

ATTACHMENT M
PJM MARKET MONITORING PLAN

References to section numbers in this Attachment M refer to sections of this Attachment M, unless otherwise specified.

I. OBJECTIVES

The objectives of this PJM Market Monitoring Plan are to maintain an independent Market Monitoring Unit that will objectively monitor, investigate, evaluate and report on the PJM Markets, including, but not limited to, structural, design or operational flaws in the PJM Markets or the exercise of market power or manipulation in the PJM Markets. The Market Monitoring Unit shall have responsibility for implementing the Plan. In the event of any conflict between a provision in the Plan and a provision of the PJM Market Rules, the provision of the Plan shall control.

II. DEFINITIONS

Unless the context otherwise requires, for purposes of this Plan, capitalized terms shall have the meanings given below or in Section I of the PJM Tariff.

(a) **“Authorized Government Agency”** means a regulatory body or government agency, with jurisdiction over PJM, the PJM Market, or any entity doing business in the PJM Market, including, but not limited to, the Commission, State Commissions, and state and federal attorneys general.

(b) **“Commission”** means the Federal Energy Regulatory Commission.

(c) ~~“Corrective Action” means an action set forth in section IV.I of this Plan.~~ [Reserved for future use.]

(d) **“FERC Market Rules”** mean the market behavior rules and the prohibition against electric energy market manipulation codified by the Commission in its Rules and Regulations at 18 CFR §§ 1c.2 and 35.37, respectively; the Commission-approved PJM Market Rules and any related proscriptions or any successor rules that the Commission from time to time may issue, approve or otherwise establish.

(e) **“Market Monitor”** means the head of the Market Monitoring Unit.

(f) **“Market Monitoring Unit” or “MMU”** means the organization that is responsible for implementing this Plan, including the Market Monitor.

(g) **“Market Monitoring Unit Advisory Committee” or “MMU Advisory Committee”** means the committee established under Section III.H.

(h) **“Market Participant”** means an entity that generates, transmits, distributes, purchases, or sells electricity, ancillary services, or any other product or service provided under

the PJM Tariff or Operating Agreement within, into, out of, or through the PJM Region. “Market Participant” shall not include an Authorized Government Agency that consumes energy for its own use but does not purchase or sell energy at wholesale.

(h-1) **“Market Violation”** means a tariff violation, violation of a Commission-approved order, rule or regulation, market manipulation, or inappropriate dispatch that creates substantial concerns regarding unnecessary market inefficiencies, as defined in 18 C.F.R. § 35.28(b)(8).

(i) **“OPSI Advisory Committee”** means the committee established under Section III.G.

(j) **“PJM”** means PJM Interconnection, L.L.C., including the Office of the Interconnection as referenced in the PJM Operating Agreement.

(k) **“PJM Board”** means the Board of Managers of PJM or its designated representative, exclusive of any members of PJM Management.

(l) **“PJM Entities”** mean PJM, including the Market Monitoring Unit, the PJM Board, and PJM’s officers, employees, representatives, advisors, contractors, and consultants.

(m) **“PJM Liaison”** means the liaison established under Section III.I.

(n) **“PJM Management”** means the officers, executives, supervisors and employee managers of PJM.

(o) **“PJM Manuals”** mean those documents, including business rules, produced by PJM that describe detailed PJM operating and accounting procedures that are made publicly available in hard copy and on the Internet.

(p) **“PJM Markets”** mean the PJM Interchange Energy and Capacity Markets, including the RPM auctions, together with all bilateral or other wholesale electric power and energy transactions, capacity transactions, ancillary services transactions (including black start service), transmission transactions and any other market operated under the PJM Tariff or Operating Agreement within the PJM Region.

(q) **“PJM Market Rules”** mean the rules, standards, procedures, and practices of the PJM Markets set forth in the PJM Tariff, the PJM Operating Agreement, the PJM Reliability Assurance Agreement, the PJM Consolidated Transmission Owners Agreement, the PJM Manuals, the PJM Regional Practices Document, the PJM-Midwest Independent Transmission System Operator Joint Operating Agreement or any other document setting forth market rules.

(r) **“PJM Operating Agreement”** means the Amended and Restated Operating Agreement of PJM on file with the Commission.

(s) **“PJM Regional Practices Document”** means the document of that title that compiles and describes the practices in the PJM Markets and that is made available in hard copy and on the Internet.

(t) **“PJM Reliability Assurance Agreement”** means the Reliability Assurance Agreement among Load Serving Entities in the PJM Region on file with the Commission.

(u) **“PJM Tariff”** means the Open Access Transmission Tariff of PJM on file with the Commission.

(v) **“PJM Transmission Owners Agreement”** means the PJM Consolidated Transmission Owners Agreement on file with the Commission.

(w) **“Plan”** means the PJM market monitoring plan set forth in this Attachment M.

(w-1) “Referral” means a formal report of the Market Monitoring Unit to the Commission for investigation of behavior of a Market Participant, of behavior of PJM, or of a market design flaw, pursuant to Section IV.I of this Plan.

(x) “State” means the District of Columbia and any state or commonwealth in the PJM Region.

(y) **“State Commission”** means any state regulatory agency having jurisdiction over retail electricity sales in any State in the PJM Region.

IV. MARKET MONITORING UNIT FUNCTIONS AND RESPONSIBILITIES

D-1. Market Monitoring Unit Compliance Review: The Market Monitoring Unit shall monitor compliance with PJM Market Rules and shall take action on compliance issues. The Market Monitoring Unit has the exclusive authority to perform the functions set forth in Attachment M and the Attachment M-Appendix. If the Market Monitoring Unit detects a Market Violation involving potential misconduct, it shall, if the applicable criteria are met, refer the matter in accordance with Section IV.I of Attachment M. If the Market Monitoring Unit detects a compliance issue and determines that there is an issue about the proper and lawful application of a rule, and the Market Monitoring Unit makes a preliminary determination that no misconduct is evident and the issue involves a difference about the appropriate calculation of the level of an input, the Market Monitoring Unit may file a petition or initiate other regulatory proceedings addressing the issue. The Market Monitoring Unit may, where it deems appropriate, submit a confidential **Referral** and initiate a public regulatory proceeding concerning the same underlying matter.

H. Reports of Wrongdoings to State Commissions: If during the ordinary course of its activities the Market Monitoring Unit discovers evidence of wrongdoing (other than minor misconduct) that the Market Monitor reasonably believes to be within a State Commission's jurisdiction, the Market Monitoring Unit shall report such information to the State Commission(s).

I. Referrals to the Commission~~Corrective Actions~~

1. Required Notice and Referral to Commission of Suspected Market Violations: Immediately upon determining that it has identified a significant market problem or a potential Market Violation by a Market Participant or PJM that may require (a) further inquiry by the Market Monitoring Unit, (b) ~~R~~Referral for investigation by the Commission and/or (c) action by the Commission, the Market Monitoring Unit shall notify the Commission's Office of Enforcement (or any successor), either orally or in writing. Nothing in this Section IV.I.1 shall limit the ability of the Market Monitoring Unit to engage in discussions with any such Market Participant as provided in Section IV.J.1.

In addition to the notification requirement above, where the Market Monitoring Unit has reason to believe, based on sufficient credible information, that the behavior of a Market Participant or PJM may require investigation, including but not limited to suspected Market Violations, the Market Monitoring Unit will refer the matter to the Commission's Office of Enforcement (or any successor) in the manner described below.

Such a ~~R~~referral shall be in writing, non-public, addressed to the Commission's Director of the Office of Enforcement, with a copy directed to the Commission's Director of the Office of Energy Market Regulation and the General Counsel, and should include, but need not be limited to, the following sufficient credible information to warrant further investigation by the Commission:

- a. The name(s) of and, if possible, the contact information for, the Market Participants that allegedly took the action(s) that constitute that alleged Market Violation(s);
- b. The date(s) or time period during which the alleged Market Violation(s) occurred and whether the alleged wrongful conduct is ongoing;
- c. The specific rule, regulation, and/or tariff provision(s) that were allegedly violated or the nature of any inappropriate dispatch that may have occurred;
- d. The specific act(s) or conduct that allegedly constituted the Market Violation;
- e. The consequences to the market resulting from the act(s) or conduct, including, if known, an estimate of economic impact on the market;
- f. If the Market Monitoring Unit believes that the act(s) or conduct constituted a violation of the anti-manipulation rule of 18 C.F.R. § 1c.2, a description of the alleged manipulative effect on market prices, market conditions, or market rules; and
- g. Any other information that the Market Monitoring Unit believes is relevant and may be helpful to the Commission.

The ~~¶~~Referral may be transmitted to the Commission electronically, by fax, by mail or by courier. The Market Monitoring Unit may also provide the Commission with oral notice of the alleged Market Violation in advance of the submission of a written, non-public ~~¶~~Referral. Following the submission of such a ~~¶~~Referral, the Market Monitoring Unit will continue to inform the Commission staff of any information relating to the ~~¶~~Referral that it discovers within the scope of its regular monitoring function, but it shall desist from, and not independently undertake any investigative steps regarding, the alleged Market Violation or ~~¶~~Referral except at the express direction of the Commission or Commission staff. The Market Monitoring Unit must also respond to requests of the Commission for additional information in connection with the alleged Market Violation that it has referred. The Market Monitoring Unit is not precluded from continuing to monitor for any repeated instances of the activity in question by the same or other Market Participants, which activity would constitute new Market Violations.

The foregoing notwithstanding, a clear, objectively identifiable violation of the following PJM Market Rules, which provide for an explicit remedy that has been accepted by the Commission and can be administered by PJM, shall not be subject to the provisions of this Section IV.I.1:

- a. Default in obligations to the Office of the Interconnection by a Market Participant in violation of Section 1.7.10(a)(v) of Attachment K – Appendix of the PJM Tariff.
- b. Default in obligations to the Office of the Interconnection by a Market Participant in violation of Section 1.7.19B(e) of Attachment K – Appendix of the PJM Tariff.
- c. Failure of a Capacity Market Seller or Locational UCAP Seller to obtain replacement Unforced Capacity to the extent a Generation Capacity Resource that it committed for a Delivery Year is unavailable due to a planned or maintenance outage that occurs during the Peak Season without approval of the Office of the Interconnection, in violation of Section 9(b) of Attachment DD of the PJM Tariff.
- d. Failure of an Electric Distributor to maintain the required underfrequency relays in violation of Schedule 7, Section 2 of the PJM Operating Agreement.
- e. Failure to submit data to the Office of the Interconnection in conformance with Schedule 11 (Data Submittals) of the Reliability Assurance Agreement.
- f. Failure of Black Start Units to fulfill their commitment to provide Black Start Service under Schedule 6A the PJM Tariff.

2. Required Referral to Commission of Perceived Market Design Flaws and Recommended Tariff Changes:

The Market Monitoring Unit is to make a ~~¶~~Referral to the Commission in all instances where the Market Monitoring Unit has reason to believe market design flaws exist that it believes could effectively be remedied by rule or PJM Tariff changes. The Market Monitoring Unit must limit distribution of its identifications and recommendations to PJM and to the Commission in the

event it believes broader dissemination could lead to exploitation, with an explanation of why further dissemination should be avoided at that time.

All ~~re~~Referrals to the Commission relating to perceived market design flaws and recommended PJM Tariff changes related thereto are to be in writing, whether transmitted electronically, by fax, mail, or courier. The Market Monitoring Unit may alert the Commission orally in advance of the written ~~re~~Referral.

The ~~re~~Referral should be addressed to the Commission's Director of the Office of Energy Market Regulation, with copies directed to both the Director of the Office of Enforcement and the General Counsel.

The ~~re~~Referral must include, but need not be limited to, the following information:

- a. A detailed narrative describing the perceived market design flaw[s];
- b. The consequences of the perceived market design flaws, including, if known, an estimate of economic impact on the market;
- c. The rule or PJM Tariff revisions that the Market Monitoring Unit believes could remedy the perceived market design flaw; and
- d. Any other information the Market Monitoring Unit believes is relevant and may be helpful to the Commission.

Following a ~~re~~Referral to the Commission, the Market Monitoring Unit must continue to notify and inform the Commission of any additional information regarding the perceived market design flaw, its effects on the market, any additional or modified observations concerning the rule or PJM Tariff changes that could remedy the perceived design flaw. The Market Monitoring Unit must also notify and inform the Commission of any recommendations made by the Market Monitoring Unit to PJM, stakeholders, Market Participants or State Commissions regarding the perceived design flaw, and any actions taken by PJM regarding the perceived design flaw.

J. Additional Market Monitoring Unit Authority: In addition to notifications and ~~re~~Referrals under Sections IV.I.1 and IV.I.2, respectively, the Market Monitoring Unit shall have the additional authority described in this section, as follows:

1. Engage in discussions regarding issues relating to the PJM Market Rules or FERC Market Rules, in order to understand such issues and to attempt to resolve informally such issues or other issues.

2. Excepting matters governed by Section IV.I, file reports and make appropriate regulatory filings with Authorized Government Agencies to address design flaws, structural problems, compliance, market power, or other issues, and seek such appropriate action or make such recommendations as the Market Monitoring Unit shall deem appropriate. The Market Monitoring Unit shall make such filings or reports publicly available and provide

simultaneous notice of the existence of reports to the PJM members and PJM, subject to protection of confidential information.

3. Consult with Authorized Government Agencies concerning the need for specific investigations or monitoring activities.

4. Consider and evaluate a broad range of additional enforcement mechanisms that may be necessary to assure compliance with the PJM Market Rules. As part of this evaluation process, the Market Monitoring Unit shall consult with Authorized Government Agencies and other interested parties.

5. Report directly to the Commission staff on any matter.

K. Confidentiality:

1. All discussions between the Market Monitoring Unit and Market Participants concerning the informal resolution of compliance issues initially shall remain confidential, subject to the provisions in subsection IV.K.3.

2. Except as provided in subsection IV.K.3, in exercising its authority to ~~make Corrective Actions Referrals~~, the Market Monitoring Unit shall observe the confidentiality provisions of the PJM Operating Agreement and Attachment M - Appendix.

3. Notwithstanding anything to the contrary in this Plan or the PJM Operating Agreement and Attachment M - Appendix, the Market Monitoring Unit: (a) may disclose any information to the Commission in connection with the reporting required under Sections IV.I.1 and IV.I.2 of this Plan, provided that any written submission to the Commission that includes information that is confidential under the PJM Operating Agreement or Attachment M - Appendix shall be accompanied by a request that the information be maintained as confidential, and (b) may make reports or other regulatory filings pursuant to Section IV.J or V of this Plan if accompanied by a request that information that is confidential under the PJM Operating Agreement or Attachment M - Appendix be maintained as confidential.

VI. REPORTS

D. **State Commission Tailored Requests for Information:** Subject to the confidentiality restrictions of Attachment M – Appendix, Section I.D. of the PJM Tariff and Section 18.17.4 of the PJM Operating Agreement, the Market Monitoring Unit may provide, at its discretion, information regarding general market trends and the performance of the PJM Markets in response to a State Commission’s tailored request for information unless the requested information is designed to aid state enforcement actions or impinges upon the confidentiality rules of the Federal Energy Regulatory Commission with regard to ~~R~~Referrals.

The Market Monitoring Unit shall provide to any Market Participant whose information has been requested, or who may be affected by the release of the requested information, written notice, which shall include electronic communication, of a State Commission’s tailored request for

information as soon as possible, but not later than two (2) business days after the receipt of the request. If the request for tailored information seeks to obtain Confidential Information, the requirements and limitations of Section I.D. of Attachment M – Appendix shall apply. If the request for tailored information seeks to obtain information that is not Confidential Information, if the Market Participant whose information has been requested or who may be affected by the release of the requested information objects to the request or any portion thereof, it shall be given the opportunity to contest the request and to provide a contextual explanation to supplement the information produced by the Market Monitoring Unit so long as the providing of the contextual explanation does not unduly delay the release of the information to the State Commission. To register its objection, the Market Participant must request, in writing, within four (4) business days following the Market Monitoring Unit's receipt of the request, a conference with the State Commission to resolve differences concerning the scope or timing of the tailored request for information; provided, however, nothing herein shall require the State Commission to participate in any conference. Any party to the conference may seek assistance from 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 Market Participant whose information has been requested or who may be affected by the release of the requested information, may file a complaint with the FERC pursuant to Rule 206 objecting to the request for tailored information within ten (10) business days following receipt of written notice from any conference participant terminating such conference. Any complaints filed at the FERC objecting to a particular request for tailored information shall be designated by the party as a "fast track" complaint and each party shall bear its own costs in connection with such FERC proceeding.

If no complaint challenging the request for tailored information is filed within the ten (10) business day period defined above, the Market Monitoring Unit shall utilize its best efforts to respond to the request for tailored information 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 Market Monitoring Unit shall use its best efforts to respond to the request for tailored information promptly. Notwithstanding the foregoing, if the Market Monitoring Unit determines, in its discretion, that responding to the State Commission's request for tailored information is unreasonably burdensome and/or will interfere with the Market Monitoring Unit's ability to carry out its core functions based on time and resource availability of its staff, the Market Monitoring Unit may decline such a request.

ATTACHMENT M – APPENDIX

I. CONFIDENTIALITY OF DATA AND INFORMATION

D. Disclosure to Authorized Commissions:

4. 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 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 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 Market Monitoring Unit's actions under this Section I shall be to Commission. An Authorized Commission shall be entitled to reestablish its certification as set forth in Section I.D.1 by submitting a filing with the Commission showing that it has taken sufficient and appropriate steps to protect confidential information~~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 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 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 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 Section I.D.4(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(ii) or I.D.4(iii)(a) above, shall be submitted to the FERC for hearing and resolution. Any dispute or conflict

requesting the relief in Section I.D.4(iii)(c) above may be submitted to FERC or any court of competent jurisdiction for hearing and resolution.