

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

Joint Consumer Advocates)	Docket No. EL25-18-000
)	
v.)	
)	
PJM Interconnection, L.L.C.)	
)	

COMMENTS OF THE INDEPENDENT MARKET MONITOR FOR PJM

Pursuant to Rule 211 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 these comments responding to complaint filed on November 18, 2024, by the Joint Consumer Advocates against PJM (“Complaint”). The Complaint seeks an order that finds “PJM’s existing capacity market rules are unjust and unreasonable because they fail to mitigate market power and result in the imposition of excessive capacity charges upon consumers,” and that “establish[es] just and reasonable replacement rates.”

The Market Monitor supports many of the elements of the requested relief, including uniform application of the must offer requirement, the requirement to include RMR capacity in the relevant capacity auctions, the requirement to reflect winter ratings for

¹ 18 CFR § 385.211 (2024).

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”).

thermal resources and the requirement to include market seller offer caps in all demand response offers. The Market Monitor does not agree with some of the elements of the requested relief at this time, including the general RMR terms and conditions. The Market Monitor supports only the elements of the requested relief explicitly stated in this Market Monitor filing.

A number of filings have been made since this Complaint was filed including PJM's filings related to the must offer obligation (Docket ER25-785), related to the interconnection queue (Docket ER25-712), and related to the obligations of RMR resources (Docket ER25-682), and the complaint about the maximum price on the VRR curve filed by the Governor of Pennsylvania (Docket EL25-46). Some of the filings address the same or similar issues as the Complaint.

The Market Monitor's positions on the issues raised in those filings have been or will be filed in each docket. In addition, the Market Monitor has published a set of analyses of the 2025/2026 capacity market auctions that address these issues and quantifies the impacts of a range of positions on these issues.

I. COMMENTS

A. Must Offer Obligation.

1. The Categorical Exemption from the Must Offer Obligation Is Unjust and Unreasonable and Should Be Eliminated.

The Reliability Pricing Model (RPM) Capacity Market is a forward looking, annual, locational market, with a must offer requirement for Existing Generation Capacity Resources and a must buy requirement for load, with performance incentives, that includes clear market power mitigation rules and that permits the direct participation of demand side resources.

There is currently a significant gap in the market power rules for the PJM Capacity Market. The RPM must offer requirement is not applied uniformly to all capacity resources. Currently, existing generation that qualifies as a capacity resource must be offered into

RPM auctions, except for categorically exempt intermittent and capacity storage resources including hydro and except for resources in a fixed resource requirement (FRR) plan.³ Capacity Storage Resources include hydroelectric, flywheel and battery storage. Intermittent Resources include wind, solar, landfill gas, run of river hydroelectric, and other renewable resources.

From the creation of the PJM Capacity Market, capacity resources had a must-offer requirement, with the exception of demand resources (DR), until PJM created the must offer exemption in the December 12, 2014, Capacity Performance filing, Section 6.6A(a) of Attachment DD. When this categorical exemption was adopted in 2015, the quantity of these resource types in PJM was relatively small, and the Commission found that “they do not raise the same physical withholding concerns as do existing generation resources because their ownership is not concentrated.”⁴

The purpose of the RPM must offer rule is to ensure that the capacity market works based on the inclusion of all demand and all supply, to ensure equal access to the transmission system through capacity interconnection rights (CIRs), and to prevent the exercise of market power via withholding of supply.

At its most basic level, the capacity market is a must buy and must sell market. The capacity market can work only if that obligation continues on both sides without exception. If all load must buy but all capacity does not have to sell, the immediate result is an increase in capacity prices. Holding aside the market power issue, the capacity market can work only if both the must buy and must sell obligations are enforced.

The purpose of the must offer requirement is also to ensure equal access to the transmission system through capacity interconnection rights (CIRs). Access to the grid is a

³ OATT Attachment DD § 6.6A.

⁴ *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208, at P 355 (2015), *order on reh'g*, 155 FERC ¶ 61,157 (2016), *aff'd sub nom. Advanced Energy Mgmt. All. v. FERC*, 860 F.3d 656 (D.C. Cir. 2017).

scarce resource. Capacity resources must go through a sometimes lengthy process in order to obtain CIRs. The value of CIRs is a result of the entire transmission system which has been paid for by customers and other generators. The value of CIRs is a result of the existence of a network and is not a result solely or even primarily of the investment that may or may not have been required in order to get CIRs. If a resource has CIRs but fails to use them by not offering in the capacity market, the resource is withholding and is also denying the opportunity to offer to other resources that would use the CIRs. For these reasons, existing resources are required to return CIRs to the market within one year after retirement.⁵ That conclusion does not depend on whether withholding directly benefits those resources through a portfolio effect.

The purpose of the must offer requirement is also to prevent the exercise of market power via withholding of supply. If some resources have the option to withhold supply they will withhold so when it is in their interests to do so.

The exercise of market power is an issue but it is not the fundamental issue for the must offer requirement. The overall result of the failure to apply the must offer requirement to all capacity resources is indistinguishable from the exercise of market power. The failure to apply the must offer requirement comprehensively will create increasingly significant market design issues, artificially high capacity prices, and market power issues in the capacity market as the level of capacity from intermittent and capacity storage resources increases. The failure to apply the must offer requirement consistently could also result in very significant changes in supply from auction to auction that would create price volatility and uncertainty in the capacity market and put PJM's reliability margin at risk.

⁵ The Market Monitor's position is that CIRs should be returned to the pool of available transmission at the time of a resource's retirement and not held for one year. CIRs should not be treated as any form of property right of interconnecting resources.

The most recent Quarterly State of the Market Report for PJM shows, based on current positions, total reserves on June 1, 2025, will be 21,015.2 MW, of which 870.9 MW (UCAP) are in excess of the required level of reserves, which is 20,144.3 MW (UCAP).⁶ In the 2025/2026 BRA, 13,143.2 MW were considered categorically exempt from the must offer requirement based on intermittent and capacity storage classification. Some of these resources were offered as capacity in the BRA and as part of FRR plans. The result was that 3,745.8 MW of intermittent and storage resources (28.5 percent of the categorically exempt MW and 2.8 percent of total cleared MW) were not offered in the 2025/2026 BRA. In the 2025/2026 BRA, the sum of cleared MW that were considered categorically exempt from the must offer requirement is 8,233.5 MW, or 40.9 percent of the required reserves and 39.2 percent of total reserves. The cleared MW of DR is 6,085.6 MW, or 30.2 percent of required reserves and 29.0 percent of total reserves. The sum of cleared MW that were categorically exempt from the must offer requirement and the cleared MW of DR is 14,319.1 MW, or 71.1 percent of required reserves and 68.1 percent of total reserves. The fact that more than two thirds (68.1 percent) of the PJM reserves depend on resources that are not subject to the RPM must offer requirement, a core part of the capacity market design, means that reliability is significantly less certain than the stated reserve margins indicate.

The Market Monitor analyzed the results of the 2025/2026 RPM Base Residual Auction, including the impact of capacity that was categorically exempt from the RPM must offer obligation and that did not offer.⁷ Capacity resources that were categorically exempt

⁶ See Monitoring Analytics, LLC, *2024 Quarterly State of the Market Report for PJM: January through September* Section 5: Capacity Market, Table 5-7. (November 14, 2024).

⁷ See Market Monitor reports analyzing the 2025/2026 RPM Base Residual Auction: “Analysis of the 2025/2026 RPM Base Residual Auction–Part A,” (September 20, 2024); “Analysis of the 2025/2026 RPM Base Residual Auction–Part B,” (October 15, 2024); “Analysis of the 2025/2026 RPM Base Residual Auction–Part C,” (November 6, 2024); and “Analysis of the 2025/2026 RPM Base Residual Auction–Part D,” (“BRA Reports”) (December 6, 2024). These reports are available at <https://www.monitoringanalytics.com/%E2%80%8Creports/Reports/2024.shtml>.

from the RPM must offer requirement and did not offer in the 2025/2026 RPM Base Residual Auction had a significant impact on the auction results. The results of the 2025/2026 RPM Base Residual Auction demonstrate of the adverse outcomes, generally, resulting from the failure to extend the must offer requirement uniformly to all capacity resources.

Based on actual auction clearing prices and quantities and uplift MW, total RPM market revenues for the 2025/2026 RPM Base Residual Auction were \$14,687,047,358. If the capacity categorically exempt from the RPM must offer requirement that did not offer had been offered in the 2025/2026 RPM Base Residual Auction and everything else had remained the same, total RPM market revenues for the 2025/2026 RPM Base Residual Auction would have been \$10,547,226,983, a decrease of \$4,139,820,375, or 28.2 percent, compared to the actual results.⁸ From another perspective, the failure to offer capacity that was categorically exempt from the RPM must offer requirement resulted in a 39.3 percent increase in RPM revenues for the 2025/2026 RPM Base Residual Auction compared to what RPM revenues would have been had the categorically exempt resources been subject to the RPM must offer requirement. If the capacity categorically exempt from the RPM must offer requirement that did not offer had been offered in the 2025/2026 RPM Base Residual Auction and everything else had remained the same, total cleared UCAP MW in the 2025/2026 RPM Base Residual Auction would have been 137,128.3 UCAP MW, an increase of 1,444.3 UCAP MW, or 1.1 percent, compared to the actual results.⁹

The unavoidable conclusion is that PJM's current rules providing for a categorical exemption from the must offer obligation for capacity resources in the capacity market are unjust and unreasonable. There is no reason to exempt intermittent and capacity storage resources, including hydro from the must offer requirement.

⁸ See the "Analysis of the 2025/2026 RPM Base Residual Auction–Part A," (September 20, 2024).

⁹ See *id.*

2. The Same Must Offer Rules Should Apply to All Capacity Resources.

The same rules should apply to all capacity resources in order to ensure that the must buy and must sell design is equitably enforced, to ensure open access to the transmission system and to prevent the exercise of market power through withholding.

For these reasons, the Commission should require that PJM extend the must offer requirement to intermittent and capacity storage resources.

B. Part V Service (RMR).

1. The Rules for Part V Service Are Unjust and Unreasonable.

PJM's explicit inclusion of RMR capacity in the PJM CETO/CETL analysis for capacity auctions as a source of reliability means that PJM recognizes that the RMR capacity provides reliability services. That recognition means that the RMR capacity should also be included in the capacity auctions in order to recognize its reliability contribution in a consistent manner. PJM has explained in multiple stakeholder meetings including multiple meetings of the Deactivation Enhancements Senior Task Force ("DESTF") that RMR resources must be included in PJM's CETO/CETL analysis because if they were excluded, the model would not solve and the system would not be reliable from a transmission planning perspective.¹⁰

The current treatment of RMR resources in the capacity market is not just and reasonable because the tariff requires PJM customers to pay for RMR service without receiving the reliability service that PJM recognizes and that the customers are paying for.

¹⁰ See Item 4 PJM CETO/CETL and Load Deliverability at 16, Deactivation Enhancements Senior Task Force Meeting (August 19, 2024) <<https://www.pjm.com/-/media/DotCom/committees-groups/task-forces/destf/2024/20240819/20240819-item-04---ceto-cetl-and-load-deliverability-test.pdf>>.

2. The Rules for Part V Service Should Be Reformed to Ensure that the Capacity Contribution of Part V Resources Is Recognized.

The Market Monitor recommends that PJM treat the inclusion of RMR resources in the capacity market consistently. PJM currently includes RMR units in the reliability analysis for RPM auctions but does not include the RMR units in the supply curves. This approach is internally inconsistent. It would be internally consistent to include the RMR units in the supply of capacity and in the CETO/CETL analysis. Including RMR resources in the capacity supply curve does not mean forcing unit owners to offer or to take on PAI risk, for example. It simply means that PJM would recognize the fact that PJM does treat RMR resources as a source of reliability. The goal is to ensure that the underlying supply and demand fundamentals are included in the capacity market prices. If PJM customers are required to pay RMR resources for providing reliability after their proposed retirement dates, it is PJM's responsibility to ensure that the resources can and do provide the needed services. It is unjust and unreasonable to require customers to pay for RMR service that is not provided.

In order to provide appropriate relief, PJM should be directed to include RMR resources in relevant capacity market auctions by PJM at an offer price of zero. A zero offer price means that the resource will count towards the reliability target in the auction. Although the resource will receive the auction clearing price, the resource does not become a capacity resource, and does not receive the revenues because it is paid directly under Part V of the tariff. The resultant capacity market revenues should be returned to those customers who pay for the RMR service.¹¹

PJM needs to be explicit that the capacity of Brandon Shores and Wagner plants will be included at a zero price in the capacity auctions for the 2026/2027 and 2027/2028 Delivery

¹¹ See PJM Manual 18: Capacity Market § 9.3.1, Rev. 59 (June 27, 2024) (requires that the Generation Deactivation Credits received by units with RMR contracts be reduced by the Auction Credits received by the RMR unit in a RPM Auction).

Years, without condition. Otherwise, the auctions cannot be relied on to produce just and reasonable prices.

The Commission should direct PJM to include the full Wagner and Brandon Shores capacity in the capacity auctions for both the 2026/2027 and the 2027/2028 Delivery Years at a price of zero dollars.

C. ELCC Calculations.

1. It is Not Just and Reasonable to Fail to Account for the Winter Capability of Thermal Resources.

Most of the risk recognized in PJM's ELCC capacity accreditation model is winter risk but the ELCC accreditation values for thermal resources are capped at the lower summer ratings. That unnecessarily, unjustly and unreasonably, limits supply and changes the ELCC values for all other resources and changes the system accredited unforced capacity and therefore AUCAP, the maximum level of load that can be served by the existing resources and therefore the reliability requirement. It is not just and reasonable to limit the ELCC capacity values to the resources' summer ratings rather than the higher winter ratings. The CIRs of such resources are currently limited by the summer ratings but those rules can and should be changed given the use of the ELCC approach. There is no reason that excess winter CIRs cannot be assigned to these resources immediately.

2. ELCC Values for Thermal Generators Do Not Appropriately Account for Winter Capability and Should be Revised.

The Market Monitor recommends that capacity accreditation recognize the winter capability of thermal resources in the ELCC analysis rather than limiting such resources to summer ratings.

D. Interconnection Queues.

1. It Is Unjust and Unreasonable that the Current Rules Do Not Prioritize Projects When Needed for Immediate Reliability Issues

PJM's Capacity Market is at near shortage conditions and PJM's interconnection queue continues to be backlogged despite recent PJM improvements that are in the process

of being implemented. It is not just and reasonable that PJM cannot add provisions enabling a reliability based expansion of the eligibility criteria for the queue so that additional resources needed to rapidly address PJM's near term reliability challenge could be considered immediately.

It is unjust and unreasonable that the current rules do not prioritize projects in constrained LDAs and the rules for interconnection studies should be revised to prioritize projects in constrained areas.

2. The Rules for Interconnection Studies Should Be Revised to Prioritize Projects Needed for Reliability.

For the future, the Market Monitor recommends that PJM request the authority to advance projects at any time that can more effectively address immediate reliability issues, including the issues that result from resource retirement requests that result in RMR status.¹² Similarly, the Market Monitor recommends that PJM request the authority to advance projects at any time that can more effectively address immediate reliability issues including the issues that result from requests to retire existing resources regardless of whether they qualify for RMR status. While it is important to respect the existing, improved PJM queue process, it is essential to provide strong and clear incentives for projects to actually resolve reliability issues and to actually guarantee timely in service dates in order to help ensure that the queue is not a mirage as it has been in significant part for its recent history. Recognizing that improved queue rules are being implemented, the history of

¹² The Market Monitor has consistently supported a stronger role for PJM in addressing immediate reliability needs. As part of the CIR Transfer Efficiency initiative, the Market Monitor proposed to allow PJM to initiate an expedited fast track process to address PJM identified reliability issues. The proposed expedited process would have allowed PJM to open a limited scope expedited reliability process to select projects that address the reliability issues. See "CIR Transfer Efficiency IMM Package," Market Monitor presentation to the PJM Planning Committee (October 8, 2024), <https://www.monitoringanalytics.com/reports/Presentations/2024/IMM_PC_CIR_Transfer_Efficiency_IMM_Package_20241008_v2.pdf>.

queue projects becoming actual in service capacity resources suggests strongly that such incentives have not been provided by the queue process.¹³

E. Demand Resources.

1. It Is Unjust and Unreasonable to Exclude DR from Requirements Applicable to Other Capacity Resources.

Demand resources do not have an RPM must offer requirement. Demand resources, unlike all other capacity resources, are not subject to market seller offer caps to protect against the exercise of market power. When demand resources are pivotal, as they were for the 2025/2026 BRA, they have structural market power and can and do exercise market power. The result is to increase the clearing prices above the competitive level. If the resources clear, it benefits the resources directly. Even if the resources do not clear, higher prices can benefit the owners of capacity portfolios that include such resources as well as resources with an RPM must offer requirement. As a result, it is unjust and unreasonable and unduly discriminatory that demand resources do not have a must offer requirement and that demand resources do not have a market seller offer cap.

2. Demand Resources Should be Treated Like Other Capacity Resources

In the capacity market, as in other markets, market power is the ability of a market participant to increase the market price above the competitive level or to decrease the market price below the competitive level. In order to evaluate whether actual prices reflect the exercise of market power, it is necessary to evaluate whether market offers are consistent with competitive offers. The market seller offer cap defines a competitive offer in the capacity market, regardless of whether the concern is efforts to increase the market price above the competitive level or to reduce the market price below the competitive level. As in

¹³ See Monitoring Analytics, LLC, *Quarterly State of the Market Report for PJM: January through September*, Section 12: Generation and Transmission Planning (November 14, 2024).

all other markets, the competitive offer in the capacity market is the marginal cost of capacity. A competitive offer in the capacity market is equal to net ACR.¹⁴

Of all capacity resources, only demand resources are exempt from the market power mitigation rules. The market power mitigation rules should be applied to demand resources.

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

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

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

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¹⁴ 174 FERC ¶ 61,212 (“March 18th Order”) at 65.

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 23rd day of January, 2025.



Jeffrey W. Mayes

General Counsel

Monitoring Analytics, LLC

2621 Van Buren Avenue, Suite 160

Eagleville, Pennsylvania 19403

(610) 271-8053

jeffrey.mayes@monitoringanalytics.com