

Market Monitoring Unit Review of PJM's Proposed Tariff Changes to Remove MMU Discretion in the RPM tariff. September 9, 2007. For Conference Call on September 10.

The Commission ordered that PJM file tariff revisions to remove the ability of the PJM MMU to exercise discretion in the administration of the RPM tariff.¹ The MMU has been involved in the membership process to discuss the required modifications to the tariff. The PJM proposals go well beyond the removal of the identified areas of MMU discretion and would also remove non-discretionary roles of the MMU. PJM proposes to make various substantive changes to the offer review criteria specified in the tariff as well as the timing of benchmark data review specified in the tariff. PJM also proposes to modify the definition of avoidable costs and thus modify the definition of and calculation of offer caps in the RPM market as part of the compliance filing, although these matters are not included in the Commission's order. PJM does not state its proposal regarding ACR clearly in the posted material. (See the PJM meeting materials for RPM Compliance Filing Meeting Conference Call on September 10, 2007, posted September 6, 2007.) However, the MMU calculated the avoidable costs consistent with the tariff and compared them with PJM's proposal. (See meeting materials: Avoidable Cost Reference Comparison Table.) The comparison is made for 2011. The "Default Avoidable" costs are based on the default ACR values used in the first two RPM auctions and are calculated per the tariff definition of ACR while the "Retirement" costs are calculated consistent with PJM's proposal to assume that virtually 100 percent of every defined cost category is avoidable. The differences are significant. PJM's approach results in avoidable costs that are higher for every type of unit. The average difference is 32 percent, with a maximum difference of 47 percent and a minimum difference of 9 percent.

The MMU proposes that the tariff modifications should be limited to those identified by the Commission as representing the exercise of discretion by the MMU. The MMU provided a proposed redline of the relevant sections of the RPM tariff to achieve this objective that was posted with the meeting materials for the August 14, 2007 meeting of the RPM Compliance Filing Process group.

As an example, the calculation by the MMU of the default avoidable cost rates (ACR) for units that do not wish to file cost-based offers (tariff section 6.7(c)) does not constitute an exercise of discretion. This absence of discretion would be further reinforced by the proposed tariff modification that PJM file these MMU-calculated rates with the Commission for review and approval. PJM's filing of a Commission required report on the actual exercise of discretion by the market monitor, dated August 31, 2007 appears to take the same position with regard to tariff section 6.7(c). PJM states in that filing that "The December 22 Order's interim solution generally seems tailored towards market monitor determinations to reject or modify offers submitted in an RPM auction, or to accept such an offer notwithstanding that it fails certain screens." As PJM also notes, referring to PJM's requirement to report the exercise of MMU discretion after offers are submitted, "This remedy is inapposite to the setting of default ACRs, which determine

¹ PJM Interconnection, L.L.C., 117 FERC ¶61,331 (2006).

only whether the seller must submit its own ACR calculation and supporting documentation two months before the auction.”²

The specific tariff modifications proposed by PJM and posted for the conference call on Monday, September 10, 2007 differ from the recommendations of the Market Monitoring Unit in the following specific areas:³

1. Tariff at 5.14(h)(1).
 - a. The following sentence from the current tariff should be retained as it does not constitute an identified exercise of discretion:

Prior to each Base Residual Auction, the Market Monitoring Unit shall develop locational asset-class estimates of competitive, cost-based, real levelized (year one) Cost of New Entry, net of energy and ancillary service revenues (“Net Asset Class Cost of New Entry”).
 - b. The PJM proposal deletes this sentence.
 - c. The MMU “estimates” should be submitted to the Commission for review and approval.
 - d. The provision to do this review for each Base Residual auction should not be changed. This is a substantive change which is unrelated to discretion. PJM proposes that the review shall be done “at least every three years.”
 - e. The provision to have the calculations be locational should not be changed. This is a substantive change which is unrelated to discretion. PJM proposes that the calculation be a single number for all locations.
2. Tariff at 5.14(h)(2).
 - a. The phrase requiring the Market Monitoring Unit to evaluate whether the relevant sell offers meet clearly defined criteria should be retained as it does not constitute an identified exercise of discretion.
 - b. The PJM language deletes the requirement.
3. Tariff at 5.14(h)(3). (Minimum offer price.)
 - a. The existing tariff language requires a determination by the MMU as to whether the clearly specified criteria of tariff section 5.14(h)(2) are met. That language should be retained as it does not constitute an identified exercise of discretion. The PJM proposal removes that requirement.
 - b. The existing tariff language requires a determination by the MMU as to whether information supplied by the seller supports the offer. This provision requires the exercise of discretion and the MMU role should be transferred to FERC.
 - c. The MMU redline proposal proceeds from a defined failure to meet objective criteria to an objective solution, defined in the tariff. This does not require an exercise of discretion.

² PJM Interconnection, L.L.C. report regarding the exercise of discretion by the market monitor in the three areas identified by the Commission. Docket Nos. ER05-1410-006 and EL05-148-006.

³ For the specific and detailed MMU recommended modifications to the tariff, see the redlined tariff at: <http://www.pjm.com/committees/stakeholders/rpm-cfp/downloads/20070814-mmudraft-redline-rpm.pdf>

- d. The PJM proposal modifies the criteria that FERC may apply in reviewing such offers. The current tariff criteria should not be changed as they are unrelated to discretion.
- 4. Tariff at 6.5(a)(2). (Competitiveness of new entry offers.)
 - a. The PJM proposal removes the Market Monitoring Unit from the analysis process and substitutes a different set of evaluation criteria. Neither the MMU analytical role nor the evaluation criteria constitute an identified exercise of discretion.
 - b. The modifications should be limited to requiring that the Market Monitoring Unit make a recommendation to FERC based on the tariff specified criteria and that FERC make a ruling on that recommendation.
- 5. Tariff at 6.7(c). (Default ACR for units that choose not to submit cost-based offers.)
 - a. The existing language provides discretion to the Market Monitoring Unit in permitting a Sell Offer that is inconsistent with prior commitments. The relevant language should be removed from the tariff.
 - b. No other changes in the Market Monitoring Unit role are required in this section of the tariff as there is no other tariff language that includes an identified exercise of discretion.
 - c. The PJM proposal removes the Market Monitoring Unit role in identifying units likely to be marginal, prior to PJM filing that result with the Commission.⁴ This is unrelated to the exercise of discretion.
 - d. The default ACR calculations addressed in this section should be reviewed annually by the Market Monitoring Unit to ensure that they reflect the most current data. The PJM proposal would make the calculations subject to review at least every three years. This is unrelated to the exercise of discretion.
 - e. The ACR calculation method applied by the Market Monitoring Unit defines those incremental expenses that a generation owner would not incur if the unit did not operate during the delivery year or meet availability criteria during the delivery year as required by the tariff at 6.8(b), Original Sheet 617.
 - f. PJM proposes to change the method of calculating the ACR by removing the tariff required criterion that avoidable costs be calculated with respect to the costs not incurred for a year. PJM would do this by setting the avoidable percentages to 100 percent as PJM has done in the ACR table included in the draft tariff. The proposed change in the definition of the offer caps is a substantive change to the definition of ACR and to the definition of offer caps for the RPM auction and is unrelated to the exercise of discretion.

⁴ The MMU redlined tariff (6.7(c)) stated that the MMU would file the ACR results with the Commission. Rather, the MMU would provide the results to PJM who would file with the Commission.