12</sup>

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<sup>9</sup> See PJM, Distributed Resources Subcommittee, Eligible Installation Periods for Upcoming Auctions, <<https://www.pjm.com/-/media/committees-groups/subcommittees/disrs/2024/20240205/20240205-item-10--eligible-installation-periods-for-upcoming-auctions.ashx>> (February 5, 2024).

<sup>10</sup> *Id* at 3.

<sup>11</sup> See PJM. Approved Installation Periods by Auction, <<https://pjm.com/-/media/markets-ops/rpm/rpm-auction-info/approved-installation-periods-by-auction.ashx>> (April 25, 2024).

<sup>12</sup> See Complaint at 7–9.

PJM Manual 18B defines ‘Standard’ Baseline as being for projects in which equipment (whether failed or not) is replaced by a more efficient equivalent or by an alternative strategy for delivering comparable output, the Baseline Condition shall be the nameplate rating of the equipment meeting the level of efficiency required by applicable state code, federal product efficiency standard, or standard practice, whichever is most stringent, in place at the time of installation, as known at the time of commitment. If there is no applicable state code or federal standard, then *standard practice* shall be used as the basis for establishing Baseline Conditions and shall be documented in the M&V Plan.<sup>13</sup>

In accordance with the provision in Section 8.1 of Manual 18B, PJM established that that LED lightbulbs in residential lighting should be considered standard practice for purposes of using the standard baseline. PJM’s guidance with respect to the standard practice for residential lighting is based on a memorandum created by Apex Analytics and Demand-Side Analytics entitled New Jersey 2020 and 2021 Retail Lighting Sales Data Analysis (“Apex Study”).<sup>14</sup> This study concludes it is standard practice for residential customers to install LED lighting. It is noteworthy that PJM’s third-party energy efficiency auditor also uses the Apex Study in the conduct of its audits.<sup>15</sup>

Without supporting evidence, CPower impugns the Apex Study as flimsy and alleges that PJM fails to offer any robust sets of studies or analyses about standard practice.<sup>16</sup> In spite of its Complaint, in its M&V Plan submitted on June 17, 2024, for the 2025/2026 BRA, CPower fails to provide any evidence of alternate federal standards, state codes or standard practice refuting PJM’s reliance on the Apex Study. It is CPower’s burden to demonstrate a baseline. CPower failed to do so.

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<sup>13</sup> PJM Manual 18B: Energy Efficiency Measurement & Verification, § 8.1, Rev. 05 (September 21, 2022).

<sup>14</sup> See Answer of PJM Interconnection, L.L.C., Docket No. EL24-118-000 (August 5, 2024) at Exhibit C.

<sup>15</sup> *Id* at 22.

<sup>16</sup> *Id*.

The baseline matters because most EE MW, including those based on residential lighting, are not directly measured. Savings are calculated based on an assumed installation rate and assumed usage level, compared to the assumed electricity usage of the default or baseline.

The inputs to these calculations are based on assumptions and observations over very limited periods and generally rely on data that is significantly out of date. Many EE Providers rely on usage assumptions from industry publications rather than from primary data collected from measurements of their own customers. The industry publications referenced by EE Providers are generally significantly outdated and therefore cannot reasonably be used to define the actual current baseline conditions that should be used for valuation of projects.

It is surprising that CPower can argue that LED lightbulbs are not the baseline for residential lighting and to assert that CPower should be paid for nonexistent savings based on an undefined standard, presumably incandescent bulbs.

The importance of establishing a rational and consistently applied baseline reflecting current conditions cannot be overstated. Failure to do so would lead to inconsistent valuation of EE measures among EE sellers and allow EE sellers to cherry pick support for a baseline condition that overstates their resources' actual value.

CPower's objection to PJM's establishment of a standard practice for residential lighting is unsupported, without merit and its Complaint in this regard should be summarily denied.

#### **D. PJM Appropriately Defends the Independent Role of the Market Monitor.**

CPower complains (at 9–12, 27) about PJM's cooperation with the Market Monitor in its review of the 2025/2026 M&V Plans. Such cooperation includes requiring that EE sellers submit plans directly to the Market Monitor, thereby avoiding unnecessary delay and PJM's encouraging timely responses to the Market Monitor's requests for additional information. PJM received and relied upon the same information.

PJM correctly responds, “the collection of such information is well within the IMM’s assigned functions under the Tariff,... and CPower is required to provide such information on demand as a condition of PJM membership.”<sup>17</sup> PJM also correctly observes (at 4), “The IMM’s ongoing litigation with CPower does not divest the IMM of its duties under the Tariff, Attachment M or CPower’s obligations under the Tariff.”

CPower asserts that the Market Monitor is not independent because the Market Monitor filed a Complaint related to the inadequacy of EE providers’ post installation measurement and verification plans. Apparently CPower’s view is the only option for an independent Market Monitor is to agree with CPower. CPower objects to the exercise of independence by the Market Monitor in requesting the data necessary to do the job of the Market Monitor.

CPower’s assertions are incorrect, unsupported and should be rejected.

### III. MOTION FOR LEAVE TO ANSWER

The Commission’s Rules of Practice and Procedure, 18 CFR § 385.213(a)(2), do not permit answers to protests, answers, or requests for rehearing 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>18</sup> In this answer, the Market Monitor provides the Commission with information useful to the Commission’s decision

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<sup>17</sup> PJM at 3, citing OATT Attachment M §§ IV, V, Attachment Q § II.E.3.

<sup>18</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).



making process and which provides a more complete record. Accordingly, the Market Monitor respectfully requests that this answer be permitted.

#### IV. 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: August 20, 2024

## **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 20<sup>th</sup> day of August, 2024.



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