

**BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Independent Market Monitor,)	
Complainant)	EL19-47-000
v.)	
PJM Interconnection, L.L.C.,)	
Respondent)	

COMMENTS OF THE ORGANIZATION OF PJM STATES, INC.

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“the Commission” or “FERC”),¹ the Organization of PJM States, Inc. (“OPSI”),² hereby submits comments on the complaint filed by Monitoring Analytics, Inc. on February 21, 2019.³

Monitoring Analytics, Inc., acting in its capacity as the Independent Market Monitor (“IMM”) for the PJM Interconnection L.L.C. (“PJM”) region, filed a formal Complaint under Section 206 of the Federal Power Act (“FPA”)⁴ seeking an order directing PJM to update the assumptions regarding the expected number of performance assessment intervals (“PAI”), formerly known as performance assessment hours (“PAH”), in calculating the default capacity

¹ 18 CFR § 385.211

² This filing was approved on April 15, 2019, and adopted by OPSI’s Board of Directors: Vote: Yes: Delaware PSC, PSC of District of Columbia, Illinois CC, , Maryland PSC, New Jersey BPU, Michigan PSC, PUC Ohio, Pennsylvania PUC, North Carolina UC, Tennessee PUC, and Virginia SCC; Abstaining Indiana URC, Kentucky PSC and PSC West Virginia

³ OPSI timely intervened in this proceeding on March 4, 2019.

⁴ OPSI continues to support the IMM's right to file complaints at FERC pursuant to Section 206 of the FPA. (See OPSI response to *Motion to Dismiss or, in the Alternative, Answer of PJM Interconnection, L.L.C.*, Docket No. EL19-27-000, February 11, 2019 and OPSI comments in *Refinements to Horizontal Market Power Analysis For Sellers in Certain Regional Transmission Organization and Independent System Operator Markets*, Docket No. RM19-2-000, March 14, 2019)

market seller offer cap (“MSOC”).⁵ The IMM provides compelling evidence that the assumptions used to determine the default MSOC result in unjust and unreasonable rates. As such, OPSI urges the Commission to grant the Complaint, fully investigate this matter and require PJM to implement appropriate Tariff changes prior to PJM holding its Base Residual Auction (“BRA”) for the 2022/2023 Delivery Year.⁶

COMMENTS

OPSI agrees with the IMM that the current default MSOC cap is overstated and urges the Commission to grant the IMM’s Complaint and find the default MSOC unjust and unreasonable. The IMM provides sufficient data indicating that reliance on estimated PAIs significantly higher than those observed in recent years for determining the default MSOC may have led to the exercise of market power in certain Locational Delivery Areas (“LDAs”). According to the IMM’s calculations, applying such comparatively high PAIs in determining the default MSOC may have subjected electricity customers in our states to significant excess capacity charges, estimated to be as high as \$1.2 billion, for the BRA held for the 2021/2022 Delivery Year.⁷

In its order conditionally accepting PJM’s proposed Capacity Performance resource product⁸, the Commission recognized that the PAH estimate affects core components of the Capacity Performance design, including the default MSOC, and required PJM to file with the Commission annual updates on the use of 30 hours for this parameter, encouraging reassessment

⁵ Independent Market Monitor for PJM v. PJM Interconnection L.L.C., (February 21, 2019).

⁶ The Commission has approved PJM to conduct this auction in August 2019. PJM Interconnection, L.L.C. Order Granting Waiver, ER18-2222-000, issued August 30, 2018]

⁷ Analysis of the 2021/2022 RPM Base Residual Auction: Revised, The Independent Market Monitor for PJM, August 24, 2018, Table 47.

⁸ 151 FERC ¶ 61,208

of the assumed number of PAHs and to submit a filing if PJM finds a revision warranted.⁹ The IMM points out in its Complaint that PJM performed an assessment suggesting 30 PAHs may be relatively high given the level of installed reserve margin (“IRM”) PJM has consistently secured in its recent capacity auctions.¹⁰

OPSI agrees with the IMM that “The correctly calculated default MSOC would continue to be Net Cone times B only if the PAI (PAH) used to calculate the nonperformance charge rate were the same as the reasonably expected PAI (PAH).”¹¹ OPSI recommends that if the Commission cannot determine the reasonably expected and supported PAH in the default MSOC¹², it consider directing PJM to return to the default offer cap approach prevailing prior to the implementation of the capacity performance tariff changes. Specifically, as explained by the IMM, avoided cost is more appropriate in setting the clearing price than the current default MSOC.¹³ OPSI recommends that the Commission consider directing PJM to develop reasonable resource class avoided costs that capacity resources could employ, along with the option to demonstrate higher unit-specific avoided cost.

CONCLUSION

For the foregoing reasons, OPSI respectfully requests that the Commission grant the IMM’s complaint and find the current default MSOC unjust and unreasonable. OPSI recommends

⁹ 151 FERC ¶ 61,208, P163

¹⁰ Complaint, at 14

¹¹ Id. at 6

¹² The IMM states that five PAH is reasonable and supportable but notes that “it is, within limits, reasonably a matter of judgement informed by empirical observation of market responses.” Id at 6. OPSI takes no position as to whether the IMM’s recommended five PAH (one-sixth of Net CONE Times B) is reasonable or on the number of PAH used in calculating the nonperformance charge rate.

¹³ Id. at 11-12

that if the Commission cannot determine the reasonably expected and supported PAH in calculating the default MSOC it consider reverting to the avoided cost approach prevailing prior to the adoption of the Capacity Performance tariff changes.

Respectfully submitted,

/s/ Gregory V. Carmean

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Dated: April 15, 2015

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am on this date serving a copy of the foregoing document upon each person designated on the official service list compiled by the Federal Energy Regulatory Commission in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Newark, Delaware this 15th day of April, 2019

Gregory V. Carmean

/s/ Gregory V. Carmean

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