

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

|   |   |                                 |
|---|---|---------------------------------|
| <b>Independent Market Monitor for PJM</b>           | ) |                                 |
| <b>v.</b>   | ) | <b>Docket No. EL19-47-002</b>   |
| <b>PJM Interconnection, L.L.C.</b>                  | ) |                                 |
|   | ) |                                 |
| <b>Office of the People’s Counsel</b>               | ) | <b>Docket No. EL19-63-002</b>   |
| <b>for District of Columbia</b>                     | ) |                                 |
| <b>Delaware Division of the Public Advocate</b>     | ) |                                 |
| <b>Citizens Utility Board</b>                       | ) |                                 |
| <b>Indiana Office of Utility Consumer Counselor</b> | ) |                                 |
| <b>Maryland Office of People’s Counsel</b>          | ) |                                 |
| <b>Pennsylvania Office of Consumer Advocate</b>     | ) |                                 |
| <b>West Virginia Consumer Advocate Division</b>     | ) |                                 |
| <b>PJM Industrial Customer Coalition</b>            | ) |                                 |
| <b>v.</b>   | ) |                                 |
| <b>PJM Interconnection, L.L.C.</b>                  | ) |                                 |
|   | ) |                                 |
| <b>PJM Interconnection, L.L.C.</b>                  | ) | <b>Docket No. ER21-2444-001</b> |

**ANSWER OF PJM INTERCONNECTION, L.L.C.**

Pursuant to Rule 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure,<sup>1</sup> PJM Interconnection, L.L.C. (“PJM”) respectfully submits this answer (“Answer”) in response to the Motion for Clarification of Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (“Market Monitor”).<sup>2</sup> As further explained below, the existing Tariff language is already abundantly clear that Capacity Market Sellers<sup>3</sup> of Capacity Resources located in

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<sup>1</sup> 18 C.F.R. § 385.213.

<sup>2</sup> *PJM Interconnection, L.L.C.*, Request for Clarification of the Market Monitor, Docket Nos. EL19-47-002, EL19-63-002, and ER21-2444-001 (Oct. 12, 2021) (“Market Monitor Clarification”).

<sup>3</sup> 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.

Pennsylvania may include emission allowance costs associated with the Regional Greenhouse Gas Initiative (“RGGI”) as part of the resources’ net Avoidable Cost Rate (“Net ACR”) calculation.

Because the Net ACR calculation is forward-looking, the tariff contemplates and allows *estimates* of, among other things, emission allowance prices. The ultimate goal of the exercise is to determine a reasonable forward-looking estimate of the net energy and ancillary services offset (“Net E&AS Offset”) so that a generation unit’s permissible offer reflects a reasonable estimate of its costs three years forward. Thus, the mere fact that the certain costs, such as emission allowances, may not be known with absolute certainty should not, in and of itself, render such costs invalid so long as estimates of such costs are reasonable and based on conditions known at the time the unit-specific Net ACR is calculated.

The Market Monitor, by contrast, would require the Commission to speculate on future actions that may or may not be taken by the Pennsylvania legislature and require a degree of absolute certainty as to costs and its impact on energy revenues, which would effectively read the use of the term “estimates” right out of the Tariff language.

## **I. ANSWER**

### *A. The Tariff Language Allows Market Sellers to Include Estimates of Future Costs as Part of the Net ACR Calculation.*

In 2020, the Commission ordered PJM to propose modifications to its Tariff to implement a forward-looking Net E&AS Offset “that *reasonably estimates* expected future energy and ancillary services revenues for all Tariff provisions that rely on a determination

of the E&AS Offset.”<sup>4</sup> In meeting this directive, PJM proposed amendments to various sections of the Tariff, including the unit-specific Market Seller Offer Cap provisions so that the calculation of Net ACR would be offset by a forward-looking E&AS Offset.

In particular, when calculating the forward Net E&AS Offset, the existing Tariff provisions state: “Projected PJM Market Revenues for any Generation Capacity Resource to which the Avoidable Cost Rate is applied shall be equal to *forecasted net* revenues . . . .”<sup>5</sup> Likewise, if a Capacity Market Seller seeks to provide its own estimate of the Net E&AS Offset, the seller may rely upon revenues projected by forward-looking dispatch models and costs that “contain *estimates* of variable operation and maintenance expenses, which may include Maintenance Adders, and *emissions allowance prices*.”<sup>6</sup>

Clearly, both the Commission’s prior order and the existing Tariff language contemplate the need to estimate both future revenues and costs when calculating a forward-looking Net E&AS Offset. Estimating such revenues and costs (including emissions allowances) is particularly appropriate for purposes of calculating the Market Seller Offer Cap given that the Base Residual Auctions are generally conducted three years in advance of the actual Delivery Year. Otherwise, costs that will likely be incurred in a corresponding Delivery Year, including emission allowances, would not be properly reflected in a Capacity Market Seller’s estimate of forecasted net revenues. Contrary to the Market Monitor’s assertion, a Capacity Market Seller’s estimated future emission allowance costs can be objective and verifiable because the total carbon emission

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<sup>4</sup>(Emphasis added) *PJM Interconnection, L.L.C.*, 173 FERC ¶ 61,134 at P 87.

<sup>5</sup> (Emphasis added) Tariff, Attachment DD, section 6.8(d-1).

<sup>6</sup> (Emphasis added) Tariff, Attachment DD, section 6.8(d-1).

allowance required for a resource can be calculated and costs of such allowances can also be estimated based on current RGGI emission allowance prices. This is precisely how emission allowance costs are calculated today for resources located in states that are already in RGGI.

PJM recognizes that purely speculative costs should not be included in the determination of the offset. In this case, however, the issue is not whether these costs are purely speculative—rather the issue is whether it is *reasonable to foresee*, three years forward, that emission allowance costs could well be incurred and therefore impact the level of the E&AS Offset for generation resources located in Pennsylvania. Legitimate emission allowance costs that are reasonably foreseeable and likely to be incurred during the actual Delivery Year should be includable in calculating a resource’s Net E&AS Offset (and ultimately in the calculation of the Net ACR). Estimates of such emission allowance costs are entirely permitted and consistent with the existing Tariff provisions described above.

In fact, emission allowance costs associated with RGGI are all estimates, even for those resources located in states that are already RGGI members. This is because RGGI allowance auctions occur every three months resulting in different prices from each auction, and allowances for emitting resources in those states can be purchased even after the conduct of the Base Residual Auction for a given Delivery Year.<sup>7</sup> Further, RGGI allowance costs are valued in energy market offers at the then-current RGGI auction prices,

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<sup>7</sup> See RGGI Allowance Prices and Volumes, available at: <https://www.rggi.org/auctions/auction-results/prices-volumes>

which are not known at the time an RPM Base Residual Auction is conducted, but rather not until the actual Delivery Year arrives.

*B. Resources Located Within Pennsylvania are Reasonably Expected to Incur Emission Allowance Costs for the 2023/2024 Delivery Year.*

Capacity Resources located within the state of Pennsylvania should be allowed to include estimated emission allowance costs as part of the unit-specific Net ACR calculation for the upcoming Base Residual Auction associated with the 2023/2024 Delivery Year. As the Market Monitor acknowledges, Pennsylvania has already taken significant steps toward joining RGGI.<sup>8</sup> In particular, Pennsylvania Governor Wolf first signed executive order 2019-07 on October 3, 2019, defining the goal to join RGGI.<sup>9</sup> Since then, the Pennsylvania Environmental Quality Board approved the Pennsylvania Department of Environmental Protection's CO2 Budget Trading program and approved Pennsylvania's participation in RGGI by final rule adopted July 13, 2021.<sup>10</sup> Thereafter, Pennsylvania's Independent Regulatory Review Commission also approved the CO2 Budget Trading program. As a result, Pennsylvania is now slated to join RGGI in 2022. Any speculation of what the Pennsylvania legislature may or may not do (and subsequent veto by the governor or potential legislative action) in the future in response to the now final rule on CO2 Budget Trading is simply conjecture. At this point, if no additional action is taken, Pennsylvania will be part of RGGI in 2022. As a result, it is reasonable for Market Sellers

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<sup>8</sup> Market Monitor Clarification at p. 2.

<sup>9</sup> See Pennsylvania Executive Order No. 2019-07, As Amended (June 22, 2020), available at: <https://www.oa.pa.gov/Policies/eo/Documents/2019-07.pdf>.

<sup>10</sup> On July 13, 2021, the Pennsylvania Department of Environmental Protection Environmental Quality Board adopted the CO2 Budget Trading Program, 25 Pa. Code Chapter 145, Subchapter E.

to include estimates of emission allowance costs for resources located in Pennsylvania for the upcoming Base Residual Auction associated with the 2023/2024 Delivery Year.

The mere fact that the legislature *could* try to undo the Governor's actions should not, in and of itself, prevent a Capacity Market Seller from including reasonably expected emission allowance costs in the calculation of the Net E&AS Offset under these circumstances. Emission allowance prices themselves by definition can change between the three year forward projection and the delivery year. The mere fact that they are estimates and therefore not 100% certain should not prevent the inclusion of a reasonable estimate in the determination of the E&AS offset. By the same token, denial of these costs based on what the Pennsylvania legislature *might do* at some point in the future would itself substitute unverifiable speculation in lieu of a standard which focuses on what costs are reasonably foreseeable based on what is known at the time of the unit-specific Net ACR review.

Notably, the Market Monitor does not dispute the fact that Capacity Resources located in states that are currently part of RGGI are allowed to include future emission allowance costs as part of the Net ACR calculation. Rather, the sole clarification that the Market Monitor appears to be seeking is whether Capacity Market Sellers may include future emission allowance costs in the Net ACR calculation for resources that are located in a state that is in the final stages of joining RGGI. However, there is simply no merit for making such a distinction because it is just as possible that any state currently part of RGGI may withdraw from RGGI due to a future change in administration.<sup>11</sup> Thus, there will

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<sup>11</sup> In fact, one of the founding RGGI states withdrew from RGGI in 2011 due to a change in administration before rejoining RGGI in 2020. See New York Times, Christie Pulls New Jersey from 10-State Climate Initiative, available at: <https://www.nytimes.com/2011/05/27/nyregion/christie-pulls-nj-from-greenhouse-gas-coalition.html>

never be absolute certainty that emission allowance costs reasonably expected three years into the future will actually be incurred.

Ultimately, the emission allowance costs associated with RGGI should be includable in a Net E&AS Offset calculation so long as a Capacity Market Seller reasonably believes that such costs will be incurred during the Delivery Year associated with the relevant RPM Auction and provides a reasonable estimate of the emission allowance costs associated with RGGI. In the case of Pennsylvania, based on the current progression of the state's efforts in joining RGGI, it is entirely reasonable for Capacity Market Sellers of carbon emitting resources located within Pennsylvania to reasonably foresee and, therefore, expect to incur emission allowance costs. As a result, Capacity Market Sellers of resources located in Pennsylvania should be allowed to include emission allowance costs for the upcoming Base Residual Auction associated with the 2023/2024 Delivery Year.

## II. CONCLUSION

Based on the foregoing, the Commission should confirm that PJM may allow Capacity Market Sellers to include RGGI related costs for resources located in Pennsylvania when reviewing unit-specific Net ACR requests in advance of the upcoming Base Residual Auction associated with the 2023/2024 Delivery Year.<sup>12</sup>

Respectfully submitted,



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Dated October 14, 2021

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<sup>12</sup> While the Market Monitor’s Motion for Clarification is arguably not the proper procedural vehicle to seek the Commission’s opinion on the inclusion of RGGI related costs for resources located in Pennsylvania, PJM believes that clarification from the Commission on this issue in advance of the upcoming Base Residual Auction will be beneficial to aid in the orderly administration of the next auction.



## **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 14<sup>th</sup> day of October 2021.

/s/ *Chenchao Lu*

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