

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

**PJM Interconnection, L.L.C.**                                     )  
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**Docket No. ER24-2905-000**

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF  
PJM INTERCONNECTION, L.L.C.**

PJM Interconnection, L.L.C. (“PJM”), pursuant to Federal Energy Regulatory Commission (“Commission” or “FERC”) Rules of Practice and Procedure 212 and 213,<sup>1</sup> submits this Motion for Leave to Answer and Answer to the Comments of the Independent Market Monitor for PJM (“Market Monitor” or “IMM”) filed on September 18, 2024.<sup>2</sup> The Market Monitor’s Comments oppose one narrow aspect of PJM’s proposal (*i.e.*, selection of multiple cost-based schedules based on lowest total dispatch cost), while simultaneously urging the Commission to condition the acceptance of the proposal by setting the earliest feasible date.<sup>3</sup>

**I. MOTION FOR LEAVE TO ANSWER**

The Commission’s rules provide that a party may answer comments where the decisional authority permits the answer for good cause shown. The Commission has accepted responses to comments when doing so will ensure a more accurate and complete record or will assist the Commission in its deliberative process by clarifying the issues.<sup>4</sup> All of these criteria are met.

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<sup>1</sup> 18 C.F.R. §§ 385.212, 385.213.

<sup>2</sup> *PJM Interconnection, L.L.C.*, Comments of the Independent Market Monitor for PJM, Docket No. ER24-2905-000 (Sept. 18, 2024) (“Market Monitor’s Comments”);

<sup>3</sup> Market Monitor Comments at 4-7.

<sup>4</sup> The Commission regularly allows answers in such cases. See, e.g., *Pioneer Transmission, LLC v. N. Ind. Pub. Serv. Co.*, 140 FERC ¶ 61,057, at P 94 (2012) (accepting answers that “provided information that assisted us in our decision-making process”); *Tallgrass Transmission, LLC*, 125 FERC ¶ 61,248, at P 26 (2008) (same); *Midwest Indep. Transmission Sys. Operator, Inc.*, 120 FERC ¶ 61,083, at P 23 (2007) (permitting answer to protests when it provided information that assisted the Commission in its decision-making process).

Therefore, PJM respectfully requests that the Commission grant its Motion because the Answer will help clarify the record and contribute to an understanding of the issues.

## II. ANSWER

### *A. PJM's Proposal to Select Multiple Cost-Based Offers Based on Lowest Total Dispatch Cost is Just and Reasonable.*

While the Market Monitor supports PJM's overall schedule selection proposal, the Market Monitor argues that the proposed schedule selection of multiple cost-based offers based on the lowest total dispatch cost may not always result in selecting the lowest cost offer.<sup>5</sup> The Market Monitor's Comments do not raise any new arguments about the potential exercise of market power that has not already been pre-emptively addressed in the August 28, 2024 filing. Thus, to avoid repetition, PJM simply notes that the only time the issue raised by the Market Monitor would even arise is when there are multiple *cost*-based offers that are available. In these circumstances, a Market Seller could not exercise market power since cost-based offers already reflect the resources' actual costs of producing energy. In particular, cost-based offers must be submitted in accordance with the detailed rules pertaining to cost-offer development provided in the Operating Agreement, Schedule 2 and Market Sellers of such offers are subject to penalties if their cost-based offers do not align with the requirements specified in the relevant governing documents or the approved Fuel Cost Policy pursuant to Operating Agreement, Schedule 2, section 6.1. Thus, when Market Sellers are evaluated only on their cost-based offers, there can be no exercise of market power by virtue of the fact that cost-based offers represent the cost of the unit to operate.

The Market Monitor argues that PJM's proposal could result in selecting a cost-based offer that is not the cheapest among multiple cost-based offers and contends that it is better for Market

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<sup>5</sup> Market Monitor Comments at 4.

Sellers to designate which cost-based offer represents the cheapest offer for the Operating Day. However, Market Sellers may not know with certainty which cost-based offer will actually be the cheaper schedule for the entire Operating Day before commitments are made in the Day-ahead Energy Market. As a result, under the Market Monitor's proposal, it remains possible for Market Sellers to select a cost-based offer that is not actually the cheapest cost schedule throughout the Operating Day even with the Market Sellers' best intentions to represent what they believe at the time may be the cheapest cost-based offer. Thus, the Market Monitor's proposal is no better than PJM's proposal to apply a uniform analysis by selecting the cost-based offer based on the lowest total dispatch cost. Consequently, rather than subjecting Market Sellers to potential enforcement referrals for incorrectly guessing which fuel schedule may actually result in the cheapest schedule, PJM maintains that a systematic approach of always selecting a cost-based offer based on the lowest total dispatch cost is a better solution than what the Market Monitor proposes.

In any event, PJM's proposal effectively allows for the Market Monitor's alternative proposal because Market Sellers can already choose to make only one cost-based schedule available under the current rules. In other words, a Market Seller that elects to make only one cost-based schedule available would effectively be limiting the commitment of the relevant resource based on the fuel that it believes may be cheaper or on which it intends the unit to run, as proposed by the Market Monitor. PJM's proposal simply adds another safeguard in the event multiple cost-based offers are made available to PJM. In such cases, PJM's proposal would select the cost-based schedule that represents the lowest total dispatch cost in an effort to achieve the most cost-effective commitment.

Regardless, PJM exercised its exclusive section 205 filing rights granted under the PJM Tariff<sup>6</sup> in submitting this filing. Under section 205 of the Federal Power Act, the inquiry is not whether the Market Monitor’s proposal is more just and reasonable than PJM’s proposal.<sup>7</sup> Rather, the Commission only needs to find that PJM’s proposal is just and reasonable. Here, the Market Monitor has not provided, and cannot provide, any evidence that the selection of *cost*-based offers using the lowest total dispatch cost will result in the exercise of market power, which was the underlying concern that the Commission had with PJM’s proposal in Docket No. ER24-1387-000.<sup>8</sup> Here, the fact that all resources would be committed on a cost-based offer whenever the Market Seller(s) of such resources fail the three pivotal supplier test necessarily precludes the exercise of market power. Accordingly, the Commission should accept PJM’s as-filed proposal as it meets the just and reasonable standard required under section 205 of the Federal Power Act.

***B. PJM’s Proposed December 31, 9998 Effective Date is Appropriate and Necessary.***

Despite raising the above concerns regarding the selection of cost-based offers, the Market Monitor’s Comments proceeds to argue that PJM should implement the proposed rules as soon as possible because it “represents an improvement to the market power mitigation.”<sup>9</sup> PJM maintains

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<sup>6</sup> See Tariff, section 9.2(a) (“PJM shall have the exclusive and unilateral right to file pursuant to Section 205 of the Federal Power Act and the FERC’s rules and regulations thereunder to make changes in or relating to the terms and conditions of the PJM Tariff”).

<sup>7</sup> *Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) (the Commission's authority to review rates under the FPA is limited to an inquiry into whether the rates proposed by a utility are reasonable, not whether a proposed rate schedule is more or less reasonable than alternative rate designs); *Louisville Gas and Elec. Co.*, 114 FERC ¶ 61,282, at P 29 (2006) (the just and reasonable standard under the FPA is not so rigid as to limit rates to a “best rate” or “most efficient rate” standard; rather, a range of alternative approaches often may be just and reasonable), reh'g denied, *E. ON U.S. LLC*, 116 FERC ¶ 61,020 (2006).

<sup>8</sup> See *PJM Interconnection, L.L.C.*, 187 FERC ¶ 61,051, at P 26 (2024) (“PJM's proposal would largely eliminate market power mitigation in the Day-ahead Energy Market by selecting for consideration in PJM's market clearing optimization software a single offer per resource based solely on the lowest dispatch cost at EcoMin. Thus, while PJM would still identify Market Sellers with market power under its proposal, it would no longer mitigate a seller's offer to the offer producing the lowest total production cost by considering the entire offer curve for each of a seller's offers”).

<sup>9</sup> Market Monitor Comments at 6.

that requesting an undefined effective date (*i.e.*, December 31, 9998) is appropriate for this proposal because PJM expects to implement the proposed changes when the Next Generation Markets clearing engine (also referred to as “nGEM”) is placed into production for both the Day-ahead Energy Market and Real-time Energy Market. At this time, however, the exact implementation date for when nGEM will be ready to be placed into production is not known so it would not be reasonable to specify an actual effective date as part of this proposal. Likewise, it would be inappropriate to implement the proposed changes through the existing market clearing engine to allow for an earlier implementation of the proposed rules because it would require limited outside vendor resources to focus its time and energy on updating the current system, which is already scheduled to be retired once nGEM is placed in service for both the Real-time Energy Market and Day-ahead Energy Market. This will not only waste valuable resources by requiring significant and redundant changes in both the legacy market clearing engine software and the new nGEM software, but also likely further delay the completion of the nGEM software by taking away resources from the development of nGEM. To be clear, PJM is not planning to implement the proposed changes after the multi-configuration based model is developed and filed with the Commission. Rather, PJM intends to implement the proposed changes as soon as nGEM is placed into production for both the Real-time Energy Market and Day-ahead Energy Market regardless of the status of the multi-configuration based model.

In the meantime, there is no rush to implement the proposed rules prior to nGEM being placed into production for both the Real-time Energy Market and Day-ahead Energy Market. The Commission only recently reviewed PJM’s existing market power mitigation rules in the energy

market and did not find the existing Tariff to be unjust or unreasonable.<sup>10</sup> Thus, while the proposed changes are just and reasonable, the existing rules remain just and reasonable and there is no reason PJM should be required to hastily implement the proposed changes prior to nGEM. Therefore, the Commission should grant PJM’s requested December 31, 9998 effective date and allow PJM to implement the proposed change when the nGEM software for both the Real-time Energy Market and Day-ahead Energy Market is placed into production.

### III. CONCLUSION

PJM requests that the Commission accept the proposed Tariff and Operating Agreement revisions, effective December 31, 9998, as requested.

Respectfully submitted,

/s/ Chenchao Lu

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

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<sup>10</sup> *PJM Interconnection, L.L.C.*, 185 FERC ¶ 61,158, at P 34 (2023) (“We find that there is insufficient evidence in the record to show that PJM’s current method of addressing mitigation in the real-time market is unjust and unreasonable”).

**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 1st day of October 2024.

/s/ *Chenchao Lu*

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