UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.	)	Docket No. ER24-98-000

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,[1] Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor ("Market Monitor") for PJM Interconnection, L.L.C. ("PJM"),[2] submits this answer, and moves for leave to answer, to the answer filed in the this proceeding by PJM on January 17, 2024 ("PJM Answer"), to the comments and protests filed in response to PJM's December 8, 2023 response ("PJM Response") to the deficiency letter in this proceeding issued November 17, 2023 ("Deficiency Letter").

This answer should be accepted in order to avoid confusion, ensure a complete record and to facilitate the decision making process.

PJM's filing in Docket No. ER24-98 on October 13, 2023 ("October 13th Filing"), should be rejected because it has not been shown to be just and reasonable and not unduly discriminatory.

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1 18 CFR §§ 385.212 & 385.213 (2023).

2 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").

I. ANSWER

A. Summary

PJM fails to clearly state or defend their own actual proposal, as it is written in the proposed tariff revisions. If PJM believes that it is the right thing to eliminate the net revenue offset as the balancing mechanism between the energy and capacity markets, PJM should be forthright. If PJM believes that it is the right thing to eliminate market seller offer caps, PJM should be forthright. If PJM believes that it is the right thing to define the exercise of market power through high energy offers as an acceptable excuse for nonperformance during PAIs, PJM should be forthright. PJM should be clear and direct about its proposals, the reasons for its proposals and the likely consequences of its proposals.

In response to the fundamental point that PJM would dramatically change the nature of the capacity market by eliminating the net revenue offset, PJM deflects by referencing the rules for exporting capacity from PJM and references an irrelevant element of the rules from the ISO-NE capacity market. In response to the related point that PJM would remove market power mitigation by eliminating the market seller offer cap, PJM deflects by referencing the same two points.

In response to the point that PJM proposes to allow generation owners to define the CPQR that PJM will accept, PJM simply fails to address the point, asserting that a review without consequences is a meaningful review.

In response to the point that PJM is reversing itself and the Commission order by allowing high markups to be an acceptable excuse for nonperformance during a PAI, PJM deflects by mischaracterizing the Market Monitor's arguments and citing an irrelevant portion of an unrelated Commission order.

B. PJM's Proposed Rules Do Not Eliminate Ambiguity About Expected Performance During Performance Assessment Intervals.

PJM's rules were not clear prior to Winter Storm Elliott as evidenced by the confusion, disputes and settlement that followed.[3] PJM changed and narrowed the definition of Performance Assessment Intervals (PAI) after Winter Storm Elliott.[4] Despite those changes, there are many aspects of PJM's PAI settlement calculations that are and remain ambiguous. PJM's posted Non-Performance Assessment Settlement Summary provides examples of the ambiguity.[5] This set of "rules" or interpretations is not in the tariff or even in a manual yet it includes key definitions that affect actual payments associated with performance during PAIs. The list illustrates that PJM is incorrect in their assertions about the clarity of the PAI compliance rules and further demonstrates the difficulty of modifying the no excuses benchmark. PJM posted this document precisely because the PAI rules are ambiguous and do not clarify critical issues.

Only this document defines the calculation of actual performance from resources providing ancillary services and specifically how PJM modifies a unit's ancillary services assignment for the purpose of defining actual performance, making the MW of ancillary service provided different than the MW used for actual performance.

Only this document defines the treatment of energy import and export transactions and specifically that PJM will use imports netted from exports submitted from the same Market Participant and netted from energy supplied from External Generation Capacity Resources from the same Market Participant.

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[3] *See Essential Power OPP, LLC, et al. v. PJM Interconnection, L.L.C.*, 183 FERC ¶ 61,163 (2023).

[4] *See PJM Interconnection, L.L.C.*, 184 FERC ¶ 61,058 (2023).

[5] *See* PJM, Non-Performance Assessment Settlement Summary, October 23, 2023 <*https://pjm.com/-/media/markets-ops/rpm/performance-assessment-settlement-summary.ashx*>.

Only this document defines the treatment of energy from delisted Capacity Resources, specifically that the output from delisted Capacity Resources (resources whose capacity has been sold outside of PJM) will be reduced by the energy exported in real time.

Only this document defines details of the allocation of performance due to modeling differences, specifically how actual performance, outages and excused MW are allocated among resources due to modeling differences across the Capacity Market, Energy Market and the outage reporting tools (eDART and eGADS).

Only this document specifies that only outages reported in eDART are used for PAI Settlement purposes and not outages reported in eGADS.

Only this document describes how PJM calculates excused MW when units are not scheduled or are scheduled down.

In summary, PJM attempts but fails to provide clarity to the PAI rules. PJM provides this attempt at clarity only in documents that are neither tariff nor manuals. There are no standards for review of these documents that can be changed at any time. PJM argues that this proposal will be "a clear improvement over the existing rules" as if the proposal contains a systematic method to determine which resources will or will not be excused. But these are not rules in any defined sense of that term. Among other things, under the current proposal, PJM will still need to review dispatch logs and records to identify why the requests of some resources to come online were denied and why some resources were not called on. Resource Owners will question those decisions because the PJM rules do not provide adequate guidance to PJM operators or to resource owners and because this document does not and cannot define enforceable rules because it is neither tariff nor manual.

C. PJM's Proposal to Allow Consultants to Determine Compliance with Market Power Mitigation Rules Is Not Just and Reasonable.

PJM has failed to admit the actual significance of the PJM proposal to use consultants hired by generators (PJM euphemistically terms them third party reviewers) to determine compliance with market power mitigation rules governing offers in the capacity market. PJM

has failed to respond to or deny the specific points made by the Market Monitor related to this issue.

PJM defends the inclusion of the third party review language by stating that the roles of the Market Monitor and PJM will not be affected. If there is no change to the tariff administration, then there is no reason to include the language. Market sellers are already aware that they can use a third party for unit specific offer calculations, as demonstrated by actual practice.

The actual purpose of PJM's proposal on third party reviews is to allow the opinion of a consultant hired by resource owners to establish, without further review, that the offer "shall be considered reasonably supported."[6] That is the standard that PJM uses for review. Therefore, by definition, the opinion of the consultant hired by the generation owner will result in PJM's acceptance of the generator offer, regardless of the view of the Market Monitor. The inclusion of a consultant's review as establishing that the offer is reasonably supported under the tariff eviscerates the market power review process.

PJM notes that their proposal will not prevent the Market Monitor from reviewing the offers. While that is correct, it also willfully ignores the fact that the review process becomes meaningless.

D. PJM Proposes to Undo Market Power Mitigation in the Capacity Market

PJM continues to deny that PJM's proposal eliminates the key equilibrating factor of net revenues (EAS offset) between energy and capacity markets. The net revenue offset has been the link between the energy and capacity markets from the inception of RPM in 2007, ensuring that the capacity market meets its goal of providing the missing money but not more than that. The net revenue offset is appropriately incorporated in the capacity market demand curve (VRR) that PJM correctly does not propose to change in its filing. PJM's draft

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[6] Under the current rules, CPQR is defined as the "quantifiable and reasonably-supported costs of mitigating…" PJM's proposal defines a consultant review to be "reasonably supported." *See* October 13th Filing, Attachment A (Redlines), OATT Attachment DD § 6.8(a).

tariff language eliminates the offset for all resources that plan to continue to operate even if they do not clear in the capacity market.

Eliminating the net revenue offset would permit double recovery of the costs included in the offers. Net revenues are net revenues and cover all costs regardless of the type of costs.

PJM asserts (at 9–10) that the situation in which resources will continue to operate if they do not clear in a capacity auction is a specific and narrow circumstance when it is in fact the general case. Generation resources are long lived assets and generation owners do not retire units because they do not clear in a specific capacity market, in whole or in part.

It is a fact that PJM proposes to eliminate the energy and ancillary services net revenue offset for most if not all capacity resources. That elimination will arbitrarily and inappropriately increase market seller offer caps and capacity market clearing prices.

PJM's response focuses on the definition of avoidable costs for the resources that will continue to operate rather than the broader implications of the PJM proposal which PJM continues to avoid discussing explicitly. Contrary to PJM's assertion, the proposed tariff is vague and lacking details on which specific costs are includable in the new proposed definition of ACR that would apply if resources are planning to remain in the market even if they do not clear in a capacity auction.

PJM does also propose to change the definition of avoidable costs for such capacity resources. But the proposed tariff language does not provide a clear definition. The definition of such avoidable costs reads, in its entirety: "… [A]voidable costs and expenses shall be limited to the incremental costs that would be avoided only in the absence of a capacity obligation such as CPQR."[7] The draft tariff language does also describe some avoidable costs that are not includable (6.8(b)) although significant maintenance costs are already excluded in the current definition. Based on PJM's vague proposed tariff language, it will be difficult for PJM to reject the inclusion of a wide range of avoidable costs that are included in the

[7] October 13th Filing, Attachment A, OATT Attachment DD § 6.8(b).

current definition of avoidable costs and are currently offset by net revenues, including all APIR costs.

PJM misstates the purpose of the net revenue offset and misstates the current definition of a competitive offer in the PJM capacity markets as defined in the PJM tariff. PJM asserts, without evidence and entirely inconsistent with their own draft tariff language, that eliminating the net revenue offset does not destroy the key link between the energy and capacity markets.

PJM's entire response (at 10) to this fundamental point is to refer to the fact that the tariff allows capacity resources with firm transmission that want to export their capacity to use the applicable external capacity price (the opportunity cost of offering in the PJM capacity market) as their offer in the PJM capacity market. PJM misleadingly asserts that this extremely limited case somehow supports the PJM approach of eliminating the net revenue offset.[8] The argument is an illogical non sequitur. PJM would have the Commission ignore the role of the net revenue offset and the missing money logic that has been at the core of the PJM capacity market from its creation in its current form in 2007. This attempted sleight of hand does not constitute a serious argument.

In an additional effort to use small exceptions to justify a wholesale change to the PJM capacity markets, PJM denies (at 9–12) that the net revenue offset is central to all U.S. wholesale power market capacity markets based on a narrow exception in ISO-NE.

PJM asserts (at 12) that the PJM proposal aligns with the ISO-NE capacity market design. That is factually incorrect. The ISO-NE capacity market design includes a net revenue offset in the definition of bids, has a very different auction structure, provides for bonus payments to resources that do not clear in the capacity auction, and provides for sole IMM

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[8] The use of this offer cap type and its impact is minimal. For example, in the 2024/2025 RPM Base Residual Auction, there was one request for an opportunity cost-based offer cap (0.1 percent of all generation capacity resources). *See* "Analysis of the 2024/2025 RPM Base Residual Auction," (October 30, 2023) <*https://www.monitoringanalytics.com/reports/Reports/2023/IMM_Analysis_of_the_20242025_RPM_Base_Residual_Auction_20231030.pdf*>.

review of offers. There is no evidence that the PJM proposed exemption from the use of net revenues has been used in ISO-NE in any significant way or that any such offer has affected capacity market prices. More broadly, the PJM statement in PJM's October 13th Filing illustrates the irrelevance of asserting that a PJM proposal is justified because another RTO/ISO is asserted to include something similar in their rules. PJM's proposal should stand or fall on its merits in and for the PJM markets and not based on inapposite and not fully informed comparisons with other RTO/ISOs.

PJM's proposal to eliminate the net revenue offset that links the energy market and the capacity market fails that test and has not been shown to be just and reasonable.

E. PJM's Proposes to Allow the Use of High Energy Market Offers to Avoid PAI Performance Obligations

In its January 16th Answer, the Market Monitor argued that capacity resources should not be able to avoid PAI performance penalties by submitting high energy market offers based on a markup over cost-based offers.

Surprisingly, PJM asserts (at 13) that the Market Monitor's arguments are not relevant to PJM's proposal in this docket. The Market Monitor's arguments are a direct response to PJM's attempt to change the rules governing who bears the risk of high energy market offers during PAI events. The Market Monitor supports retaining the existing, approved rules on this issue for all the reasons cited by PJM when they filed the rules and the reasons stated by the Commission when they approved the rules.[9]

The January 17th Answer mischaracterizes the Market Monitor's argument (at 13), claiming that the Market Monitor proposes to have all resources committed on their cost-

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9 PJM Filing, Docket No. ER15-623-000 (December 12, 2014) at 46 ("The same principle is even more clearly at work when the seller submits a market-based offer higher than its cost-based offer. In such a case, the seller is conceding that it could perform at the lower, cost-based price. If PJM honors the higher, market-based price offer when determining whether to schedule the resource, that is simply acceding to an economic decision controlled by the seller. In those circumstances, the seller's economic decision should not entitle it to an excuse for non-performance.").

based offers in the energy market during a PAI. PJM's assertion is incorrect. The Market Monitor's point is not to change resources' offers, but rather to have the capacity resource bear the risk of its own offer strategy, as stated by the Commission when it accepted this provision.[10]

The January 17th Answer goes on (at 14) to incorrectly cite the order in Docket No. EL21-78 on energy market power mitigation to argue in defense of economic withholding.[11] The January 17th Answer quotes the Commission's order out of context. The quote refers to a resource with a negative markup, a market-based offer lower than its cost-based offer, saying that such an offer is not necessarily an exercise of market power due to its inflexible operating parameters. But the relevant situation for the proposed PAI performance penalty excuse is the opposite, a positive markup. PJM's citation to the Commission's order is completely irrelevant, and, by extension, the Market Monitor's arguments cannot be a collateral attack on it.

Likewise, the status quo PAI penalty for resources failing to perform due to an offer markup is not "nullifying the offer cap rules utilized in the energy market," as the January 17th Answer alleges (at 14). The current rule holds resources responsible for their own offer strategy, and does not penalize them for being dispatched on a market-based offer with different parameters than their cost-based offer, as PJM claims. In fact, this claim (at 14) directly contradicts PJM's proposal to continue to penalize resources that are not dispatched in a PAI due to their operating parameters. PJM's arguments are nonsensical and internally inconsistent. PJM would break the consistent logic currently applied to market-based offer operating parameters and market-based offer financial parameters.

PJM's approach is unsupported and has not been demonstrated to be just and reasonable.

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[10] *See PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208 at P 168 (2015).

[11] *PJM Interconnection, L.L.C.*, 185 FERC 61,158 (2023).

F. The Market Monitor's Arguments Regarding Capacity Interconnection Rights and Maximum Facility Output Are Factually Correct.

PJM states (at 19) that the Market Monitor's arguments that resources are required to obtain CIRs equal to the resource's maximum facility output are "factually incorrect." The Market Monitor's arguments are correct. To be even more specific, capacity resources are required to obtain CIRs equal to their desired ICAP capacity value which is also the maximum facility output considered in PJM's ELCC analyses. It is logically possible that a resource would request CIRs at a value less than the resource's maximum facility output. The primary reason that there are multiple such resources at present is because PJM made a mistake and failed to require resources to acquire CIRs equal to the maximum facility output considered in PJM's ELCC analysis.[12] Those mistakes are currently being addressed through the defined transition process.

The language proposed by PJM:

> Variable Resource actual output shall be adjusted in the ELCC analysis to reflect historical curtailments, and output shall be capped in any hour at: (i) the greater of the Variable Resource's Capacity Interconnection Rights, or the transitional system capability as limited by the transitional resource MW ceiling as defined in the PJM Manuals, awarded for the applicable Delivery Year, during the months of June through October and the following May of the Delivery Year, and (ii) the Variable Resource's assessed deliverability, as defined in the PJM Manuals, during the months of November through April of the Delivery Year. The output of Unlimited Resources shall not exceed the greater of the Unlimited Resource's Capacity Interconnection Rights, or the transitional system capability as limited by the transitional resource MW ceiling as defined in the PJM Manuals, awarded for the applicable Delivery Year.[13]

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12 *See PJM Interconnection, L.L.C.*, 183 FERC ¶ 61,009 (2023).

13 PJM Response to Deficiency Letter, Docket No. ER24-99-001, Attachment A, Revisions to the PJM Reliability Assurance Agreement (Redline), Schedule 9.2, Section H.

The performance obligation should be equal to the maximum output from the resource that is incorporated in the ELCC analysis. This value is the lower of the CIR level and the maximum facility output. In the case of a 100 MW solar resource with 100 MW of CIRs, PJM's performance obligation would be 25 MW (assuming an ELCC class rating of 0.25 and performance adjustment of 1.0) multiplied by the balancing ratio.[14] Under the PJM rules, a solar resource generating during a summer performance assessment event would be paid bonus compensation for all output greater than 25 MW multiplied by the balancing ration (25 MW x B). The performance obligation should be 100 MW multiplied by the balancing ratio. In the case of a 100 MW solar resource with 40 MW of CIRs, PJM's performance obligation would be 10 MW (assuming an ELCC class rating of 0.25 and performance adjustment of 1.0) multiplied by the balancing ratio. The performance obligation should be 40 MW multiplied by the balancing ratio.

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.[15] In this answer, the Market Monitor provides the Commission with information useful to the Commission's decision making process and

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[14] The performance obligation is equal to the UCAP MW multiplied by the balancing ratio (B). The balancing ratio for the winter storm Elliott hours averaged 0.82. The UCAP is the ELCC derated capacity MW, 25 MW in this example.

[15] *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).

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: January 25, 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 25th day of January, 2024.

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