

6. PENALTY PROVISIONS

6.1 Penalties.

(a) If upon review of a Market Seller's cost-based offer, PJM determines that the offer is not in compliance with the Market Seller's PJM-approved Fuel Cost Policy or this Operating Agreement, Schedule 2 and the Market Monitoring Unit agrees with that determination, or the Market Monitoring Unit determines that the offer is not in compliance with the Market Seller's PJM-approved Fuel Cost Policy and PJM agrees with the Market Monitoring Unit's determination, or PJM determines that any portion of the cost-based offer is not in compliance with this Operating Agreement, Schedule 2, the Market Seller shall be subject to a penalty. If:

1. The Market Seller ceased submitting the non-compliant offer either prior to, or upon notification from PJM, or the Market Seller reports such error to PJM after ceasing submission of the non-compliant cost-based offer then the penalty calculation will use the average hourly MWh and LMP for each hour of the day across the non-compliant period, as shown in the equation below. For the purposes of this equation, the non-compliant period is defined as the first hour of the Operating Day for which the non-compliant offer was first submitted through the earlier of: a) the last hour of the Operating Day for which the non-compliant offer was submitted (inclusive of all hours, even where the offer was correct, in between the same non-compliant offer); or b) notification of the non-compliant offer from PJM (inclusive of all hours, even where the offer was correct, in between the same non-compliant offer).

$$\text{Non - Escalating Penalty} = \text{Maximum} \left(0, \sum_{h=1}^{24} \left(\left(\frac{1}{20} \right) * LMP_h * MW_h * E * I \right) \right)$$

where:

h is the applicable hour of the Operating Day.

LMP_h is the average hourly real-time LMP at the applicable location of the resource for the given hour across the non-compliant period.

MW_h is the average hourly available capacity of the resource for the given hour across the non-compliant period, where available capacity is defined as the greater of the real-time megawatt output and emergency maximum of the generation resource.

E is the Market Seller error identification factor. The Market Seller error identification factor shall be equal 0.25 when the non-compliant offer is identified by the Market Seller without inquiry from or being prompted by PJM or the Market Monitoring Unit, and PJM, with timely input and advice from the Market Monitoring Unit, agrees that the Market Seller first identified the error. The Market Seller error identification shall equal 1 in the absence of a valid self-identified error.

I is the market impact factor over the duration of the non-compliant cost-based offer. The market impact factor shall be equal to 1 if the Market Seller continued submitting non-compliant offers after receiving notice from PJM of its non-compliant offer, or if the Market Seller continued submitting non-compliant offers after notifying PJM of the non-compliant cost-based offer, or when any of the following conditions exist for any hour throughout the duration of the non-compliant cost-based offer:

A. The generation resource clears in the Day-ahead Energy Market on the non-compliant cost-based offer, or runs in Real-time Energy Market on the non-compliant cost-based offer and is either:

(i) paid day-ahead or balancing operating reserves as described in Operating Agreement, Schedule 1, section 3.2.3; or

(ii) The marginal resource for energy, transmission constraint control, regulation or reserves.

B. The Market Seller does not pass the three pivotal supplier test as described in Operating Agreement, Schedule 1, section 6.4.1(e) and any of the following conditions apply:

(i) The generation resource is not committed

(ii) The generation resource runs on its cost-based offer

(iii) The generation resource is running on its market-based offer and it did not pass the three pivotal supplier test at the time of commitment

C. The non-compliant incremental cost-based offer is greater than \$1,000.MWh

If none of the above conditions apply, then the market impact factor shall be equal to 0.1

2. In addition to being issued the penalty described in 6.1(a)(1), a Market Seller will be subject to a daily escalating penalty for each day beyond which the Market Seller continues submitting the non-compliant cost-based offer after notification from PJM, or after the Market Seller reports such error to PJM. Escalating daily penalty will be calculated as shown in the equation below:

$$\text{Escalating Penalty} = \text{Maximum} \left(0, \sum_{h=1}^{24} \left(\left(\frac{d}{20} \right) * LMP_h * MW_h \right) \right)$$

where:

d is the the number of days, starting at 2 and increasing by 1 for each additional day of non-compliance following notification, and capped at a value of 15.

h is the applicable hour of the Operating Day.

LMP_h is the hourly real-time LMP at the applicable pricing location for the resource for the applicable hour of the Operating Day.

MW_h is the hourly available capacity of the resource for the applicable hour of the Operating Day, where available capacity is defined as the greater of the real-time megawatt output and emergency maximum of the generation resource.

(b) All charges collected pursuant to this provision shall be allocated to Market Participants based on each Market Participant's real-time load ratio share for each applicable hour, as determined based on the Market Participant's total hourly load (net of operating Behind The Meter Generation, but not to be less than zero) to the total hourly load of all Market Participants in the PJM Region.

(c) Market Sellers that are assessed a penalty for a cost-based offer not in compliance with the Market Seller's PJM-approved Fuel Cost Policy, the temporary cost offer methodology, or this Schedule 2 shall be assessed penalties until the day after PJM determines that the Market Seller's cost-based offers are in compliance with the Market Seller's approved Fuel Cost Policy or in compliance with this Schedule 2. Such penalties will be assessed for no less than one (1) Operating Day.