

ATTACHMENT M-APPENDIX

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I. CONFIDENTIALITY

A. 18.17.1 PARTY ACCESS.

1. ~~(a)~~—No Member shall have a right hereunder to receive or review any documents, data or other information of another Member, including documents, data or other information provided to the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit, to the extent such documents, data or information have been designated as confidential pursuant to the procedures adopted by the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit or to the extent that they have been designated as confidential by such other Member; provided, however, a Member may receive and review any composite documents, data and other information that may be developed based on such confidential documents, data or information if the composite does not disclose any individual Member’s confidential data or information.

2. ~~(b)~~—Except as may be provided in this Agreement or in the PJM Open Access Transmission Tariff, the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit shall not disclose to its Members or to third parties, any documents, data, or other information of a Member or entity applying for Membership, to the extent such documents, data, or other information has been designated confidential pursuant to the procedures adopted by the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit or by such Member or entity applying for

membership; provided that nothing contained herein shall prohibit the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit from providing any such confidential information to its agents, representatives, or contractors to the extent that such person or entity is bound by an obligation to maintain such confidentiality; ~~provided further that nothing contained herein shall prohibit the Office of the Interconnection from providing Member confidential information to the North American Electric Reliability Council or any of its regional reliability councils, or to any reliability coordinator, to the extent that (i) the Office of the Interconnection determines in its reasonable discretion that the exchange of such information is required to enhance and/or maintain reliability within the Members' Applicable Regional Reliability Councils and their neighboring reliability councils, or within the region of any reliability coordinator, (ii) such entity is bound by a written agreement to maintain such confidentiality, and (iii) the Office of the Interconnection has notified the affected party of its intention to release such information no less than five business days prior to the release.~~ The ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit shall collect and use confidential information only in connection with its authority under this Agreement and the Open Access Transmission Tariff and the retention of such information shall be in accordance with PJM's data retention policies.

3. (e) ~~Nothing contained herein shall prevent the Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit from releasing a Member's confidential data or information to a third party provided that the Member has delivered to the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit specific, written authorization for such release setting forth the data or information to be released, to whom such release is authorized, and the period of time for which such release shall be authorized. The ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit shall limit the release of a Member's confidential data or information to that specific authorization received from the Member. Nothing herein shall prohibit a Member from withdrawing such authorization upon written notice to the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit, who shall cease such release as soon as practicable after receipt of such withdrawal notice.

B. ~~18.17.2~~ REQUIRED DISCLOSURE.

1. (a) ~~Notwithstanding anything in the foregoing sSection to the contrary, and subject to the provisions of sSection 18.17.3I.C below, if a Member, the Office of the Interconnection, and/or the PJM Market Monitor~~Market Monitoring Unit is required by applicable law, or in the course of administrative or judicial proceedings, to disclose to third parties, information that is otherwise required to be maintained in confidence pursuant to this Agreement, ~~that Member, the Office of the Interconnection, and/or the PJM Market Monitor~~Market Monitoring Unit may make disclosure of such information; provided, however, that as soon as the ~~Member, the Office of the Interconnection, and/or the PJM Market Monitor~~Market Monitoring Unit learns of the disclosure requirement and prior to making disclosure, ~~that Member, the Office of the Interconnection, and/or the PJM Market Monitor~~Market Monitoring Unit shall notify the affected Member or Members of the requirement and the terms thereof and the affected Member or Members may direct, at their sole discretion and cost, any challenge to or defense against the disclosure requirement. The ~~disclosing Member, the Office of the Interconnection, and/or the PJM Market Monitor~~Market Monitoring Unit shall cooperate with such affected Members to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law. ~~Each Member, the Office of the Interconnection, and/or t~~The PJM Market MonitorMarket Monitoring Unit shall cooperate with the affected Members to obtain proprietary or confidential treatment of such information by the person to whom such information is disclosed prior to any such disclosure.

2. (b) ~~Nothing in this sSection I18.17 shall prohibit or otherwise limit the Office of the Interconnection's and/or the PJM Market Monitor~~Market Monitoring Unit's use of information covered

herein if such information was: (i) previously ~~filed~~ filed to comply with order of the Federal Energy Regulatory Commission, Docket Nos. EL07-56 et al., issued May 30, 2008, 123 FERC ¶ 61,235, known to the ~~Office of the Interconnection and/or the PJM Market Monitor~~ Market Monitoring Unit without an obligation of confidentiality; (ii) independently developed by or for the Office of the Interconnection and/or the PJM Market Monitor using non-confidential information; (iii) acquired by the Office of the Interconnection and/or the PJM Market Monitor from a third party which is not, to the Office of the ~~Interconnection's or PJM Market Monitor~~ Market Monitoring Unit's knowledge, under an obligation of confidence with respect to such information; (iv) which is or becomes publicly available other than through a manner inconsistent with this ~~sSection I~~ Section 18.17.

~~3. (e)~~ — The ~~Office of the Interconnection and/or the PJM Market Monitor~~ Market Monitoring Unit shall impose on any contractors retained to provide technical support or otherwise to assist with the implementation or administration of this Agreement or of the Open Access Transmission Tariff a contractual duty of confidentiality consistent with this Agreement. A Member shall not be obligated to provide confidential or proprietary information to any contractor that does not assume such a duty of confidentiality, and the ~~Office of the Interconnection and/or the PJM Market Monitor~~ Market Monitoring Unit shall not provide any such information to any such contractor without the express written permission of the Member providing the information.

C. ~~18.17.3~~ DISCLOSURE TO FERC.

~~1. (a)~~ — Notwithstanding anything in this ~~sSection I~~ Section 18.17.3 to the contrary, if the FERC or its staff, during the course of an investigation or otherwise, requests information from the ~~Office of the interconnection and/or the PJM Market Monitor~~ Market Monitoring Unit that is otherwise required to be maintained in confidence pursuant to this Agreement, the ~~Office of the Interconnection and/or the PJM Market Monitor~~ Market Monitoring Unit shall provide the requested information to the FERC or its staff, within the time provided for in the request for information. In providing the information to the FERC or its staff, the ~~Office of the Interconnection and/or the PJM Market Monitor~~ Market Monitoring Unit may, consistent with 18 C.F.R. § 388.112, request that the information be treated as confidential and non-public by the FERC and its staff and that the information be withheld from public disclosure. The ~~Office of the Interconnection and/or the PJM Market Monitor~~ Market Monitoring Unit shall notify any affected Member(s) when it is notified by FERC or its staff, that a request for disclosure of, or decision to disclose, confidential information has been received, at which time the Office of the Interconnection, the ~~PJM Market Monitor~~ Market Monitoring Unit, and/or the affected Member may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

~~2. The foregoing (b)~~ — ~~sSection I.C.18.17.3(a)~~ shall not apply to requests for production of information under Subpart D of the FERC's Rules of Practice and Procedure (18 CFR Part 385) in proceedings before FERC and its administrative law judges. In all such proceedings, PJM and/or the ~~PJM Market Monitor~~ Market Monitoring Unit shall follow the procedures in Section 18.17.2.

D. ~~18.17.4~~ DISCLOSURE TO AUTHORIZED COMMISSIONS.

~~1. (a)~~ — Notwithstanding anything in this section ~~I~~ 18.17.4 to the contrary, the ~~Office of the Interconnection and/or the PJM Market Monitor~~ Market Monitoring Unit shall disclose confidential information, otherwise required to be maintained in confidence pursuant to this Agreement, to an Authorized Commission under the following conditions:

- (i) The Authorized Commission has provided the ~~FERC~~ FERC with a properly executed Certification in the form attached hereto as Schedule 10A. Upon receipt of the Authorized Commission's Certification, the ~~FERC~~ FERC shall provide

public notice of the Authorized Commission's filing pursuant to 18 C.F.R. § 385.2009. If any interested party disputes the accuracy and adequacy of the representations contained in the Authorized Commission's Certification, that party may file a protest with the ~~Commission~~FERC within 14 days of the date of such notice, pursuant to 18 C.F.R. § 385.211. The Authorized Commission may file a response to any such protest within seven days. Each party shall bear its own costs in connection with such a ~~_FERC_~~protest proceeding. If there are material changes in law that affect the accuracy and adequacy of the representations in the Certification filed with the ~~Commission~~FERC, the Authorized Commission shall, within thirty (30) days, submit an amended Certification identifying such changes. Any such amended Certification shall be subject to the same procedures for comment and review by the ~~Commission~~FERC as set forth above in this paragraph.

- (ii) Neither the Office of the Interconnection nor the ~~PJM Market Monitor~~Market Monitoring Unit may disclose data to an Authorized Commission during the ~~Commission~~FERC's consideration of the Certification and any filed protests. If the ~~Commission~~FERC does not act upon an Authorized Commission's Certification within 90 days of the date of filing, the Certification shall be deemed approved and the Authorized Commission shall be permitted to receive confidential information pursuant to this section I. In the event that an interested party protests the Authorized Commission's Certification and the ~~Commission~~FERC approves the Certification, that party may not challenge any Information Request made by the Authorized Commission on the grounds that the Authorized Commission is unable to protect the confidentiality of the information requested, in the absence of a showing of changed circumstances.
- (iii) Any confidential information provided to an Authorized Commission pursuant to this section I shall not be further disclosed by the recipient Authorized Commission except by order of the ~~Commission~~FERC.
- (iv) The ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit shall be expressly entitled to rely upon such Authorized Commission Certifications in providing confidential information to the Authorized Commission, and shall in no event be liable, or subject to damages or claims of any kind or nature hereunder, due to the ineffectiveness or inaccuracy of such Authorized Commission Certifications.
- (v) The Authorized Commission may provide confidential information obtained from the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit to such of its employees, attorneys and contractors as needed to examine or handle that information in the course and scope of their work on behalf of the Authorized Commission, provided that (a) the Authorized Commission has internal procedures in place, pursuant to the Certification, to ensure that each person receiving such information agrees to protect the confidentiality of such information (such employees, attorneys or contractors to be defined hereinafter as "Authorized persons"); (b) the Authorized Commission provides, pursuant to the Certification, a list of such Authorized Persons to the Office of the Interconnection and the ~~PJM Market Monitor~~Market Monitoring Unit and updates such list, as necessary, every ninety (90) days; and (c) any third-party contractors provided access to confidential information sign a

nondisclosure agreement in the form attached hereto as Schedule 10 before being provided access to any such confidential information.

~~(vi) The Office of the Interconnection shall maintain a schedule of all Authorized Persons and the Authorized Commissions they represent, which shall be made publicly available on its website, or by written request. Such schedule shall be compiled by the Office of the Interconnection, based on information provided by any Authorized Commission. The Office of the Interconnection shall update the schedule promptly upon receipt of information from an Authorized Commission, but shall have no obligation to verify or corroborate any such information, and shall not be liable or otherwise responsible for any inaccuracies in the schedule due to incomplete or erroneous information conveyed to and relied upon by the Office of the Interconnection in the compilation and/or maintenance of the schedule.~~

~~2. (b) The Office of the Interconnection and/or the PJM Market MonitorMarket Monitoring Unit~~ may, in the course of discussions with an Authorized Person, orally disclose information otherwise required to be maintained in confidence, without the need for a prior Information Request. Such oral disclosures shall provide enough information to enable the Authorized Person or the Authorized Commission with which that Authorized Person is associated to determine whether additional Information Requests are appropriate. The ~~Office of the Interconnection and/or the PJM Market MonitorMarket Monitoring Unit~~ will not make any written or electronic disclosures of confidential information to the Authorized Person pursuant to this ~~Section I.D.218.17.4(b)~~. In any such discussions, the ~~Office of the Interconnection and/or the PJM Market MonitorMarket Monitoring Unit~~ shall ensure that the individual or individuals receiving such confidential information are Authorized Persons as defined herein, orally designate confidential information that is disclosed, and refrain from identifying any specific Affected Member whose information is disclosed. The ~~Office of the Interconnection and/or the PJM Market MonitorMarket Monitoring Unit~~ shall also be authorized to assist Authorized Persons in interpreting confidential information that is disclosed. The ~~Office of the Interconnection and/or the PJM Market MonitorMarket Monitoring Unit~~ shall provide any Affected Member with oral notice of any oral disclosure immediately, but not later than one (1) business day after the oral disclosure. Such oral notice to the Affected Member shall include the substance of the oral disclosure, but shall not reveal any confidential information of any other Member and must be received by the Affected Member before the name of the Affected Member is released to the Authorized Person; provided however, disclosure of the identity of the Affected Party must be made to the Authorized Commission with which the Authorized Person is associated within two (2) business days of the initial oral disclosure.

~~3. (e) As regards Information Requests:~~

~~(i) Information Requests to the Office of the Interconnection and/or PJM Market MonitorMarket Monitoring Unit by an Authorized Commission shall be in writing, which shall include electronic communications, addressed to the Office of the Interconnection and/or the PJM Market MonitorMarket Monitoring Unit, and shall: (a) describe the information sought in sufficient detail to allow a response to the Information Request; (b) provide a general description of the purpose of the Information Request; (c) state the time period for which confidential information is requested; and (d) re-affirm that only Authorized Persons shall have access to the confidential information requested. The Office of the Interconnection and/or the PJM Market MonitorMarket Monitoring Unit shall provide an Affected Member with written notice, which shall include electronic communication, of an Information Request by an Authorized~~

Commission as soon as possible, but not later than two (2) business days after the receipt of the Information Request.

- (ii) Subject to the provisions of section ~~I.D.3(e)(iii)~~ below, the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit shall supply confidential information to the Authorized Commission in response to any Information Request within five (5) business days of the receipt of the Information Request, to the extent that the requested confidential information can be made available within such period; provided however, that in no event shall confidential information be released prior to the end of the fourth (4th) business day without the express consent of the Affected Member. To the extent that the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit cannot reasonably prepare and deliver the requested confidential information within such five (5) day period, it shall, within such period, provide the Authorized Commission with a written schedule for the provision of such remaining confidential information. Upon providing confidential information to the Authorized Commission, the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit shall either provide a copy of the confidential information to the Affected Member(s), or provide a listing of the confidential information disclosed; provided, however, that the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit shall not reveal any Member's confidential information to any other Member.

- (iii) ~~(Notwithstanding section I.D.3(e)(ii), above, should the Office of the Interconnection, the PJM Market Monitor~~Market Monitoring Unit or an Affected Member object to an Information Request or any portion thereof, any of them may, within four (4) business days following the ~~Office of the Interconnection's and/or the PJM Market Monitor~~Market Monitoring Unit's receipt of the Information Request, request, in writing, a conference with the Authorized Commission to resolve differences concerning the scope or timing of the Information Request; provided, however, nothing herein shall require the Authorized Commission to participate in any conference. Any party to the conference may seek assistance from ~~FERC~~FERC staff in resolution of the dispute or terminate the conference process at any time. Should such conference be refused or terminated by any participant or should such conference not resolve the dispute, then the Office of the Interconnection, ~~PJM Market Monitor~~Market Monitoring Unit, or the Affected Member may file a complaint with the ~~Commission~~FERC pursuant to Rule 206 objecting to the Information Request within ten (10) business days following receipt of written notice from any conference participant terminating such conference. Any complaints filed at ~~FERC~~the FERC objecting to a particular Information Request shall be designated by the party as a "fast track" complaint and each party shall bear its own costs in connection with such ~~FERC~~FERC proceeding. The grounds for such a complaint shall be limited to the following: (a) the Authorized Commission is no longer able to preserve the confidentiality of the requested information due to changed circumstances relating to the Authorized Commission's ability to protect confidential information arising since the filing of or rejection of a protest directed to the Authorized Commission's Certification; (b) complying with the Information Request would be unduly burdensome to the complainant, and the complainant has made a good faith effort to negotiate limitations in the scope of the requested information; or (c) other exceptional circumstances exist such that

complying with the Information Request would result in harm to the complainant. There shall be a presumption that “exceptional circumstances,” as used in the prior sentence, does not include circumstances in which an Authorized Commission has requested wholesale market data (or ~~PJM Market Monitor~~Market Monitoring Unit workpapers that support or explain conclusions or analyses) generated in the ordinary course and scope of the operations of the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit. There shall be a presumption that circumstances in which an Authorized Commission has requested personnel files, internal emails and internal company memos, analyses and related work product constitute “exceptional circumstances” as used in the prior sentence. If no complaint challenging the Information Request is filed within the ten (10) day period defined above, the Office of the Interconnection and/or ~~PJM Market Monitor~~Market Monitoring Unit shall utilize its best efforts to respond to the Information Request promptly. If a complaint is filed, and the Commission does not act on that complaint within ninety (90) days, the complaint shall be deemed denied and the ~~Office of Interconnection and/or PJM Market Monitor~~Market Monitoring Unit shall use its best efforts to respond to the Information Request promptly.

- (iv) Any Authorized Commission may initiate appropriate legal action at ~~FERC~~the FERC within ten (10) business days following receipt of information designated as “Confidential,” challenging such designation. Any complaints filed at ~~FERC~~FERC objecting to the designation of information as “Confidential” shall be designated by the party as a “fast track” complaint and each party shall bear its own costs in connection with such ~~FERC~~FERC proceeding. The party filing such a complaint shall be required to prove that the material disclosed does not merit “Confidential” status because it is publicly available from other sources or contains no trade secret or other sensitive commercial information (with “publicly available” not being deemed to include unauthorized disclosures of otherwise confidential data).

~~4. (d)~~ In the event of any breach of confidentiality of information disclosed pursuant to an Information Request by an Authorized Commission or Authorized Person:

- (i) The Authorized Commission or Authorized Person shall promptly notify the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit, who shall, in turn, promptly notify any Affected Member of any inadvertent or intentional release, or possible release, of confidential information provided pursuant to this section I.
- (ii) The Office ~~of the Interconnection and/or PJM Market Monitor~~Market Monitoring Unit shall terminate the right of such Authorized Commission to receive confidential information under this section I upon written notice to such Authorized Commission unless: (i) there was no harm or damage suffered by the Affected Member; or (ii) similar good cause is shown. Any appeal of ~~the Office of the Interconnection’s and/or the PJM Market Monitor~~Market Monitoring Unit’s actions under this section I shall be to ~~FERC~~Commission. An Authorized Commission shall be entitled to reestablish its certification as set forth in ~~s~~Section I.D.18.17.4(a)1 by submitting a filing with the Commission showing that it has taken appropriate corrective action. If the Commission does not act upon an Authorized Commission's recertification filing with sixty (60) days of

the date of the filing, the recertification shall be deemed approved and the Authorized Commission shall be permitted to receive confidential information pursuant to this section.

- (iii) The Office of the Interconnection, the ~~PJM Market Monitor~~Market Monitoring Unit, and/or the Affected Member shall have the right to seek and obtain at least the following types of relief: (a) an order from ~~the FERC~~FERC requiring any breach to cease and preventing any future breaches; (b) temporary, preliminary, and/or permanent injunctive relief with respect to any breach; and (c) the immediate return of all confidential information to the ~~Office of the Interconnection and/or the PJM Market Monitor~~Market Monitoring Unit.
- (iv) No Authorized Person or Authorized Commission shall have responsibility or liability whatsoever under this section for any and all liabilities, losses, damages, demands, fines, monetary judgments, penalties, costs and expenses caused by, resulting from, or arising out of or in connection with the release of confidential information to persons not authorized to receive it, provided that such Authorized Person is an agent, servant, employee or member of an Authorized Commission at the time of such unauthorized release. Nothing in this ~~s~~Section I.D.4(d)(iv)(iv) is intended to limit the liability of any person who is not an agent, servant, employee or member of an Authorized Commission at the time of such unauthorized release for any and all economic losses, damages, demands, fines, monetary judgments, penalties, costs and expenses caused by, resulting from, or arising out of or in connection with such unauthorized release.
- (v) Any dispute or conflict requesting the relief in section ~~I.D.4(d)(ii)~~ or ~~I.D.4(d)(iii)(a)~~ above, shall be submitted to ~~the FERC~~FERC for hearing and resolution. Any dispute or conflict requesting the relief in section ~~I.D.4(d)(iii)(c)~~ above may be submitted to FERC or any court of competent jurisdiction for hearing and resolution.

E. ~~18.17.5~~ MARKET MONITORING.

~~1. a)~~ Subject to the requirements of section ~~I.C.218.17.5(b)~~, the ~~PJM Market Monitor~~Market Monitoring Unit and PJM may release confidential information of Public Service Electric & Gas Company (“PSE&G”), Consolidated Edison Company of New York (“ConEd”), and their affiliates, and the confidential information of any Member regarding generation and/or transmission facilities located within the PSE&G Zone to the market monitoring unit of the new York Independent System Operator, Inc. (“New York ISO”) and the New York ISO Market Advisor to the limited extent that the ~~PJM Market Monitor~~Market Monitoring Unit determines necessary to carry out the responsibilities of the market monitoring units of PJM and the New York ISO under FERC Opinion No. 476 (see Consolidated Edison Company v. Public Service Electric and Gas Company, et al., 108 FERC ¶ 61,120, at P 215 (2004)) to conduct joint investigations to ensure that gaming, abuse of market power, or similar activities do not take place with regard to power transfers under the contracts that are the subject of FERC Opinion No. 476.

~~2. b)~~ The ~~PJM Market Monitor~~Market Monitoring Unit and PJM may release a Member’s confidential information pursuant to section ~~I.E.148.17.5(a)~~ to the market monitoring unit of the New York ISO and the New York ISO Market Advisor only if the market monitoring unit of the New York ISO and the New York ISO Market Advisor are subject to obligations limiting the disclosure of such information that are equivalent to or greater than the limitations on disclosure specified in this

section 18.17. Information received from the New York ISO, the market monitoring unit of the New York ISO, or the New York ISO Market Advisor under section I.E.118.17.5(a) that is designated as confidential shall be protected from disclosure in accordance with this section In-18.17.

II. DEVELOPMENT OF INPUTS FOR PROSPECTIVE MITIGATION

A. OFFER PRICE CAPS

1. The Market Monitoring Unit shall serve as the chair of the Cost Development Task Force and maintain the Cost Development Guidelines.

1.2. A Market Seller shall determine for each generating unit that it offers into the PJM Interchange Energy Market an(a) — The offer price cap in accordance with one of the procedures indicated below shall be one of the amounts specified below, as specified in advance by the Market Seller for the affected unit:

- (i) An amount calculated on tThe basis of the weighted average Locational Marginal Price at the generation bus at which energy from the capped resource was delivered during a specified number of hours during which the resource was dispatched for energy in economic merit order, the specified number of hours to be determined by the Market Monitoring UnitOffice of the Intereconnection and to be a number of hours sufficient to result in an offer price cap thatto reflects reasonably contemporaneous competitive market conditions for that unit;
- (ii) An amount equal to tThe incremental operating cost of the generation resource as determined in accordance with Schedule 2 of the Operating Agreement and the PJM Manuals (“Incremental Cost”), plus 10% of such costs;
- (iii) For units that are certified by the Market Monitoring Unit as frequently offer capped, the following shall apply:
 - (a) For units that are offer capped for 60% percent or more of their run hours, but less than 70% percent of their run hours, the offer price cap will be either (i) Incremental Cost plus 10% percent or (ii) incremental costIncremental Cost plus \$20 per megawatt-hour;
 - (b) For units that are offer capped for 70% percent or more of their run hours, but less than 80% percent of their run hours, the offer price cap will be either (i) incremental costIncremental Cost plus 15% percent, not to exceed incremental costIncremental Cost plus \$40 per megawatt-hour, or (ii) incremental costIncremental Cost plus \$30 per megawatt-hour;
 - (c) For units that are offer capped for 80% percent or more of their run hours, the offer price cap will be (i) incremental costIncremental Costs plus 10% percent; (ii) incremental costIncremental Cost plus \$40 per megawatt-hour; or (iii) the agreed unit-specific going forward costs of the affected unit as reflected in an agreement entered pursuant to subparagraph (iv), below; or
- (iv) An amount determined by agreement between the Market Monitoring UnitOffice of the Intereconnection and the Market Seller, provided that, if the Market

~~Monitoring Unit~~~~Office of the Interconnection~~ and the Market Seller cannot reach agreement after 60 days from the commencement of negotiations, then the Market Seller may submit the rates, terms, and conditions of its proposed offer cap to the Commission for resolution.

~~3.(b)~~ For purposes of section 6.4.2(a)(iii), a generating unit shall qualify for the specified offer cap upon issuance of written notice from the Market Monitoring Unit that it is a “Frequently Mitigated Unit” or “FMU” because it was offer capped for the applicable percentage of its run hours, determined on a rolling 12-month average basis, effective with a one month lag.

~~(e)~~—Any generating unit, without regard to ownership, located at the same site as a Frequently Mitigated Unit qualifying under Sections 6.4.2(a)(iii) shall become an “Associated Unit” upon issuance of written notice from the Market Monitoring Unit that it meets all of the following criteria:

~~(i)1-~~ The unit has the identical electric impact on the transmission system as the FMU;

~~(ii)2-~~ The unit (i) belongs to the same design class (where a design class includes generation that is the same size and utilizes the same technology, without regard to manufacturer) and uses the identical primary fuel as the FMU or (ii) is regularly dispatched by PJM as a substitute for the FMU based on differences in cost that result from the currently applicable FMU adder;

~~(iii)3-~~ The unit (i) has an average daily cost-based offer, as measured over the preceding 12-month period, that is less than or equal to the FMU’s average daily cost-based offer adjusted to include the currently applicable FMU adder or (ii) is regularly dispatched by PJM as a substitute for the FMU based on differences in cost that result from the currently applicable FMU adder.

The offer cap for an associated unit shall be equal to the incremental operating cost of such unit, as determined in accordance with Schedule 2 of the Operating Agreement and the Cost Development Guidelines~~PJM Manuals~~, plus the applicable percentage adder or dollar per megawatt-hour adder as specified in Section 6.4.2(a)(iii)(a), (b), or (c) for the unit with which it is associated.

4. For purposes of section 6.4.2(a)(iii)(c), the unit-specific going forward costs determined by agreement between the ~~Office of the Interconnection and the~~ Market Seller and the Market Monitoring Unit shall include only the costs included in the Deactivation Avoidable Cost Rate, excluding costs associated with the Avoidable Project Investment Recovery Rate (APIR), set forth in section 115 of the PJM Tariff. Any costs that would be capitalized according to generally accepted accounting principles, associated carrying costs, or other fixed costs shall not be included. The agreement shall further provide that (i) in order for such costs to qualify for inclusion in the amounts determined by the agreement, the Market Seller must agree to provide to the Market Monitoring Unit~~PJM~~ relevant cost data concerning fuel, operating and maintenance, and other avoidable costs, (ii) the maintenance practices and incurrence of expense at the unit shall be subject to audit by the Office of the Interconnection, and (iii) the unit owner agrees to operate the unit in accordance with Good Utility Practice.

~~5.(e)~~ Any agreement entered pursuant to section II.A.2-6.4.2(a)(iv) shall be filed by the Market Seller with the Commission and shall be effective only upon acceptance of the agreement for filing by the Commission; provided however, that agreements to reflect unit-specific going forward costs in accordance with section II.A.26.4.2(a)(iii) shall be filed by the Market Seller with the Commission for informational purposes only and shall be effective the day following the date of the informational filing.

B. MINIMUM GENERATOR OPERATING PARAMETERS

1. Generation units shall submit Parameter Limited Schedules, as required under section 6.6(c) of the Operating Agreement, in accordance with the criteria specified in this section II.B. Generation units shall include in their Parameter Limited Schedules values no less flexible than the default values determined in accordance with section II.B.2 below, unless they have obtained approval for an exception as provided in section II.B.3 below.

2. The Market Monitoring Unit shall provide to PJM and PJM shall file to include at section 6.6(c) of Schedule 1 to the Operating Agreement a table of default unit class specific parameter limits to be known as the "Parameter Limited Schedule Matrix." The Parameter Limited Schedule Matrix shall include default values on a unit-type basis for the following operational parameters: (i) turn down ratio, (ii) minimum down time, (iii) minimum run time, (iv) maximum daily starts, and (v) maximum weekly starts. In this Section II.B, the "turn down ratio" shall be defined as the ratio of economic maximum megawatts to economic minimum megawatts. The Market Monitor shall review the Parameter Limited Schedule Matrix twice yearly, and, in the event it determines that revision is appropriate, shall provide a revised matrix at least 45 days prior to the bi-annual enrollment periods for the submission of start-up and no-load costs on April 1 and October 1 and PJM shall file to revise the Operating Agreement accordingly. In the event that the Office of the Interconnection disagrees with the values proposed for revising the matrix, it may so inform the Commission in its filing.

3. The Market Monitoring Unit shall notify generating units no later than 15 days prior to April 1 or October 1 each year whether it approves, rejects or suggests an alternative value for each request for an exception to a value specified in the Parameter Limited Schedule Matrix or the parameters defined in (i) through (vii) below, provided that the Market Monitoring Unit receives such request no later than 30 days prior to April 1 or October 1. The Market Monitoring Unit shall approve an exception for a period no less than six months, and, if requested, for such longer period as the Market Monitoring Unit may determine is supported by the data. The Market Monitoring Unit shall first determine whether any of the provisions below apply, and, if so, then determine whether and to what extent historical operating data relevant to such provisions exist in support of an exception under the applicable criteria. The Market Monitoring Unit shall agree to permit the least flexible exception that it determines to be supported by the historical operating data.

- (i) With the sole exception of combustion turbine units (which shall have an assumed turn down ratio value equal to 1.0), the Market Monitoring Unit shall calculate on the basis of historical offer data the minimum acceptable turn down ratio parameter as the greater of (A) the ratio calculated on the basis of the minimum of the economic minima and the maximum of the economic maxima submitted by such unit over the prior 24 months or (B) 90 percent of the unit class turn down ratio from the Parameter Limited Schedule Matrix.
- (ii) The submitted minimum run time may not exceed the level defined in the Parameter Limited Schedule Matrix.
- (iii) For all units, the Market Monitoring Unit shall calculate on the basis of historical offer data the minimum down time parameter as the minimum of the minimum down times submitted over the prior 24 months up to a maximum value equal to 110 percent of the value specified in the Parameter Limited Schedule Matrix.
- (iv) The maximum starts per week may not be less than the level defined in the Parameter Limited Schedule Matrix.

- (v) The maximum starts per day may not be less than the level defined in the Parameter Limited Schedule Matrix.
- (vi) For steam units only, the Market Monitoring Unit shall calculate parameters that may be used in place of values from the parameter limited schedule matrix on the basis of market-based offers from units making market based offers and on the basis of cost-based offers for units which made only cost-based offers using the 2006 historical offer average parameters.
- (vii) For combined cycle units only, if the Market Monitoring Unit calculates that the unit's 2006 average historical market-based offer parameters are within the limits in the parameter matrix, the unit will be limited to that 2006 historical average. If the unit is not limited on the foregoing basis, then the Market Monitoring Unit shall determine whether the unit was offered with market-based offer parameters for ten percent or more of the days (36 days minimum) at a level at or more flexible than the values in the parameter limited schedule matrix, and, if so, the unit will be limited at that level. If the unit is not limited on the foregoing basis, then the Market Monitoring Unit shall determine whether the 2006 average historical market based offer parameters exceed the limits in the matrix (less flexible than the parameters in the matrix), and, if so, the unit shall be limited to the level at which the market-based parameter was bid to the most flexible level for ten percent or of the days (36 days minimum) at that level.

4. In that event that a generation unit believes that a physical operational limitation prevents such unit from meeting the minimum parameters or the parameters defined in i through vii above, the Market Monitoring Unit shall, upon request, analyze the historical operating data of such unit and shall agree to a value that is no less flexible than a value that it determines is supported on the basis of the actual historical operating data of the unit (inclusive of any data provided on a timely basis by the generating unit). A "physical operational limitation" shall include, but not be limited to, metallurgical restrictions due to age and long term degradation, physical design modifications performed as part of a life extension program, or environmental permit limitations under non-emergency conditions. The Market Monitoring Unit shall not consider a value supported for the foregoing determination if the historical operating data show that the generating unit can operate as or more flexibly than the value included in the Parameter Limited Schedule Matrix for ten percent or more of its run time. If the historical operating data show that the unit operated at or less flexibly than that defined in the matrix ten percent or less of its run time, but more flexibly than the requested exception, then the Market Monitoring Unit shall consider the exception request as supported at a level equal to the most flexible level at which such unit has operated for at least ten percent of its run time. The Market Monitoring Unit shall not agree to value any value less flexible than the level supported by the historical operating data. If the owner of a generation unit does not agree with a determination of the Market Monitoring Unit under this section II.B.3, it shall have recourse to the Commission to obtain a final determination.

5. If during the period that an exception agreed to by the Market Monitoring Unit applies (or approved by the Commission), there is a material change to the facts relied upon by the Market Monitoring Unit to support such exception (or the Commission in support of its approval), a generating unit shall bring the change to the attention of the Market Monitoring Unit (or the Commission) for a determination as to whether the exception continues to be appropriate. The Market Monitoring Unit shall, upon re-application of the provisions specified in section II.B.3, either agree to continue the existing exception, agree to a revised exception or find no exception is supported by the data, in which case the values specified in the parameter limited schedule matrix shall apply.

6. A generation unit with the ability to operate on multiple fuels may submit a Parameter Limited Schedule associated with each fuel type. If the generating unit requests an exception under section II.B.3 above, the Market Monitoring Unit shall evaluate whether the exception is applicable to each fuel type, and shall agree to the exception of each fuel type only to the extent that the historical operating data support an exception for such fuel type. The values in the Parameter Limited Schedule Matrix shall apply to the generating unit when it uses a fuel not specifically subject to an exception.

7. A nuclear unit that seeks to establish eligibility in accordance with section 1.7.17 of Schedule 1 of the Operating Agreement to receive Operating Reserves on the basis of a physical problem that requires a risk premium or other specific circumstances shall submit such request to the Market Monitoring Unit along with supporting data and documentation. The Market Monitoring Unit shall consider such requests and indicate whether it approves, disapproves or approves subject to specific conditions. A generating unit dissatisfied with the Market Monitoring Unit's determination shall have recourse to the Commission to obtain prior approval for the receipt of Operating Reserves on the basis of a risk premium or other specific circumstances.

8. A generation supplier submitting notification to the Office of the Interconnection, as provided in section 6.6(d) of the Operation Agreement, shall within three days thereafter provide notice to the Market Monitoring Unit, along with such information and documentation necessary to support such notice. The Market Monitoring Unit shall verify the information submitted.

C. RPM MUST OFFER OBLIGATION

1. The Market Monitoring Unit shall maintain, post on its website, and file with the Commission for informational purposes (updated, as necessary, on at least a quarterly basis), a list of existing Generation Capacity Resources located in the PJM Region that are subject to the "must offer" obligation set forth in section 6.6 of Attachment DD to the PJM Tariff. A potential Capacity Market Seller with respect to each such resource may request to have a resource delisted, in which case the Market Monitoring Unit shall evaluate the request under section II.C.2 below, and, within 30 days, either delist the resource or explain why the resource does not satisfy the applicable criteria. A potential Capacity Market Seller dissatisfied with the Market Monitoring Unit's determination may petition the Commission for an order that would require the Market Monitoring Unit to delist the generation resource.

2. A potential Capacity Market Seller seeking to delist a resource shall demonstrate (d) Such commitment to the Market Monitoring Unit shall be evidenced by documenting to the Market Monitoring Unit's satisfaction that the resource is not committed to service of PJM loads as defined in section 5.6.6 d and that the resource has a financially and physically firm commitment to an external sale of its capacity, consistent with section 6.6. Such commitment shall be evidenced by any of the following: (i) a unit specific bilateral transaction for service to load located outside the PJM Region, (ii) by a demonstration that such resource is identified on a unit specific basis as a network resource under the transmission tariff for the control area applicable to such external load, or by (iii) an equivalent demonstration of a financially and physically firm commitment to an external sale. The resourceMarket Seller additionally shall identify the megawatt amount, export zone, and time period (in days) of the export. If a material change with respect to any of the foregoing occurs, a potential Capacity Recourse Owners shall immediately notify the Market Monitoring Unit, and the Market Monitoring Unit shall reevaluate the status of the unit. Nothing herein shall require a Market Seller to offer its resource into an RPM auction prior to delisting, subject to satisfaction of section 6.6.

Delisting of a resource (or portion thereof) shall not be reflected in a Preliminary Market Structure Screen unless the associated unit specific bilateral transaction is approved pursuant to subsection (e) above, the designation of such resource (or portion thereof) as a network resource for the

~~external load is demonstrated to the Office of the Interconnect, or equivalent evidence of a firm external sale is provided prior to the deadline for Capacity Market Sellers to submit data for such Preliminary Market Structure Screen. Delisting of a resource shall not be reflected in the determination of available capacity pursuant to subsection (b) above unless the associated unit specific bilateral transaction is approved, the designation of such resource (or portion thereof) as a network resource for the external load is demonstrated to the Office of the Interconnection, or equivalent evidence of a firm external sale is provided prior to the deadline established by that subsection.~~

~~f.x. (b) —~~Notwithstanding ~~section 1, the foregoing: 1)~~ to address the risk of a change in EFORD between the auction and the Delivery Year, a Capacity Market Seller may include an EFORD Offer Segment in its Sell Offer(s) pursuant to section [6.7]; and 2) if a potential Capacity Market Seller can demonstrate to the satisfaction of the ~~Office of the Interconnection and the~~ Market Monitoring Unit that the EFORD established pursuant to subsection (a) of this section does not accurately reflect the amount of its Unforced Capacity anticipated to be reliable in the relevant Delivery Year, the Market Seller shall be allowed to adjust the EFORD for its existing Generation Capacity Resources, provided that any such change shall be subject to approval by the ~~Office of the Interconnection and the~~ Market Monitoring Unit.‡

~~3. (e) —~~To avoid application of ~~subsection 6.6(f)] of Attachment DD to the PJM Tariff, a potential Capacity Market Seller with respect to~~ any resource included on the list posted under section ~~II.C.1 above, existing Generation Capacity Resource located in the PJM Region †~~ that is offered into the Base Residual Auction for a Delivery Year, but that does not clear in such auction, shall be offered in the First, Second, and Third Incremental Auctions for such Delivery Year, unless the potential Capacity Market Seller such Generation Capacity Resource, as shows to the Market Monitoring Unit with by appropriate documentation that such resource; (i) is reasonably expected to be physically unable to participate in the relevant auction; (ii) has a financially and physically firm commitment to an external sale of its capacity; or (iii) was interconnected to the Transmission System as an Energy Resource and not subsequently converted to a Capacity Resource.

~~4. If a Member that owns or controls an actual or potential wind Generation Capacity Resource seeks to reduce the capacity values for such wind resource to a level less than 0.85 times its Design Capacity Value, the Member must first obtain verification from the Market Monitoring Unit that the data support such proposed value. A Member that disagrees with such determination shall have recourse to the Commission for a final determination.~~

~~5. (g) —~~In addition to ~~the other available remedies, set forth in subsections (c), (d), (e), and (f), including those available under Attachment M,~~ if the Market Monitoring Unit determines that one or more potential Capacity Market Sellers' failure to offer part or all of one or more existing Generation Capacity Resources into an auction would result in an increase of greater than five percent in any Zonal Capacity Price determined through such auction, the Market Monitoring Unit~~the Office of the Interconnection~~ shall apply to the FERC Commission for an order, on an expedited basis, directing such potential Capacity Market Seller to offer such resources~~participate~~ in the auction, or for other appropriate relief, and PJM ~~shall will~~ postpone clearing the auction pending FERC Commission's decision on the matter.

D. RPM OFFER CAPS

Preliminary Market Structure Screen

1. Potential Capacity Market Sellers owning or controlling any potential existing Generation Capacity Resources in the PJM Region shall be required to provide to the Market Monitoring Unit the

information specified in section II.D.14 below if such Generation Capacity is located in an LDA, “Unconstrained LDA Group” (as defined in section II.D.3 below), or the entire PJM Region that fails the Preliminary Market Structure Screen, as applied pursuant to section II.D.2 below.

2. By no later than 90 days prior to the conduct of the Base Residual Auction and each Incremental Auction for such Delivery Year, the Market Monitoring Unit shall post or continue posting on its website for each LDA, Unconstrained LDA Group (if applicable) and to the entire PJM Region, the result of its Preliminary Market Structure Screen. An area shall fail the Preliminary Market Structure Screen if, within such area, any of the following three conditions apply: (i) the market share of any Capacity Market Seller exceeds twenty percent; (ii) the HHI for all such sellers is 1800 or higher; or (iii) there are not more than three jointly pivotal suppliers. The Market Monitoring Unit shall apply the Preliminary Market Structure Screen to each area based on: (x) the Unforced Capacity available for such Delivery Year from Generation Capacity Resources located in such area; and (y) the Locational Deliverability Area Reliability Requirement and the PJM Reliability Requirement. In applying the Preliminary Market Structure Screen, the Market Monitoring Unit shall consider all incremental supply up to and including all such supply available at an effective cost less than or equal to 150 percent of the cost-based clearing price calculated using the incremental megawatts of supply available to solve the constraint and the need for megawatts to solve the constraint giving rise to a Locational Price Adder. The Preliminary Market Structure Screen shall reflect the delisting of resources approved as provide under section II.C.2 above no less than 30 days prior to the posting deadline.

3. For purposes of the application of the Preliminary Market Structure Screen, an “Unconstrained LDA Group” shall mean any LDA for which a separate Variable Resource Requirement Curve has not been established under section 5.10 of Attachment DD to the PJM Tariff that, combined with all other such LDAs, form an electrically contiguous area. The Market Monitoring Unit shall apply the Preliminary Market Structure Screen to any such Unconstrained LDA Group so identified rather than to its constituent LDAs individually.

Market Seller Offer Caps

4. The Market Seller Offer Cap, stated in dollars per megawatt-year, applicable to price-quantity offers within the Base Offer Segment for an existing Generation Capacity Resource shall be the Avoidable Cost Rate for such resource, less the Projected PJM Market Revenues for such resource. The Market Seller Offer Cap applicable to price-quantity offers within the EFORd Offer Segment for an existing Generation Capacity Resource shall be the net Cost of New Entry for the Delivery Year. Notwithstanding the foregoing, the Market Seller Offer Cap for an existing Generation Capacity Resource shall be the Opportunity Cost for such resource, if elected by the Capacity Market Seller in accordance with section II.D.13 below.

5. For each existing Generation Capacity Resource, a potential Capacity Market Seller must timely provide to the Market Monitoring Unit data and documentation required under section II.D.14 to establish the level of the Market Seller Offer Cap applicable to each resource. The Market Monitoring Unit shall notify the potential Capacity Market Seller, within 30 days, whether the information submitted is accurate and has been verified to its satisfaction, and, if not, indicate the information that is still needed.

6. The Market Monitoring Unit shall then, within 30 days, if it has sufficient information, calculate in accordance with section II.D.19 below a proposed Market Seller Offer Cap for each such resource. The Generation Market Seller will promptly address any concerns identified by the MMU, review the proposed Market Seller Offer Cap, and reach agreement with the Market Monitoring Unit on the level of the Market Seller Offer Cap. If, and only if, such agreement cannot be reached because a Capacity Market Seller fails to submit data adequate to support the Market Seller Offer Cap requested,

then the Capacity Market Seller shall be required to submit a Sell Offer for such resource in the applicable auction as Self-Supply. If the Generation Resource Owner and the Market Monitoring Unit cannot agree, for reasons other than inadequate data, on the level of the Market Seller Offer Cap, the Generation Resource Owner shall have recourse to the Commission for a final determination. In the event that a Capacity Market Seller and the Market Monitoring Unit cannot come to agreement, for reasons other than inadequate data, on the appropriate level of a Market Seller Offer Cap, the Capacity Market Seller may submit the value it chooses, subject to section II.D.7 below. However, the Office of the Interconnection shall, upon request of the Market Monitoring Unit based on its determination that the offer will significantly affect the auction results, postpone clearing the auction while the Market Monitoring Unit seeks a decision on the matter from the Commission on an expedited basis. Moreover, the Market Monitoring Unit shall have full recourse to pursue any action available to it under Attachment M. Nothing herein shall preclude any Capacity Market Seller and the Market Monitoring Unit from agreeing to, nor require either such entity to agree to, an alternative market seller offer cap determined on a mutually agreeable basis, provided that any such alternative offer cap shall be filed with the Commission for its approval.

7. Capacity Market Sellers shall have exclusive responsibility for preparing and submitting their Market Seller Offer Cap to the Office of the Interconnection on the basis of accurate information and in compliance with the FERC Market Rules, and in no event shall the Office of Interconnection or the Market Monitoring Unit be held liable for the consequence, including but not limited to cleared market prices, on the basis of any offer submitted on the basis of inaccurate or non-compliant information.

8. For any Third Incremental Auction, a Capacity Market Seller may, at its election, use for an existing Generation Capacity Resource a Market Seller Offer Cap that is: (i) equal to that developed for the Base Residual Auction for the same Delivery Year, (ii) calculated anew in accordance with section II.D.5 above, or (iii) equal to 1.1 times the Capacity Resource Clearing Price in the Base Residual Auction for the relevant LDA and Delivery Year.

Mitigation of Offers from Planned Generation Capacity Resources

9. Sell Offers based on Planned Generation Capacity Resources shall be presumed competitive and shall not be subject to the market power mitigation in the Base Residual Auction or Second Incremental Auction for the first Delivery Year for which such resource qualifies as a Planned Generation Capacity Resource, except that, any such Sell Offers shall be subject to special review by the Commission if the Market Monitoring Unit determines that they meet the criteria set forth in section II.D.10 below and have not already obtained approval from the Commission for use prior to the deadline for submission of such Sell Offers in such auction; provided, however, that such resources may receive certain price assurances for the two Delivery Years immediately following the first Delivery Year of service under certain conditions as set forth in section 5.14 of Attachment DD of the PJM Tariff.

10. Sell Offers based on Planned Generation Capacity Resources submitted for the first year in which such resources qualify as Planned Generation Capacity Resources shall be deemed competitive and not be subject to mitigation if the Market Monitoring Unit determines that: (i) collectively all such Sell Offers provide Unforced Capacity in an amount equal to or greater than two times the incremental quantity of new entry required to meet the LDA Reliability Requirement; and (ii) at least two unaffiliated suppliers have submitted Sell Offers for Planned Generation Capacity Resources in such LDA. Notwithstanding the foregoing, if any Capacity Market Seller, together with its Affiliates, submits Sell Offers based on Planned Generation Capacity Resources in that LDA are pivotal, then such Sell Offers shall be subject to mitigation.

11. Where the Market Monitoring Unit determines that both conditions (i) and (ii) in section II.D.10 above are not met, or the Sell Offer is pivotal, the Market Monitoring Unit shall determine whether the Sell Offer is “excessive.” A Sell Offer shall be excessive if such Sell Offer exceeds 140 percent of: (x) the average of location-adjusted Sell Offers for Planned Generation Capacity Resources from the same asset class as such Sell Offer, submitted (and not rejected) (“Asset-Class New Plant Offers”) for such Delivery Year; or (y) if there are no Asset-Class New Plant Offers for such Delivery Year, the average of Asset-Class New Plant Offers for all prior Delivery Years; or (z) if there are no Asset-Class New Plant Offers for any prior Delivery Year, the Net CONE applicable for such Delivery Year in the LDA for which such offer was submitted. For purposes of this paragraph, asset classes shall be as stated in section [6.7(c)] of Attachment DD to the PJM Tariff as effective for such Delivery Year, and Asset-Class New Plant Offers shall be location-adjusted by the ratio between the Net CONE effective for such Delivery Year for the LDA in which the Sell Offer subject to this paragraph was submitted and the average, weighted by installed capacity, of the Net CONEs for all LDAs in which the units underlying such Asset Class New Plant Offers are located.

12. If the Market Monitoring Unit identifies an excessive offer, the Office of the Interconnection shall suspend a final determination of clearing prices, in accordance with section 6.2(b) of Attachment DD of the PJM Tariff, so that the Market Monitoring Unit can notify each Capacity Market Seller whose Sell Offer is so rejected and allow such Capacity Market Sellers an opportunity to submit a revised Sell Offer that does not exceed such threshold, withdraw the Sell Offer or obtain the approval from the Commission for its initial Sell Offer on an expedited basis, in which case the initial Sell Offer shall stand. The Office of the Interconnection shall make a final determination of clearing prices in accordance with the manner in which each Sell Offer identified as excessive is resolved.

Data Submission

13. Not later than 120 days prior to the posted date of a PJM Reliability Pricing Model auction, consistent with the must offer requirement set forth in section 6.6 of Attachment DD to the PJM Tariff, all potential Generation Capacity Sellers in any PJM Reliability Pricing Model Auction shall submit to the Market Monitoring Unit, together with supporting documentation for each item, a list of owned or controlled existing Generation Capacity Resources and specify in such list the location (Zone, if applicable) where each resource is located and, for the applicable Delivery Year, each generation resource’s amount of gross capacity, its EFORD and its net (unforced) capacity.

14. Potential Generation Capacity Sellers that provided, or that should have provided, data pursuant to section II.D.13 above, shall review the Preliminary Market Structure Screen posted by the Market Monitoring Unit, and any that have listed generation resources located in any LDA or Unconstrained LDA Group that fails the Preliminary Market Structure Screen (or, if such region fails the screen, potential auction participants in the entire PJM Region) not exempt on the basis of a commitment under section II.D.15 below, shall submit to the Market Monitoring Unit no later than two months prior to the conduct of such auction, together with detailed supporting documentation for each item, a calculation of the:

- (i) Avoidable Cost Rate as defined in sections II.D.17–19 below;
- (ii) EFORD Offer Segment, as defined in section II.D.20 below; and
- (iii) Projected PJM Market Revenues, as defined in section II.D.21–23 below; and/or
- (iv) If a potential Generation Capacity Seller elects to submit a Sell Offer based on opportunity cost, a calculation of Opportunity Cost, as defined in section II.D.24 below.

All data submitted under this section is subject to verification by the Market Monitoring Unit. If actual cost data is not available at the time of submission for the time periods specified, costs may be estimated for such period based on the most recent data available, with an explanation of and basis for the estimate used.

15. A potential auction participants otherwise required to submit the data specifically identified under section II.D.14 above shall be exempt from providing such data for a Generation Capacity Resource, unless the Market Monitoring Unit specifically requests such data (in which case no exemption applies to such specifically requested data) that meets any of the following criteria:

- (i) The ACR system has duly received an offer for such resource at zero dollars or an offers as Self Supply;
- (ii) The generation resource is located in an Unconstrained LDA Group or, if this is the relevant market, the entire PJM Region, and is in a resource class identified in the table included at section 6.7(c) of Attachment DD to the PJM Tariff as not likely to include the marginal price-setting resources in such auction; or
- (iii) The potential participant commits that any Sell Offer it submits as to such resource shall not include any price above: (1) the level identified for the relevant resource class in the table included at section 6.7(c) of Attachment DD to the PJM Tariff, less (2) the Projected PJM Market Revenues for such resource, as determined in section II.D.21–23.

16. Notwithstanding any other provision of the PJM Market Rules, the Market Monitoring Unit may request additional information from any potential auction participant as deemed necessary by the Market Monitoring Unit, including, without limitation, additional cost data on resources in a class that is not otherwise expected to include the marginal price setting resource; and compliance with such request shall be a condition of participation in any auction. If a Capacity Market Seller submits to PJM any Sell Offer that is inconsistent with any commitment made pursuant to this Appendix, the Capacity Market Seller must promptly resubmit a Sell Offer that complies with such commitments. If the Capacity Market Seller does not timely resubmit its Sell Offer, it shall be deemed to have submitted a Sell Offer that violates the PJM Market Rules, and PJM shall be authorized to enter on the behalf such Capacity Market Seller a default price equal to the maximum price for the class of resource specified in the chart included at section 6.7(c) of Attachment DD of the PJM Tariff, based on not operating for one year. In any event, such Capacity Market Seller shall have sole liability for any and all market consequences that result from the failure to adhere to its commitments. Moreover, the obligation imposed under section 6.6[(a)] of the Attachment DD of the PJM Tariff shall not be satisfied unless and until the Capacity Market Seller submits (or is deemed to have submitted) a Sell Offer that conforms to its commitments made pursuant to this section II.D of this Appendix.

Determination of Avoidable Cost Rates

17. The Market Monitoring Unit shall provide to Office of the Interconnection and the Office of the Interconnection shall file to include at section 6.7(c) of the Operating Agreement a table of default avoidable cost rates, calculated on the basis of not operating for one year and on the basis of permanent retirement. In the event that the Office of the Interconnection disagrees with the values proposed for revising the table of default avoidable cost rates, it may so inform the Commission in its filing.

18. A Capacity Market Seller submitting a default Avoidable Cost Rate referenced in section II.D.17 above shall use the one-year mothball Avoidable Cost Rate, except that, such Capacity Market

Sellers may instead use the retirement Avoidable Cost Rate if it has timely submitted to the Market Monitoring Unit a written sworn, notarized statement of a corporate officer representing that the Capacity Market Seller will retire the Generation Capacity Resource if it does not receive during the relevant Delivery Year at least the applicable retirement Avoidable Cost Rate because it would be uneconomic to continue to operate the Generation Capacity Resource in the Delivery Year without the retirement Avoidable Cost Rate, and specifying the date the Generation Capacity Resource would otherwise be retired. The Market Monitoring Unit shall indicate in its posted reports on RPM performance the number of Generation Capacity Resources and megawatts per LDA that use the retirement Avoidable Cost Rates.

19. If a Generation Capacity Resource does not elect to use a default Avoidable Cost Rate and has timely provided to the Market Monitoring Unit the data described in section II.D.14 above, the Market Monitoring Unit shall calculate the Avoidable Cost Rate (or may calculate, in the case of the tardy receipt of data) and provide a unit-specific value to the Capacity Market Seller within the time specified in section II.D.5 above. In performing this calculation, avoidable expenses (i) shall include only incremental expenses directly required to operate a Generation Capacity Resource that a Generation Owner would not incur if such generating unit did not operate in the Delivery Year or meet availability criteria during Peak-Hour Periods during the Delivery Year and (ii) shall exclude variable costs recoverable under cost-based offers to sell energy from operating capacity on the PJM Interchange Energy Market under the Operating Agreement.

The Avoidable Cost Rate for a Generation Capacity Resource that is the subject of a Sell Offer shall be determined using the following formula, expressed in dollars per megawatt-year:

$$\text{Avoidable Cost Rate} = [\text{Adjustment Factor} * (\text{AOML} + \text{AAE} + \text{AME} + \text{AVE} + \text{ATFI} + \text{ACC} + \text{ACLE}) + \text{ARPIR} + \text{APIR}]$$

Where:

- **Adjustment Factor** equals 1.10 (to provide a margin of error for understatement of costs) plus an additional adjustment referencing the 10-year average Handy-Whitman Index in order to account for expected inflation from the time interval between the submission of the Sell Offer and the commencement of the Delivery Year.
- **AOML (Avoidable Operations and Maintenance Labor)** consists of the avoidable labor expenses related directly to operations and maintenance of the generating unit for the twelve months preceding the month in which the data must be provided. The categories of expenses included in AOML are those incurred for: (a) on-site based labor engaged in operations and maintenance activities; (b) off-site based labor engaged in on-site operations and maintenance activities directly related to the generating unit; and (c) off-site based labor engaged in off-site operations and maintenance activities directly related to generating unit equipment removed from the generating unit site.
- **AAE (Avoidable Administrative Expenses)** consists of the avoidable administrative expenses related directly to employees at the generating unit for twelve months preceding the month in which the data must be provided. The categories of expenses included in AAE are those incurred for: (a) employee expenses (except employee expenses included in AOML); (b) environmental fees; (c) safety and operator training; (d) office supplies; (e) communications; and (f) annual plant test, inspection and analysis.

- **AME (Avoidable Maintenance Expenses)** consists of avoidable maintenance expenses (other than expenses included in AOML) related directly to the generating unit for the twelve months preceding the month in which the data must be provided. The categories of expenses included in AME are those incurred for: (a) chemical and materials consumed during maintenance of the generating unit; and (b) rented maintenance equipment used to maintain the generating unit.
- **AVE (Avoidable Variable Expenses)** consists of avoidable variable expenses related directly to the generating unit incurred in the twelve months preceding the month in which the data must be provided. The categories of expenses included in AVE are those incurred for: (a) water treatment chemicals and lubricants; (b) water, gas, and electric service (not for power generation); and (c) waste water treatment.
- **ATFI (Avoidable Taxes, Fees and Insurance)** consists of avoidable expenses related directly to the generating unit incurred in the twelve months preceding the month in which the data must be provided. The categories of expenses included in AFTI are those incurred for: (a) insurance, (b) permits and licensing fees, (c) site security and utilities for maintaining security at the site; and (d) property taxes.
- **ACC (Avoidable Carrying Charges)** consists of avoidable short-term carrying charges related directly to the generating unit in the twelve months preceding the month in which the data must be provided. Avoidable short-term carrying charges shall include short term carrying charges for maintaining reasonable levels of inventories of fuel and spare parts that result from short-term operational unit decisions as measured by industry best practice standards. For the purpose of determining ACC, short term is the time period in which a reasonable replacement of inventory for normal, expected operations can occur.
- **ACLE (Avoidable Corporate Level Expenses)** consists of avoidable corporate level expenses directly related to the generating unit incurred in the twelve months preceding the month in which the data must be provided. Avoidable corporate level expenses shall include only such expenses that are directly linked to providing tangible services required for the operation of the generating unit proposed for Deactivation. The categories of avoidable expenses included in ACLE are those incurred for: (a) legal services, (b) environmental reporting; and (c) procurement expenses.
- **APIR (Avoidable Project Investment Recovery Rate) = $PI * CRF$**

Where:

- **PI** is the amount of project investment completed prior to June 1 of the Delivery Year, except for Mandatory Capital Expenditures (“CapEx”) for which the project investment must be completed during the Delivery Year, that is reasonably required to enable a Generation Capacity Resource that is the subject of a Sell Offer to continue operating or improve availability during Peak-Hour Periods during the Delivery Year.
- **CRF** is the annual capital recovery factor from the following table, applied in accordance with the terms specified below.

Age of Existing Unit (Years)	Remaining Life of Plant (Years)	Levelized CRF
1 to 5	20	0.125
6 to 10	15	0.146
11 to 15	10	0.198
16 Plus	5	0.363
Mandatory CapEx	4	0.450
40 Plus Alternative	1	1.100

Unless otherwise stated, Age of Existing Unit shall be equal to the number of years since the Unit commenced commercial operation, up to and through the relevant Delivery Year.

Remaining Life of Plant defines the amortization schedule (*i.e.*, the maximum number of years over which the Project Investment may be included in the Avoidable Cost Rate.)

Capital Expenditures and Project Investment

For any given Project Investment, a Capacity Market Seller may make a one-time election to recover such investment using: (i) the highest CRF and associated recovery schedule to which it is entitled; or (ii) the next highest CRF and associated recovery schedule. For these purposes, the CRF and recovery schedule for the 16 Plus category is the next highest CRF and recovery schedule for both the Mandatory CapEx and the 40 Plus Alternative categories. The Capacity Market Seller using the above table must provide the Market Monitoring Unit with information, identifying and supporting such election, including but not limited to the age of the unit, the amount of the Project Investment, the purpose of the investment, evidence of corporate commitment (e.g., an SEC filing, a press release, or a letter from a duly authorized corporate officer indicating intent to make such investment), and detailed information concerning the governmental requirement (if applicable). Absent other written notification, such election shall be deemed based on the CRF such Seller employs for the first Sell Offer reflecting recovery of any portion of such Project Investment. A Sell Offer submitted in the Base Residual Auction for either or both of the 2007-2008 and 2008-2009 Delivery Years for which the “16 Plus” CRF and recovery schedule is selected may not exceed an offer price equal to the then-current Net CONE (on an unforced-equivalent basis).

For any resource using the CRF and associated recovery schedule from the CRF table that set the Capacity Resource Clearing Price in any Delivery Year, such Capacity Market Seller must also provide to the Market Monitoring Unit, for informational purposes only, evidence of the actual expenditure of the Project Investment, when such information becomes available.

If the project associated with a Project Investment that was included in a Sell Offer using a CRF and associated recovery schedule from the above table has not entered into commercial operation prior to the end of the relevant Delivery Year, and the resource's Sell Offer sets the clearing price for the relevant LDA, the Capacity Market Seller shall be required to elect to either (i) pay a charge that is equal to the difference between the Capacity Resource Clearing Price for such LDA for the relevant Delivery Year and what the clearing price would have been absent the APIR component of the Avoidable Cost Rate, this difference to be multiplied by the cleared megawatt volume from such Resource ("rebate payment"); (ii) hold such rebate payment in escrow, to be released to the Capacity Market Seller in the event that the project enters into commercial operation during the subsequent Delivery Year or rebated to LSEs in the relevant LDA if the project has not entered into commercial operation during the subsequent Delivery Year; or (iii) make a reasonable investment in the amount of the PI in other existing Generation Capacity Resources owned or controlled by the Capacity Market Seller or its Affiliates in the relevant LDA. The revenue from such rebate payments shall be allocated pro rata to LSEs in the relevant LDA(s) that were charged a Locational Reliability Charge for such Delivery Year, based on their Daily Unforced Capacity Obligation in the relevant LDA(s). If the Sell Offer from the Generation Capacity Resource did not set the Capacity Resource Clearing Price in the relevant LDA, no alternative investment or rebate payment is required. If the difference between the Capacity Resource Clearing Price for such LDA for the relevant Delivery Year and what the clearing price would have been absent the APIR amount does not exceed the greater of \$10 per megawatt-day or a 10 percent increase in the clearing price, no alternative investment or rebate payment is required.

Mandatory CapEx Option

The Mandatory CapEx CRF and recovery schedule is an option available, beginning in the third Base Residual Auction (Delivery Year 2009-10), to a resource that must make a Project Investment to comply with a governmental requirement that would otherwise materially impact operating levels during the Delivery Year, where: (i) such resource is a coal, oil or gas-fired resource that began commercial operation no fewer than fifteen years prior to the start of the first Delivery Year for which such recovery is sought, and such Project Investment is equal to or exceeds \$200/kW of capitalized project cost; or (ii) such resource is a coal-fired resource located in an LDA for which a separate VRR Curve has been established for the relevant Delivery Years, and began commercial operation at least 50 years prior to the conduct of the relevant Base Residual Auction.

A Capacity Market Seller that wishes to elect the Mandatory CapEx option for a Project Investment must do so beginning with the Base Residual Auction for the Delivery Year in which such project is expected to enter commercial operation. A Sell Offer submitted in any Base Residual Auction for which the Mandatory CapEx option is selected may not exceed an offer price equivalent to 0.90 times the then-current Net CONE (on an unforced-equivalent basis).

40 Year Plus Alternative Option

The 40 Plus Alternative CRF and recovery schedule is an option available, beginning in the third Base Residual Auction (Delivery Year 2009-10), for a resource that is a gas- or oil-fired resource that began commercial operation no less than 40 years prior to the conduct of the relevant Base Residual Auction (excluding, however, any resource in any Delivery Year for which the resource is receiving a payment under Part V of the PJM Tariff. Generation Capacity Resources electing this 40 Plus Alternative CRF shall be treated as At Risk Generation for purposes of the sensitivity runs in the RTEP process). Resources electing the 40 Year Plus Option will be modeled in the RTEP process as “at-risk” at the end of the one-year amortization period.

A Capacity Market Seller that wishes to elect the 40 Plus Alternative option for a Project Investment must provide written notice of such election to the Office of the Interconnection no later than 180 days prior to the Base Residual Auction for which such election is sought; provided however that shorter notice may be provided if unforeseen circumstances give rise to the need to make such election and such seller gives notice as soon as practicable.

The Office of the Interconnection shall give market participants reasonable notice of such election, subject to satisfaction of requirements under the PJM Operating Agreement for protection of confidential and commercially sensitive information. A Sell Offer submitted in any Base Residual Auction for which the 40 Plus Alternative option is selected may not exceed an offer price equivalent to the then-current Net CONE (on an unforced-equivalent basis).

- **ARPIR** (Avoidable Refunds of Project Investment Reimbursements) consists of avoidable refund amounts of Project Investment Reimbursements payable by a Generation Owner to PJM under Part V, Section 118 of this Tariff or avoidable refund amounts of project investment reimbursements payable by a Generation Owner to PJM under a Cost of Service Recovery Rate filed under Part V, Section 119 of the Tariff and approved by the Commission.

Determination of EFORD Offer Segment

20. To address the risk of a change in EFORD for an existing generation resource between the auction and the Delivery Year, a Capacity Market Seller may submit a Sell Offer that includes a quantity of megawatts priced at up to the Net Cost of New Entry. Such quantity of megawatts shall be no greater than such resource’s demonstrated summer net capability of installed capacity, as determined in accordance with the PJM Manuals, multiplied by, at the Capacity Market Seller’s election, either: (i) the positive difference between such resource’s five-year average EFORD for the five consecutive years ending on the September 30 last preceding the submission of such Sell Offer and such resource’s twelve-month average EFORD for the twelve months ending on the September 30 last preceding the submission of such Sell Offer, or (ii) the positive difference between the EFORD reasonably anticipated, based on known and measurable changes and supported by appropriate documentation, for the twelve months ending on the September 30 last preceding the commencement of the Delivery Year, and the twelve-month average EFORD for the twelve months ending on the September 30 last preceding the submission of such Sell Offer.

Determination of PJM Market Revenues

21. The Market Monitoring Unit shall calculate the Projected PJM Market Revenues for any Generation Capacity Resource to which the Avoidable Cost Rate is applied and shall include all actual unit-specific revenues from PJM energy markets, ancillary services, and unit-specific bilateral contracts from such Generation Capacity Resource, net of marginal costs for providing such energy (i.e., costs allowed under cost-based offers pursuant to Section 6.4 of Schedule 1 of the Operating Agreement) and ancillary services from such resource. The calculation of Projected PJM Market Revenues shall be equal to the rolling simple average of such net revenues as described above from the three most recent whole calendar years prior to the year in which the Base Residual Auction is conducted.

22. If a Generation Capacity Resource did not receive PJM market revenues during the entire relevant time period because the Generation Capacity Resource was not integrated into PJM during the full period, then the Projected PJM Market Revenues shall be calculated using only those whole calendar years within the full period in which such Resource received PJM market revenues.

23. If a Generation Capacity Resource did not receive PJM market revenues during the entire relevant time period because it was not in commercial operation during the entire period, or if data is not available to the Capacity Market Seller for the entire period, despite the good faith efforts of such seller to obtain such data, then the Projected PJM Market Revenues shall be calculated based upon net revenues received over the entire period by comparable units, as agreed upon by the MMU and the Capacity Market Seller.

Determination of Opportunity Costs

24. Opportunity Cost shall be the documented price available to an existing generation resource in a market external to PJM. In the event that the total megawatts of existing generation resources submitting opportunity cost offers in any auction for a Delivery Year exceeds the firm export capability of the PJM system for such Delivery Year, or the capability of external markets to import capacity in such year, PJM will accept such offers on a competitive basis. PJM will construct a supply curve of opportunity cost offers, ordered by opportunity cost, and accept such offers to export starting with the highest opportunity cost, until the maximum level of such exports is reached. The maximum level of such exports is the lesser of PJM's ability to permit firm exports or the ability of the importing area(s) to accept firm imports or imports of capacity, taking account of relevant export limitations by location. If, as a result, an opportunity cost offer is not accepted from an existing generation resource, the Market Seller Offer Cap applicable to Sell Offers relying on such generation resource shall be the Avoidable Cost Rate. The default Avoidable Cost Rate shall be the one year mothball Avoidable Cost Rate set forth in the tables in section 6.7(c) above unless Capacity Market Seller satisfies the criteria delineated in section 6.7(c) below.

E. BLACKSTART SERVICE

1. A Member that owns or controls a Black Start Service unit seeking to initially establish or requesting an annual change to any of the cost components included in the formulas set forth in paragraph 18 of Schedule 6A to the PJM Tariff shall provide to the Market Monitoring Unit data and documentation sufficient for the Market Monitoring Unit to evaluate and verify the proposed changes to such components in a form and manner consistent with procedures set forth in the PJM manuals. The Black Start Service unit owner and the Market Monitoring Unit shall agree to appropriate values. In the event that agreement cannot be obtained for a cost component, the Black Service Start may file the proposed value with the Commission for approval. The Black Start Service Unit owner shall then provide the agreed upon (or Commission-approved) revenue requirements to PJM Market Settlements.

2. Alternatively, a Member that owns or controls a Black Start Service unit may file with the Commission a cost of service rate with the Commission to secure reimbursement through Schedule 6A of the PJM Tariff. Prior to filing to recover its costs with the Commission, such Black Start Service unit owner must complete and submit for analysis by the Market Monitoring Unit the data required by and subject to the procedures described in the applicable PJM manual. Upon request by such Member and the receipt of all necessary data, the Market Monitoring Unit shall provide within a time period no later than 30 days its views regarding whether the costs included are appropriate.

F. DEACTIVATION RATES

1. PJM staff shall immediately notify the MMU of any request received to deactivate a generating unit under Part V of the PJM Tariff, and to provide to the MMU on a timely basis any and all correspondence or documentation received in association with such request. The MMU shall analyze the effects of the proposed deactivation with regard to potential market power issues and shall notify PJM and the generator owner (of, if applicable, its designated agent) within 30 days of the deactivation request if a market power issue has been identified. Such notice shall include the specific market power impact resulting from the proposed deactivation of the unit, as well as an initial assessment of any steps that could be taken to mitigate the market power impact.

2. If PJM notifies a unit under Part V of the PJM Tariff that it requests that the unit continue operating for a specified period for reliability reasons, it shall timely copy the MMU on such request and the response. If a generation owner elects to recover its cost under the Deactivation Avoidable Cost Credit provided in Part V, or to file to recover its costs under a Commission-approved cost of service rate, it shall direct all inquiries regarding avoidable expenses to the MMU. The MMU and the generation owner shall agree to the appropriate level of each component included in the Deactivation Avoidable Cost Credit. In the event of a disagreement, the generation owner shall have recourse to the Commission for a determination of the level appropriate for each disputed component. In the case of cost of service filing submitted to the Commission in alternative to the Deactivation Cost Credit, the MMU shall indicate to the generation owner in advance of filing its views regarding the proposed method or cost components of recovery.

III. SPECIAL REQUESTS FOR EMERGENCY RELIEF

A. REQUEST SUSPENSION OF TPS TEST

Notwithstanding the number of jointly pivotal suppliers in any hour, if the Market Monitoring Unit determines that a reasonable level of competition will not exist based on an evaluation of all facts and circumstances, it may propose to the Commission the removal of offer-capping suspensions otherwise authorized by section [6.4] of the Operating Agreement. Such proposals shall take effect upon Commission acceptance of the Market Monitoring Unit's filing.

B. MINIMUM OFFER PRICE RULE

In addition to the remedies set forth in Attachment DD of the PJM Tariff, if the Market Monitoring Unit determines that: (a) one or more Capacity Market Sellers' offer(s) of part or all of one or more new generation resources into an auction would result in a significant decrease in any Zonal Capacity Price determined through such auction when compared to the price that would have otherwise resulted from a competitive offer; (b) the Capacity Market Seller has an incentive to reduce the RPM auction price; and (c) such offer is an effort to exercise market power, then the MMU shall report its determination to the Office of the Interconnection, which shall apply to Commission for an order, on an

expedited basis, for appropriate relief. PJM shall postpone clearing the auction pending Commission's decision on the matter.

IV. RETROSPECTIVE MITIGATION

A. OPPORTUNITY COST CALCULATION

If a Market Seller can demonstrate to the satisfaction of the Market Monitoring Unit that, due to specific pre-existing binding commitments to which it is a party, and that properly should be recognized for purposes of this section, the calculations in section 3.2.3 (Operating Reserves) or section 3.2.3B (Reactive Services) of Schedule 1 of the Operating Agreement do not accurately compensate the Market Seller for opportunity cost associated with following PJM dispatch instructions and reducing or suspending a unit's output due to a transmission constraint or other reliability issue, then the Market Monitoring Unit and the individual Market Seller shall agree to appropriate alternative compensation. In the event that such agreement cannot be obtained, the Market Seller may seek to obtain the approval of the Commission for alternative compensation.

B. FTR FORFEITURE RULE

~~1.(b)~~ If a holder of a Financial Transmission Right between specified delivery and receipt buses acquired the Financial Transmission Right in a Financial Transmission Rights Auction (the procedures for which are set forth in Part 7 of ~~this~~ Schedule 1 of the Operating Agreement) and (i) had an Increment Bid and/or Decrement Bid that was accepted by the Office of the Interconnection for an applicable hour in the Day-ahead Energy Market for delivery or receipt at or near delivery or receipt buses of the Financial Transmission Right; and (ii) the result of the acceptance of such Increment Bid or Decrement Bid is that the difference in locational marginal prices in the Day-ahead Energy Market between such delivery and receipt buses is greater than the difference in locational marginal prices between such delivery and receipt buses in the Real-time Energy Market, then the Market Participant shall not receive any Transmission Congestion Credit, associated with such Financial Transmission Right in such hour, in excess of one divided by the number of hours in the applicable month multiplied by the amount that the Market Participant paid for the Financial Transmission Right in the Financial Transmission Rights Auction.

~~2. (e)~~ For purposes of sSection 5.2.1(b)1 a bus shall be considered at or near a Financial Transmission Right delivery or receipt bus if seventy five percent or more of the energy injected or withdrawn at that bus and which is withdrawn or injected at any other bus is reflected in the constrained path between the subject Financial Transmission Right delivery and receipt buses that were acquired in the Financial Transmission Rights Auction.

3. The Market Monitoring Unit shall perform calculation required under the above rule, and the determination of the identify the holder of FTRs shall include an evaluation of the overall benefits accrued by an entity or affiliated entities trading in FTRs and virtual trading in the Day-ahead Energy Market. Nothing in this FTR Forfeiture Rule shall preclude the Market Monitoring Unit from action to recover inappropriate benefits from the subject activity if the amount forfeited is less than the benefit derived by the FTR holder. An FTR holder objecting to the application of this rule shall have recourse to the Commission for review of the application of the FTR forfeiture rule to its trading activity.

C. FORCED OUTAGE RULE

1. If the Market Monitoring Unit observes that an offer submitted in the Day-ahead Energy Market designates all or part of a generation unit's capacity (MW) as Maximum Emergency and (i) such

offer in the Real-time Energy Market designates a smaller amount of capacity from that unit as Maximum Emergency for the same time period, and (ii) there is no physical reason to designate a larger amount of capacity as Maximum Emergency in the offer in the Day-ahead Energy Market than in the Real-time Energy Market, the Market Monitoring Unit shall notify the Office of Interconnection, which shall give the generation unit an outage ticket that reflects a derating equal to the positive difference (MW) between the capacity designated Maximum Emergency in the offer in the Day-ahead Energy Market and the capacity designated Maximum Emergency in the offer for the Real-time Energy Market.

2. If the Market Monitoring Unit observes that (i) an offer submitted in the Day-ahead Energy market designates all or part of capacity (MW) of a generation unit as economic maximum that is less than the economic maximum designated in the offer in the Real-time Energy Market, and (ii) there is no physical reason to designate a lower economic maximum in the offer in the Day-ahead Energy Market than in the offer in the Real-time Energy Market, the Market Monitoring Unit shall notify the Office of Interconnection, which shall give the generation unit an outage ticket that reflects a derating equal to the positive difference (MW) in economic maximum designated in the offer in the Real-time Energy Market and in the offer for the Day-ahead Energy Market.

3. There shall exist a presumption that the behavior described in Section III.C.1 and III.C.2 above constitutes withholding. In the event that the Market Monitoring Unit observes such market behavior and determines that the consequence defined there is inadequate, the Market Monitoring Unit may take additional action as authorized under Attachment M.

VI. DATA COLLECTION AND VERIFICATION

A. FUEL DATA COLLECTION

The Market Monitoring Unit shall gather and keep confidential detailed data on the procurement and usage of fuel to produce electric power transmitted in the PJM Region in order to assist the performance of its duties under Attachment M. To achieve this objective, the Market Monitoring Unit shall maintain on its website a mechanism that allows Members to conveniently and confidentially submit such data and develop a PJM manual in consultation with stakeholders that describes the nature of and procedure for collecting data. Members of PJM owning a generation asset that is located in the PJM Region (including dynamically scheduled units), or is included in a PJM black start service plan, committed as a Generation Capacity Resource for the current or future Delivery Year, or otherwise subject to a commitment to provide service to PJM, shall provide data to the Market Monitoring Unit in the manner prescribed in the above indicated PJM manual.

B. NOTIFICATION OF CHANGE OF OWNERSHIP

In the event that a Member of PJM transfers its ownership or control, in whole or in part, of a generation asset that is located in the PJM Region (including dynamically scheduled units), or is included in a PJM black start service plan, committed as a Generation Capacity Resource for the current or future Delivery Year, or otherwise subject to a commitment to provide service to PJM, the transferee shall provide prior written notice of the details of the sale to the Market Monitoring Unit, except that, if the transferee is not a Member of PJM, the transferor shall provide such notice.

C. NOTIFICATION OF ELIGIBILITY FOR POST-CONTINGENCY CONGESTION MANAGEMENT PROGRAM

In the event that a Transmission Owner requests, pursuant to section ___ of the PJM Tariff, that PJM change constraints in the Post-Contingency Congestion Management Program, during the period

from December 1–February 15, the MMU will perform market studies to determine whether the transmission constraint is eligible for acceptance in the program and so advise the Transmission Owner. A Transmission Owner that disagrees with such determination shall have recourse to the Commission for a final determination of eligibility.