

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

Chalk Point Power, LLC	)	
	)	Docket No. EC24-79-000
Dickerson Power, LLC	)	
	)	
Lanyard Power Marketing, LLC	)	

**COMMENTS OF THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rule 211 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 these comments responding to the applications for approval of a proposed transaction pursuant to Section 203 of the Federal Power Act and Part 33 of the Commission’s Regulations in the above proceedings.

In the proposed transaction, Terrapin Power, LLC, a subsidiary of Rockland Capital (“Rockland”) would acquire from Osprey Energy Holdings, LLC 100 percent of the membership interests in Osprey Power, LLC, a subsidiary of Olympus Power (“Olympus”), which indirectly owns 100 percent of the outstanding membership interests in Chalk Point Power, LLC; Dickerson Power, LLC; and Lanyard Power Marketing, LLC (“Applicants”). The proposed transaction follows a prior transaction, which the Commission approved on December 18, 2023, where Olympus acquired a 100 percent interest in Applicants and certain affiliates. The prior transaction resulted from an agreement among Lanyard Power, LLC, and its lenders to cause Applicants to be sold to Olympus in order to avoid foreclosure.

---

<sup>1</sup> 18 CFR § 385.211 (2023).

<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”).

The transaction includes the sale of the combined 1,200 MW Chalk Point 3 and 4 steam units located in the most constrained part of the PJM footprint, the Baltimore/Washington, D.C. (BGE/PepCo) area. These large units are located in a critical location and convey significant market power to Rockland regardless of their proximity to Rockland's other generation. The market power effects of this transaction are not captured by the Delivered Price Test, HHI, or any other structural market power test commonly used by the Commission.

The Market Monitor does not oppose the proposed Transaction, provided that any order approving the Transaction requires three specific behavioral commitments by the Applicants, none of which creates a burden on applicants because all are designed to ensure competitive behavior.

## I. COMMENTS

### A. The Transaction Conveys Significant Market Power to Rockland.

The purchase of the Chalk Point steam unit conveys significant market power to any owner regardless of their existing structural market power. It is a large resource located in a critical area for maintaining reliability in the Baltimore/Washington, D.C. area. It has market power every time it is called on to operate by PJM, which includes critical high load days. It receives significant uplift payments.

For example, in the first three months of 2024, Chalk Point 3 and 4 steam units were the largest recipients of uplift in the PJM market. Table 1 shows that Chalk Point 3 and 4 received \$20 million in uplift, 26 percent of all uplift in the PJM market for the first quarter.<sup>3</sup>

---

<sup>3</sup> See Monitoring Analytics, L.L.C., *2024 State of the Market Report for PJM: January through March*, Section 4 at Table 4-25.

**Table 1 Top 10 recipients of total uplift: January through March, 2024**

Rank	Unit Name	Zone	Total Uplift Credit	Share of Total Uplift Credits
1	PEP CHALKPOINT 4 F	PEPCO	\$10,047,072	13.1%
2	PEP CHALKPOINT 3 F	PEPCO	\$9,904,685	12.9%
3	PL BRUNNER ISLAND 3 F	PPL	\$3,573,266	4.7%
4	PL MARTINS CREEK 4 F	PPL	\$2,191,046	2.9%
5	PL MARTINS CREEK 3 F	PPL	\$2,063,668	2.7%
6	BC BRANDON SHORES 2 F	BGE	\$2,045,953	2.7%
7	PE EDDYSTONE 4 F	PECO	\$1,382,923	1.8%
8	PE EDDYSTONE 3 F	PECO	\$1,371,947	1.8%
9	AEP CLINCH RIVER 1 F	AEP	\$1,358,090	1.8%
10	VP BRUNSWICK 1CC	DOM	\$1,240,627	1.6%
Total of Top 10			\$35,179,278	46.0%
Total Uplift Credits			\$76,485,668	100.0%

Regardless of the location and size of its other resources, Rockland gains the ability to exercise market power with the acquisition of Chalk Point. Therefore, Rockland should be subject to behavioral conditions to ensure that it cannot exercise market power.

**B. PJM Market Power Mitigation Rules Are Insufficient.**

In Section 203 applications and market based rate applications, the Commission relies on the sufficiency of the market monitoring and market power mitigation provisions in the RTO’s tariff to mitigate local market power within the RTO region.<sup>4</sup> If the market monitoring and market power mitigation provisions in the RTO’s tariff are insufficient, any market power created or enhanced by the merger or acquisition requires explicit mitigation to ensure market power is not exercised.<sup>5</sup>

As the PJM markets have evolved, the Market Monitor has identified significant flaws in the market power mitigation provisions of the PJM tariff. Some flaws permit market participants to evade the explicit intent of the PJM market power mitigation rules. Other flaws are gaps in the PJM market power mitigation rules. The overstated Market Seller Offer

---

<sup>4</sup> See *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 241 (2007), *order on reh’g*, Order No. 697-A, 123 FERC ¶ 61,055 (2008).

<sup>5</sup> Order No. 697- A at P 111.

Cap (MSOC) in the capacity market permitted market power to be exercised.<sup>6</sup> The Commission issued an order in Docket No. EL19-47 to remedy the market power mitigation issues in the capacity market.<sup>7</sup> The capacity market MSOC has been corrected, so that market sellers can appropriately rely on market power mitigation in the capacity market as long as the Commission’s decision on MSOC, or its equivalent, remains in force. The Commission initiated a show cause proceeding in Docket No. EL21-78 to remedy market power mitigation issues in the energy market.<sup>8</sup> The show cause order identified (at PP 16–18) the following issues for investigation: (i) whether “the Tariff provisions that dictate how PJM determines which offer is least cost are not just and reasonable;” (ii) whether the Tariff “fails to contain provisions governing what happens if a seller is unable to meet its unit-specific parameters in real time;” and (iii) whether “discussion of a real-time process ... should be outlined in the Tariff.” In its November 30, 2023 Order, the Commission remedied issues with real-time parameters, issues (ii) and (iii), but did not address the process by which PJM chooses whether to mitigate the offer of a resource that is found to have market power by the Three Pivotal Suppliers test, issue (i).<sup>9</sup> But even correction of the flaws in the application of local market power mitigation rules would not address aggregate market power in the energy market and the incentives to exercise market power.

---

<sup>6</sup> See “Analysis of the 2022/2023 RPM Base Residual Auction,” <[http://www.monitoringanalytics.com/reports/Reports/2022/IMM\\_Analysis\\_of\\_the\\_20222023\\_RPM\\_BRA\\_20220222.pdf](http://www.monitoringanalytics.com/reports/Reports/2022/IMM_Analysis_of_the_20222023_RPM_BRA_20220222.pdf)> (February 22, 2022). “Analysis of the 2022/2023 RPM Base Residual Auction - Revised,” <[http://www.monitoringanalytics.com/reports/Reports/2023/IMM\\_Analysis\\_of\\_the\\_20222023\\_RPM\\_BRA\\_Revised\\_20230113.pdf](http://www.monitoringanalytics.com/reports/Reports/2023/IMM_Analysis_of_the_20222023_RPM_BRA_Revised_20230113.pdf)> (January 13, 2023).

<sup>7</sup> See *Independent Market Monitor for PJM v. PJM*, 176 FERC ¶61,137 (2021), *reh’g denied*, 177 FERC ¶62,066 (2021), *further order on reh’g*, 178 FERC ¶61,121 (2022), *aff’d*, *Vistra Corp. et al. v. FERC*, Case No. 21-1214 et al. (D.C. Cir August 15, 2023), *cert. pending*.

<sup>8</sup> See *PJM Interconnection, L.L.C.*, 175 FERC ¶ 61,231 (2021).

<sup>9</sup> See *PJM Interconnection, L.L.C.*, 185 FERC ¶ 61,158 (2023).

### **C. Behavioral Recommendations.**

The Market Monitor recommends that behavioral restrictions apply to Applicants' energy and capacity market offers to help ensure that market power mitigation is effective in preventing the exercise of market power.<sup>10</sup>

#### **1. Prohibit Crossing Curves (No Mark Up Switching).**

For energy market offers, Applicants should be prohibited from submitting price-based offers that intersect (or cross) the cost-based offer for the resource.

Given the ability to submit offer curves with different markups at different output levels in the price-based offer, suppliers with market power can evade mitigation by using a low markup at low output levels and a high markup at higher output levels. Even when resources fail the TPS test, PJM frequently selects the price-based offer with the high markup based on its negative markup at low output levels. This occurs because PJM chooses between the price-based offer and the cost-based offer considering only the offers at the economic minimum output level in the real-time market and only the offers up to the projected dispatch point in the day-ahead market.<sup>11</sup> Figure 1 shows an example of offers from a unit that has a negative markup at the economic minimum MW level and a positive markup at the economic maximum MW level. The result would be that a unit that failed the TPS test would be committed on its price-based offer, even though the price-based offer is higher than the cost-based offer at higher output levels and includes positive markups, inconsistent with the explicit goal of local market power mitigation. Frequently, resources with crossing curves

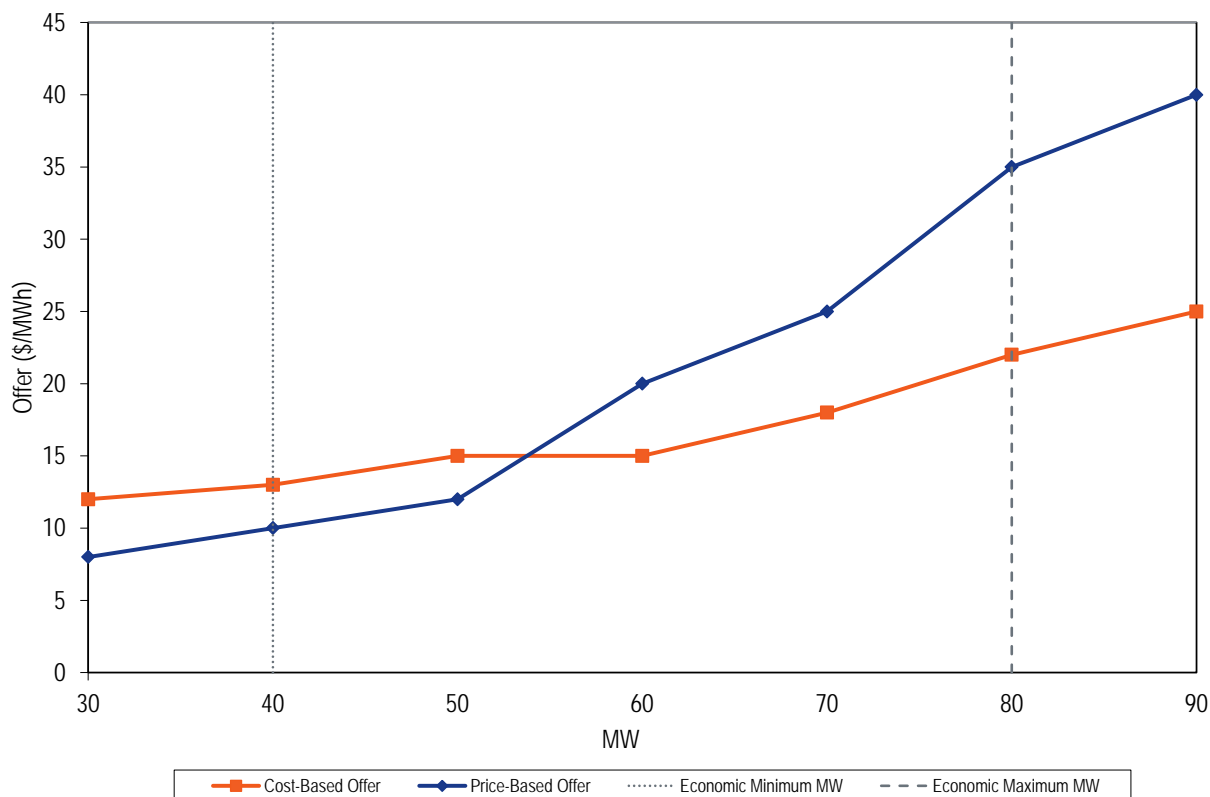
---

<sup>10</sup> See *In the Matter of the Merger of Exelon Corporation and Constellation Energy Group, Inc.*, Order No. 84698, Case No. 9271 (February 17, 2012) at 104–105 (“Order No. 84698”). Exelon and Constellation agreed to behavioral commitments regarding energy offer curves and operating parameters to prevent the exercise of market power, along with other behavioral commitments.

<sup>11</sup> In its March 1, 2024 filing in Docket No. ER24-1387, PJM proposes to only evaluate the offer at the economic minimum point in the day-ahead market, which would effectively eliminate market power mitigation in the PJM energy market.

committed on the price-based offer are dispatched into the high markup range of the offer curve, allowing the exercise of market power.

**Figure 1 Offers with varying markups at different MW output levels**



## 2. Require Physical Operating Parameters Identical to Parameter Limited Schedules.

For energy market offers, Applicants should be required to include operating parameters for its resources that are identical to their parameter limited schedules.

All resources in PJM are required to submit at least one cost-based offer. Cost-based offers, for a defined set of technologies, must include defined unit specific parameters, termed parameter limited schedules.

All resources that choose to make price-based offers are required to make available at least one price-based parameter limited offer with the same parameters as the cost-based offer (referred to as price-based PLS). For resources that are not capacity resources, the price-based parameter limited schedule is used by PJM for committing generation resources when

a maximum emergency generation alert is declared. For capacity resources, the price-based parameter limited schedule is used by PJM for committing generation resources when hot weather alerts and cold weather alerts are declared.<sup>12</sup>

The current implementation is not consistent with the goal of having parameter limited schedules, which is to prevent the use of inflexible operating parameters to exercise market power. Instead of ensuring that parameter limits apply, PJM chooses the lower of the price-based schedule and the price-based parameter limited schedule during hot and cold weather alerts. Instead of ensuring that parameter limits apply, PJM chooses the lower of the price-based schedule and the cost-based parameter limited schedule when a resource fails the TPS test. This occurs because PJM chooses between the price-based offer and the cost-based offer considering only the offers at the economic minimum output level in the real-time market and only the offers up to the projected dispatch point in the day-ahead market, and does not consider all of the physical operating parameters. The result is that PJM frequently selects price-based offer schedules with inflexible parameters for resources that have market power.

### **3. Require Market Seller Offer Caps Equal to Net Avoidable Cost.**

For capacity market offers, Applicants should be required to use a market seller offer cap equal to its net Avoidable Cost Rate (ACR).

The net ACR is the marginal cost of capacity and is the competitive offer for a capacity resource. The currently applicable tariff includes this rule as a result of the Commission's ruling on a Market Monitor complaint and the affirming of that order.<sup>13</sup> The net ACR remains the competitive offer and Applicants should be required to offer net ACR as a condition of this acquisition.

---

<sup>12</sup> See OA Schedule 1 § 6.6.

<sup>13</sup> See *Independent Market Monitor for PJM v. PJM*, 176 FERC ¶61,137 (2021), *reh'g denied*, 177 FERC ¶ 62,066 (2021), *further order on reh'g*, 178 FERC ¶61,121 (2022), *aff'd*, *Vistra Corp. v. FERC*, Case No. 21-1214 et al. (D.C. Cir. August 15, 2023), *cert. pending*.

**D. Require Rockland to Disclose All Investors.**

Rockland does not disclose information about its investors or whether its investors own shares in other assets that create affiliations among market sellers. All such investors should be disclosed to allow the Commission to fully evaluate the affiliations created by the Rockland acquisition. Disclosure also allows the Market Monitor and other stakeholders to accurately assess, track, and monitor the affiliations of resources within the PJM market.

**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

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

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

Catherine A. Tyler  
Deputy Market Monitor  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8050  
*catherine.tyler@monitoringanalytics.com*

Dated: June 10, 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 10<sup>th</sup> day of June, 2024.



---

Jeffrey W. Mayes

General Counsel

Monitoring Analytics, LLC

2621 Van Buren Avenue, Suite 160

Eagleville, Pennsylvania 19403

(610) 271-8053

*jeffrey.mayes@monitoringanalytics.com*