

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

PJM Interconnection, L.L.C.)	
)	Docket Nos. EL14-37-001,
)	ER17-1433-000, 001
)	

**ANSWER AND MOTION FOR LEAVE TO ANSWER
OF THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rules 212 and 213 of the Commission’s Rules and Regulations,¹ Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (“Market Monitor”) for PJM Interconnection, L.C.C. (“PJM”), submits this answer to the answer filed on May 23, 2017, in this proceeding by VECO Power Trading, LLC (“VECO”) to the answer filed by the Market Monitor on May 31, 2017, and to the protests of VECO and XO Energy, LLC (“XO”) of the amended compliance filing submitted by PJM on June 2, 2017.² The additional arguments raised by VECO and XO have no merit and should be rejected.

I. ANSWER

A. The Defined Thresholds and FTR Forfeiture Rules Are Transparent And Appropriate and Deter Market Manipulation

Protestors continue to argue that the proposed rules are not transparent and that the thresholds are not appropriate.³ The Market Monitor disagrees. The thresholds are

¹ 18 CFR §§ 385.212 & 385.213 (2016).

² Capitalized terms used herein and not otherwise defined have the meaning used in the PJM Open Access Transmission Tariff (“OATT”) or the PJM Operating Agreement (“OA”).

³ XO at 6, VECO at 7–9.

transparent, appropriate and consistent with the requirements outlined in the order issued January 19, 2017 (“January 19th Order”).⁴

The thresholds are transparent. The definition of clear thresholds that an individual participant can monitor is an important tenet of the proposed rule. The \$0.01 threshold for FTR value, and the 0.1 MW threshold for virtual impact both provide clear metrics for participants to monitor their own transactions. The Commission has stated that “with the elimination of the worst-case scenario bus, the methodology is transparent, as market participants will be able to monitor their own activity to determine if they are significantly impacting a constraint related to an FTR position.”⁵

The thresholds are appropriate. The January 19th Order states, “Specifically, to trigger a forfeiture, the transactions must meet two criteria: (1) the net flow must be in the direction to increase the value of an FTR; and (2) the net flow must exceed a certain percentage...”⁶ The \$0.01 threshold meets criteria (1) and eliminates FTRs that may have benefited less than \$0.01 from consideration, thus significantly reducing the quantity of potential FTR forfeitures. The 0.1 MW threshold also may eliminate very small net virtual impacts on constraints, again reducing the quantity of potential FTR forfeitures. Both of these thresholds are clear and transparent and allow participants to gauge their own risks when assessing their virtual and FTR portfolios.

The \$0.01 level is a component of the threshold test that directly determines whether the net flow is in the direction consistent with increasing the value of the FTR. The reason that a de minimis value is added to define the impact of the constraint on the FTR is to ensure that a participant’s FTR profits are not subject to forfeiture when there is no measurable impact on the FTR.

⁴ *PJM Interconnection, L.L.C.*, 158 FERC ¶ 61,038.

⁵ *Id.* at P 63 (2017).

⁶ *Id.* at P 60.

The January 19th Order states, “We disagree with commenters’ concerns that a portfolio approach will discourage transactions with small impacts on FTR prices... use of a threshold based on a percentage of the total MW limit of a binding constraint related to an FTR path will only capture portfolios of transactions that have a clear impact on the FTR path, and therefore the value of FTRs.”⁷ The Commission recognizes that when the percentage threshold for the impact of virtuals is violated, that is a clear indication of impact on FTRs. The \$0.01 and 0.1 MW thresholds, considered after the percentage threshold has been calculated, remove the least impactful FTRs and virtual portfolios from consideration for the forfeiture rule. FTRs remaining after these thresholds have, by definition, been materially affected by the participant’s virtual activity in order to be considered for forfeiture.

B. The Limits Used for the FTR Forfeiture Rule Are, and Must Be, the Limits Used in the Day-Ahead Energy Market

VECO argues that PJM should not use firm flow entitlement limits but should use physical capacity ratings of jointly managed facilities as a basis for the ten percent constraint threshold.⁸ The Market Monitor disagrees. PJM should use the actual limits as modeled and used in the Day-Ahead Energy Market as the basis for determining whether a market participant accounts for more than ten percent of the flow on a constraint. The limits used in the day-ahead market may or may not match the physical transmission system and/or Firm Flow Entitlement values. The prices and binding constraints established in the day-ahead market used to evaluate virtual portfolios and FTRs are based on the actual limits used in the day-ahead market. The actual day-ahead line limits used in the day-ahead market are the only limits that are appropriate to use in the FTR forfeiture calculation.

⁷ *Id.* at P63.

⁸ VECO at 8–12.

C. The IMM is Not Seeking to Limit Virtual Trading or FTR Trading

XO accuses both PJM and the IMM (at 14) of attempting to limit virtual bidding within PJM. XO argues (*id.*) that “[t]he proposed FTR forfeiture rule is yet another attempt to limit virtual trading by implementing overly stringent thresholds that force participants to categorically select to transact in either FTRs or virtual trading.”

This is a continuation of the argument that PJM’s proposed rule will discourage participants with FTRs from engaging in beneficial virtual transactions.⁹ XO’s assertions are untrue and unsupported.

The FTR forfeiture rule is designed to eliminate manipulation of FTRs via a participant’s virtual portfolio. It is up to participants to determine their market strategy for participating in PJM’s FTR and day-ahead market based on available information.

The proposed rule is more transparent than the rule it replaces. It will be easier for participants to steer clear of virtual activity that would manipulate the value of their FTR positions. The previous FTR forfeiture rule was also decried as limiting, and was significantly less transparent for a participant. The Commission directly addressed this concern in its decision by stating:

Although PJM’s forfeiture rule has been in existence since 2001, no convincing evidence was provided by parties that the FTR forfeiture rule has discouraged virtual transactions. We find that the revisions to the FTR forfeiture rule, as described below, will increase transparency in the rule’s application by better allowing virtual traders to monitor their transactions and avoid unnecessary or accidental forfeitures.¹⁰

There is no evidence to suggest that the previous, or the proposed, FTR forfeiture rule would force participants to eliminate their participation in either market.

⁹ Motion to Intervene and Protect of XO Energy, LLC, Docket No. ER14-1433-000 (May 9, 2017); XO at 6.

¹⁰ January 19th Order at P 79.

D. Constraint Specific Forfeiture Remains Inappropriate Under the FTR Forfeiture Rule

XO continues to argue (at 6, 9) that the FTR forfeiture amount should be limited to the impact of a specific constraint on the FTR profit, rather than the full FTR profit. XO argues (at 6) “that it is unreasonable to forfeit the entire profit from an FTR when PJM has calculated the exact impact the constraint impacted by the portfolio of virtual transactions had on the FTR path and that amount is de minimis.” The Market Monitor disagrees.

The \$0.01 rule is a reasonable test for whether the constraint, on which the participant has a significant impact as defined by the 10 percent test, has a positive effect on the participant’s FTR. The goal of the rule is to ensure that when a participant has a significant impact on a constraint and that constraint makes an FTR more valuable, the resultant FTR profits are forfeited. The goal of the rule is to prevent manipulation. The rule provides the appropriate incentives to avoid manipulation. The reason that a de minimis value is added to define the impact of the constraint on the FTR is to ensure that a participant’s FTR profits are not subject to forfeiture when there is no measurable impact on the FTR. There is not, nor should there be, a lower bound on acceptable manipulation. No manipulation is acceptable.

The rule as proposed takes into account a participant’s net virtual impact on a constraint. A change in forfeiture amount would be a fundamental change to the FTR forfeiture rule as ordered by the Commission, and comparisons to CAISO’s forfeiture rule are irrelevant. The rule as proposed by PJM is a distinct, coherent rule, and attempts to graft other rules onto it will disrupt the intentions of the rule. The Commission considered another forfeiture method in its decision and determined “Select Financial Marketers have not offered support to justify finding that PJM’s current forfeiture process is unjust and unreasonable.”¹¹ There is still no evidence to the contrary, and a constraint specific

¹¹ *Id.* at P 82.

forfeiture method may result in unjust and unreasonable forfeiture amounts as discussed previously.¹²

E. Forfeitures Based on FTR Portfolios Would Provide Opportunities to Manipulate the Market.

XO continues to argue (at 10) that FTRs should be treated on a portfolio basis when determining FTR forfeitures. XO argues that an FTR portfolio based approach would be appropriate because they claim that the Commission “rejected the previous FTR forfeiture rule as unjust and unreasonable because it ‘may lead to forfeitures from some participants who have offsetting positions elsewhere.’”¹³ XO’s argument has no merit.

XO’s proposal would create opportunities to mask the manipulation of individual FTRs and would result in the discriminatory treatment of specific FTRs paths based on whether or not they were part of a portfolio. Under XO’s proposal an FTR in a portfolio could be shielded from forfeiture despite manipulative behavior although the same FTR outside a portfolio would not be.

Further, XO provides an out of context quote from the Commission’s order as justification for the proposed rule being unjust and unreasonable. The quote is not related to XO’s argument regarding the treatment of FTR portfolios, and only further supports PJM’s proposed forfeiture rules. The full quote from the Commission’s order:

We find that a just and reasonable FTR forfeiture rule must accurately reflect a participant’s virtual transactions’ net impacts on constraints because forfeits should be limited to those who actually increase the value of their FTR positions through their portfolio of virtual transactions. Under the current rule, when individual transactions are evaluated in isolation, the forfeitures are based on a single transaction’s contribution to flow across a constraint. This may lead to forfeitures from some participants

¹² See “Answer and Motion for Leave to Answer of the Independent Market Monitor for PJM,” Docket No. ER17-1433-000 (May 31, 2017) at 6.

¹³ XO at 10, citing January 19 Order at 58.

who have offsetting positions elsewhere and thus whose virtual transactions did not actually impact the constraint.¹⁴

Contrary to XO's statement, it is clear that the Commission is critiquing the previous rule's examination of individual virtual transactions against a participant's FTRs, and not the forfeiture of individual FTRs.

The proper way to calculate FTR forfeitures is on an individual FTR basis. Unlike virtual transactions, FTRs have no impact on the flow of energy or dispatch of the system. There is no reason to consider them individually for the FTR forfeiture calculation whose purpose is to evaluate manipulative increases in FTR value.

II. MOTION FOR LEAVE TO ANSWER

The Commission's Rules of Practice and Procedure, 18 CFR § 385.213(a)(2), do not permit answers to answers or protests unless otherwise ordered by the decisional authority. The Commission has made exceptions, however, where an answer clarifies the issues or assists in creating a complete record.¹⁵ In this answer, the Market Monitor provides the Commission with information useful to the Commission's decision-making process and which provides a more complete record. Accordingly, the Market Monitor respectfully requests that this answer be permitted.

¹⁴ January 19th Order at P 58.

¹⁵ See, e.g., *PJM Interconnection, L.L.C.*, 119 FERC ¶61,318 at P 36 (2007) (accepted answer to answer that "provided information that assisted ... decision-making process"); *California Independent System Operator Corporation*, 110 FERC ¶ 61,007 (2005) (answer to answer permitted to assist Commission in decision-making process); *New Power Company v. PJM Interconnection, L.L.C.*, 98 FERC ¶ 61,208 (2002) (answer accepted to provide new factual and legal material to assist the Commission in decision-making process); *N.Y. Independent System Operator, Inc.*, 121 FERC ¶61,112 at P 4 (2007) (answer to protest accepted because it provided information that assisted the Commission in its decision-making process).

III. CONCLUSION

The Market Monitor respectfully requests that the Commission afford due consideration to this answer as the Commission resolves the issues raised in this proceeding.

Respectfully submitted,



Joseph E. Bowring
Independent Market Monitor for PJM
President
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8051
joseph.bowring@monitoringanalytics.com

Jeffrey W. Mayes

General Counsel
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8053
jeffrey.mayes@monitoringanalytics.com

Howard J. Haas
Chief Economist
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8054
howard.haas@monitoringanalytics.com

Seth A. Hayik
Senior Analyst
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8050
seth.hayik@monitoringanalytics.com

Dated: July 10, 2017

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 Eagleville, Pennsylvania,
this 10th day of July, 2017.



Jeffrey W. Mayes
General Counsel
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Valley Forge Corporate Center
Eagleville, Pennsylvania 19403
(610) 271-8053
jeffrey.mayes@monitoringanalytics.com