

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

PJM Interconnection, L.L.C.

)

Docket No. ER24-98-000

PROTEST OF THE ORGANIZATION OF PJM STATES, INC.

Pursuant to Rule 211 of the Federal Energy Regulatory Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.211, the Organization of PJM States, Inc. (“OPSI”),¹ respectfully submits this Protest in response to PJM’s October 13th filing proposing an enhanced role for PJM in the determination of Market Seller Offer Caps (“MSOCs”).²

OPSI is concerned that PJM’s proposal could increase Capacity Market Sellers’ (“sellers”) ability to exercise market power by reducing their incentive to negotiate with the Market Monitoring Unit (“MMU”). PJM’s proposal would allow sellers to effectively bypass negotiations with the MMU and negotiate directly with PJM, reducing the MMU’s ability to protect against the exercise of market power in the determination of MSOCs. For this reason, PJM’s proposed revisions to the process for determining MSOC values are not just and reasonable.

I. COMMENTS

PJM’s Tariff requires sellers to provide the MMU with certain information when requesting a unit-specific offer cap. It also requires the MMU and the seller to attempt to reach agreement if the seller’s proposed MSOC differs from one proposed by the MMU.³ The existing

¹ OPSI’s following members support these comments: the Delaware Public Service Commission, Public Service Commission of the District of Columbia, Illinois Commerce Commission, Indiana Utility Regulatory Commission, Kentucky Public Service Commission, Maryland Public Service Commission, Michigan Public Service Commission, New Jersey Board of Public Utilities, North Carolina Utilities Commission, Pennsylvania Public Utility Commission, Tennessee Public Utility Commission, Virginia State Corporation Commission, and Public Service Commission of West Virginia. The Public Utilities Commission of Ohio opposes this filing.

² *PJM Interconnection L.L.C.*, “Proposed Enhancements to PJM’s Capacity Market Rules - Market Seller Offer Cap, Performance Payment Eligibility, and Forward Energy and Ancillary Service Revenues”, Docket No. ER24-98-000 (Oct. 13, 2023) (“PJM CIFP MSOC Filing”).

³ Tariff, Attachment DD, section 6.4(b).

rules, which require PJM to either accept or reject the capacity sellers' cap without modification, employ a dispute resolution technique popularly known as "baseball rules" for their use in arbitration between the league and the players' association. This technique incentivizes each party to bring forward a reasonable proposal.

However, PJM argues that because of its limited role under the current rules, it has been forced to wholly reject proposed MSOCs even though it has agreed with certain elements of an offer. PJM, therefore, proposes a "simple" revision that would allow it to calculate an alternative MSOC based on documentation submitted by the capacity seller.⁴ PJM claims that "This provision does not change the respective roles of PJM and the Market Monitor with regard to this process as it currently exists today."⁵ Even if this is true, allowing PJM to offer sellers an alternative MSOC could incentivize sellers to bypass negotiations with the MMU altogether and instead negotiate directly with PJM in hopes of obtaining a higher MSOC from PJM.

The primary role of the Market Monitoring Unit is to guard against exercises of market power. The MMU is best positioned to do this, both in terms of expertise and its institutional role. Establishing appropriate unit-specific offer caps is a significant curb on market power, and PJM's proposed change to the mechanism for setting the market seller offer cap could open the door to improper exercises of market power.

PJM, recognizing this could lead to a more contentious process, argues that "the Market Monitor has the ability to escalate any disagreements on a PJM-approved Market Seller Offer Cap to the Commission for potential resolution."⁶ This should not be the preferred solution. PJM should

⁴ PJM CIFP MSOC Filing at 32.

⁵ *Id.*

⁶ *Id.*

strive to develop and implement a process that incentivizes compromise, reduces the need for dispute resolution, and safeguards against exercises of market power.

PJM also notes that under the current process PJM makes its decision to accept or reject a seller's MSOC with the "consideration of the Market Monitor's input."⁷ However, PJM does not state how it will share the components of the alternative unit specific MSOC it calculates with the MMU or receive input from the MMU, and PJM does not share how it intends to consider this input before it makes its final determination. OPSI is concerned that the process as described in PJM's proposal could reduce the MMU's ability to provide meaningful feedback and reduce the PJM's ability to fully consider the MMU's perspective in determining a unit specific MSOC.

II. CONCLUSION

For the reasons above, PJM's proposed revisions to the process for determining MSOC values are not just and reasonable.

Respectfully Submitted,

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⁷ *Id.*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. Section 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

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Dated at Newark, Delaware this November 9, 2023.