



Organization of PJM States, Inc. (OPSI)

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OPSI RESOLUTION #2020-01 INDEPENDENCE OF THE INDEPENDENT MARKET MONITOR IN TRANSMISSION PLANNING

WHEREAS, OPSI's membership is comprised of state regulatory commissions, which are recognized by the Federal Power Act and the rules of the Federal Energy Regulatory Commission ("FERC" or "the Commission"); and

WHEREAS, FERC approved,¹ and incorporated into the PJM Open Access Transmission Tariff ("OATT"), an OPSI Advisory Committee comprised of five representatives selected by OPSI to provide advice to the Commission, Market Monitor ("IMM"), PJM Board, stakeholder committees, and stakeholder working groups regarding any matter concerning the Market Monitor, Market Monitoring Unit or Market Monitoring Plan; and

WHEREAS, PJM Transmission Owners made a filing at FERC seeking to effectively restrain the IMM in matters related to the transmission planning process;² and

WHEREAS, FERC made clear in Order No. 890 that "we expect the transmission plans themselves to be developed under an open process...to identify and raise meaningful concerns";³ and

WHEREAS, the IMM's observations regarding, and input into, matters related to transmission planning can add transparency and openness to the transmission planning process, contributing to the objectives set forth in FERC Order No. 890; and

¹ See *Allegheny Electric Cooperative, Inc., et. al. v. PJM Interconnection, L.L.C.*, 122 FERC ¶ 61,257 (2008) at P 18 and note 15.

² See, e.g., *PJM Interconnection, L.L.C.*, PJM Transmission Owners' Answer in Opposition to the Independent Market Monitor's Motion to Answer, Docket No. ER20-841 (Mar. 9, 2020) at 4 (arguing "The IMM Motion Improperly Strays Beyond the IMM's Proper Purview and into Issues of Transmission Planning.").

³ Order No. 890, *Preventing Undue Discrimination and Preference in Transmission Service*, 72 FR 12265 (Feb. 16, 2007) (codified at 18 CFR 35 and 37) at P 568.

WHEREAS, OPSI has consistently maintained the position that the IMM must be truly independent and have sufficient authority to fulfill its responsibilities, including, but not limited to, the discretion to make filings at FERC;⁴ and

WHEREAS, the Market Monitoring Service Agreement states, “It is critical that IMM independence be maintained”;⁵ and

WHEREAS, preserving the IMM’s independence is critical to allowing the IMM to fulfill its role of promoting a robust, competitive, and nondiscriminatory electric power market;⁶

NOW, therefore, be it resolved, the OPSI Board and the OPSI Advisory Committee continue to support the independent role of the IMM, including the IMM’s unrestrained discretion to comment in transmission planning matters.⁷

⁴ See, e.g., letter from OPSI to PJM Interconnection, LLC, “Re: Independent Market Monitoring Unit,” (July 27, 2012); see also *Refinements to Horizontal Market Power Analysis for Sellers in Certain Regional Transmission Organization and Independent System Operator Markets*, Comments of the Organization of PJM States, Inc., Docket No. RM19-2 (Mar. 14, 2019) at 3.

⁵ Market Monitoring Service Agreement By And Between PJM Interconnection, LLC And Marketing Analytics, LLC, (2008) at Section 27, “Adequate Performance Under Attachment M.”

⁶ Market Monitoring Service Agreement By And Between PJM Interconnection, LLC And Marketing Analytics, LLC, (2008) at Section 6, “General Statement of Services”; see also Letter from OPSI to PJM Interconnection, LLC, “Re: Independent Market Monitoring Unit,” (July 27, 2012); see also *Refinements to Horizontal Market Power Analysis for Sellers in Certain Regional Transmission Organization and Independent System Operator Markets*, Comments of the Organization of PJM States, Inc., Docket No. RM19-2 (Mar. 14, 2019) at 5 (“Independent market monitoring cannot be relegated to a merely passive monitoring and reporting function.”).

⁷ Approved unanimously on April 16, 2020, and adopted by OPSI’s Board of Directors: Commissioner Harold Gray (Delaware PSC); Commissioner Willie L. Phillips (PSC of District of Columbia); Commissioner D. Ethan Kimbrel (Illinois CC); Commissioner David Ober (Indiana URC); Commissioner Talina R. Mathews (Kentucky PSC); Commissioner Michael T. Richard (Maryland PSC); Commissioner Tremaine L. Phillips (Michigan PSC); President Joseph Fiordaliso (New Jersey BPU); Chair Charlotte Mitchell (North Carolina UC); Commissioner M. Beth Trombold (PUC of Ohio); Commissioner Andrew G. Place (Pennsylvania PUC); Commissioner Herbert H. Hilliard (Tennessee RA) Chairman Judith Williams Jagdmann (Virginia SCC); Chairman Charlotte R. Lane (PSC of West Virginia)