

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

Independent Market Monitor for PJM)	
v.)	Docket No. EL19-47
PJM Interconnection, L.L.C.)	
Office of the People’s Counsel for District of Columbia)	Docket No. EL19-63
Delaware Division of the Public Advocate)	Not Consolidated
Citizens Utility Board)	
Indiana Office of Utility Consumer Counselor)	
Maryland Office of People’s Counsel)	
Pennsylvania Office of Consumer Advocate)	
West Virginia Consumer Advocate Division)	
PJM Industrial Customer Coalition)	
v.)	
PJM Interconnection, L.L.C.)	

REPLY BRIEF OF PJM INTERCONNECTION, L.L.C.

Pursuant to the Federal Energy Regulatory Commission’s (“Commission”) March 18, 2021 Order and the May 12, 2021 Notice Granting Extension of Time,¹ PJM Interconnection, L.L.C. (“PJM”) submits this reply brief for the Commission’s consideration as it determines an alternative Market Seller Offer Cap (“MSOC”).² As an initial matter, PJM maintains that an alternative MSOC based on a reasonable estimate of the competitive clearing price for the relevant Base Residual Auction (“BRA”) utilizing the methodology proposed in PJM’s May 3, 2021 filing

¹ *Independent Market Monitor for PJM v. PJM Interconnection, L.L.C.*; *Joint Consumer Advocates v. PJM Interconnection, L.L.C.*, 174 FERC ¶ 61,212 (2021) (“March 18 Order”); *Independent Market Monitor for PJM v. PJM Interconnection, L.L.C.*; *Joint Consumer Advocates v. PJM Interconnection, L.L.C.*, Notice Granting Extension of Time (May 12, 2021).

² For the purpose of this filing, capitalized terms not defined herein shall have the meaning as contained in the PJM Open Access Transmission Tariff, Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., or the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region.

represents a just and reasonable default MSOC. To avoid repetition, PJM refers the Commission to its initial brief filed on May 3, 2021 for the justification on PJM's preferred default MSOC.³

This filing is limited to providing the Commission with additional considerations as it finalizes the replacement default MSOC. More specifically, in considering the various default MSOC proposals submitted by different parties on May 3, 2021, the Commission should (1) ensure that the upcoming BRA associated with the 2023/2024 Delivery Year will not be further delayed; (2) acknowledge that the alternative MSOC will likely be a temporary solution given PJM and its stakeholders' forthcoming review of the capacity market; (3) adopt a default MSOC that does not result in over-mitigation; and (4) allow for the inclusion of all appropriate risk associated with obtaining a capacity commitment in a unit-specific MSOC determination.

I. BASE RESIDUAL AUCTIONS SHOULD NOT BE FURTHER DELAYED.

The Commission should ensure that the next BRA (associated with the 2023/2024 Delivery Year), which is currently scheduled to begin on December 1, 2021, will not be further delayed. This upcoming BRA was originally scheduled to be conducted in May of 2020, but has already been delayed by nearly one and a half years as a result of the changes related to the Minimum Offer Price Rule ("MOPR").⁴ Further delaying this upcoming December auction would likely impact the timing for subsequent BRAs given the minimum amount of time needed to complete requisite pre-auction activities. Such an outcome should simply not be considered given the Commission's recognition of "the importance of sending price signals sufficiently in advance of delivery to allow for resource investment decisions."⁵

³ Initial Brief of PJM Interconnection, L.L.C., Docket Nos. EL19-47-000 and EL19-63-000 (May 3, 2021).

⁴ See *Calpine et al v. PJM*, 173 FERC ¶ 61,061 (Oct. 15, 2020).

⁵ PJM Interconnection, L.L.C., 168 FERC ¶ 61,051 (2019) at P 14.

To ensure that the upcoming December BRA is not further delayed, the Commission should issue a clear order that sets a replacement default MSOC by July 2, 2021. This is essential given that the unit-specific requests are due 120 days prior to the conduct of the RPM Auction. Under the existing schedule, Capacity Market Sellers are required to submit requests for a unit-specific MSOC no later than August 3, 2021. To determine whether a unit-specific MSOC request is needed, Capacity Market Sellers will need to know what the default MSOC is prior to that deadline. As a result, the Commission should issue an order with finality on the replacement default MSOC by July 2, 2021 so that Capacity Market Sellers know what the default MSOC will be sufficiently prior to the unit-specific MSOC deadline.⁶ In this way, PJM and Capacity Market Sellers can proceed with the unit-specific review process knowing what the replacement MSOC will be in advance of the unit-specific submission deadline.

While PJM prefers that a replacement default MSOC be established by July 2, 2021, to the extent the Commission does not issue an order prior to the August 3, 2021 deadline for Capacity Market Sellers to request a unit-specific MSOC, the Commission should allow PJM to proceed with the December BRA as currently scheduled under the existing rules to avoid further delay of the auction just as the Commission concluded in its most recent order with respect to the BRA associated with the 2022/2023 Delivery Year.⁷ Further delaying the upcoming December BRA undermines the importance of sending price signals sufficiently in advance of the Delivery Year. Given that the Commission's discretion is at its zenith when fashioning remedies,⁸ it should not further delay the upcoming December auction in establishing a replacement MSOC.

⁶ In the event a final order is not issued prior to such date, the Commission should establish a replacement MSOC in its next order accompanied by clear and prescriptive redline Tariff language to expedite a final order.

⁷ March 18 Order at P 73.

⁸ *Pub. Utils. Comm'n of Cal. v. FERC*, 988 F.2d 154, 163 (D.C. Cir. 1993) (quoting *Towns of Concord, Norwood, & Wellesley v. FERC*, 955 F.2d 67, 76 (D.C. Cir. 1992)).

As with any RPM Auction, should any anticompetitive conduct be observed during the conduct of the December BRA, PJM or the Market Monitor may refer such offending Capacity Market Seller to the Commission’s Office of Enforcement.

II. THE REPLACEMENT DEFAULT MARKET SELLER OFFER CAP WILL LIKELY BE TEMPORARY AND NEED TO BE UPDATED IN THE NEAR FUTURE.

As noted in other dockets,⁹ the PJM Board recently initiated the expedited “Critical Issue Fast Path” stakeholder process for stakeholders to address the MOPR and its future application in the capacity market.¹⁰ While the top priority is to reconcile PJM’s capacity market with state policies by amending the existing MOPR, other areas of the Reliability Pricing Model will also need to be examined immediately after a resolution on the MOPR is reached to ensure the continued reliability of the PJM system given the evolution of PJM’s resource mix and composition of capacity resources. In particular, some other components of the Reliability Pricing Model that also need to be evaluated immediately after the removal of the state subsidy MOPR include, but are not limited to, the following:

- aspects related to the appropriate level of capacity procurement;
- qualification and performance requirements of Capacity Resources;
- clean capacity/energy auctions as an option to allow for procurement of clean resources; and
- potential need for PJM’s procurement of additional reliability-based services, with a particular focus on reliability needs in the face of the changing resource portfolio and increased penetration of intermittent resource technologies.¹¹

⁹ See Post-Technical Conference Comments of PJM, Docket No. AD21-10-000 (April 26, 2021).

¹⁰ See April 6, 2021 PJM Board Letter, available at: <https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20210406-board-letter-regarding-capacity-market-minimum-offer-price-rule-and-initiation-of-the-critical-issue-fast-path-process.ashx>

¹¹ See April 6, 2021 PJM Board Letter, available at: <https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20210406-board-letter-regarding-capacity-market-minimum-offer-price-rule-and-initiation-of-the-critical-issue-fast-path-process.ashx>

Given this holistic review of the capacity market and associated revisions that will likely result from this evaluation, PJM believes a replacement default MSOC that is established in this docket will also likely need to be revised in the near future. That is because amendments such as the qualification of Capacity Resources and potential enhancements to Capacity Performance will likely impact the cost of resources that are offered in the RPM Auctions, including the cost of potential non-performance penalties. Thus, PJM will likely propose amendments to any default MSOC that is established to better align with other changes that are made to the capacity market in the near future. As a result, the Commission should acknowledge that any default MSOC that is established will be temporary while PJM and its stakeholders consider broader capacity market enhancements.

III. THE USE OF ONLY UNIT-SPECIFIC MARKET SELLER OFFER CAPS WILL RESULT IN OVERMITIGATION.

While certain commenters propose to utilize an approach using the net avoidable cost rate as the applicable MSOC, such a proposal effectively amounts to requiring the use of a unit-specific MSOC for all resources that offer into the capacity market. Requiring only unit-specific MSOCs for all resources would not be a just or reasonable solution as it results in unnecessary mitigation. The risk of setting the default MSOC too low is not merely an administrative burden on Capacity Market Sellers to seek unit-specific offer cap values. Rather, the risk of the default MSOC being set too low results in over-mitigation and suppressed market clearing prices. In particular, while a unit-specific MSOC review generally approximates the true costs of a resource based on supporting documentation, it is possible that the unit-specific review produces a less consistent measure of the resource's true costs to supply capacity given the need to assess individual Market Seller's risk value. This is especially true given that the unit-specific review process includes certain inputs that may be relatively more difficult to quantify such as the risk of non-performance

penalties for a committed Capacity Resource. This is because every Capacity Market Seller has different risk tolerances and factors in such risks differently. It is not efficient and is likely inaccurate for PJM and/or the Market Monitor to administratively determine the quantifiable risk that should be allowed for individual Capacity Market Sellers. Moreover, any of these determinations could well be challenged at the Commission and be vulnerable on appeal given the potential subjectivity of the determinations.

Lastly, the process of developing and analyzing the unit-specific cost information is time consuming and costly for both the Capacity Market Seller as well as PJM. Although the Market Monitor may have previously reviewed significant numbers of unit-specific requests prior to the implementation of the Capacity Performance construct, there are now other components of the unit-specific MSOC review such as avoidable fuel availability expenses and capacity resource quantifiable risk that were not previously included prior to the implementation of Capacity Performance. These additional components require additional scrutiny of the unit-specific review process, particularly the risk component, which is inherently more subjective and may potentially result in increased disagreements and ultimately litigation at the Commission. The potential for additional disagreement is further increased given that the recently revised net energy and ancillary services methodology now requires a forwarding looking offset and allows Capacity Market Sellers to provide their own estimate of the projected market revenues. Given these changes since the implementation of Capacity Performance, a unit-specific MSOC review for hundreds of units will likely be administratively more challenging and ultimately burden the Commission with resolving various disagreements that may arise.

For these reasons, it would not be just or reasonable to remove a market-wide default MSOC as suggested by the Market Monitor and require all Capacity Market Sellers that fail the

three pivotal supplier test to obtain a unit-specific offer cap as that would effectively require over a thousand unit-specific reviews given the total number of resources in PJM today.¹² While the mitigation review and its associated costs are necessary when there is a concern that market power could be exercised, it is better to avoid these costs when appropriate, especially when a supplier's bid price is unlikely to reflect the exercise of market power.

IV. MARKET SELLERS SHOULD BE ALLOWED TO ACCOUNT FOR ALL RISKS ASSOCIATED WITH OBTAINING A CAPACITY COMMITMENT IN A UNIT-SPECIFIC MARKET SELLER OFFER CAP DETERMINATION.

The existing unit-specific calculation allows for the inclusion of Capacity Performance Quantifiable Risk, which allows Capacity Market Sellers to include quantifiable and reasonably supportable costs of mitigating the risks of non-performance associated with submission of a Capacity Performance Resource offer.¹³ However, a unit-specific MSOC calculation should allow Capacity Market Sellers to include for all risks associated with taking on a capacity commitment – including those not directly related to potential Capacity Performance penalties. In other words, Capacity Market Sellers should be given the opportunity to include all relevant risk costs in calculating a unit-specific Avoidable Cost Rate beyond simply the non-performance charges for committed Capacity Resources. Thus, amending the Capacity Performance Quantifiable Risk to account for all relevant and otherwise unaccounted sources of risks related to taking on a capacity commitment, in addition to non-performance penalty, is appropriate. This is particularly important in the event the default MSOC is eliminated so that Capacity Market Sellers can properly include all potential risk costs in a unit-specific MOSC review.

¹² It is noted that every Capacity Market Seller fails the market structure test (also known as the Three Pivotal Supplier Test) in PJM so requiring a unit-specific review of any Market Seller that fails the test would effectively mean all resources would be subject to a unit-specific MSOC.

¹³ Tariff, Attachment DD, section 6.8(a).

V. CONCLUSION

For the reasons provided herein, the Commission should expeditiously adopt, at least on an interim basis, PJM's proposed alternative default MSOC methodology based on a reasonable estimate of the competitive clearing price for the relevant Base Residual Auction.

Respectfully submitted,



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On behalf of
PJM Interconnection, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Audubon, PA this 9th day of June 2021.

/s/ Chenchao Lu