

APPENDIX C TO REPORT OF INVESTIGATION
BY THE SPECIAL INVESTIGATIVE COMMITTEE OF
THE PJM BOM

TIMELINE

CDTF ALLEGATION

(Bowring alleges that PJM unilaterally removed the MMU from the Cost Development Task Force Chairmanship. The Cost Development Task Force (“CDTF”) is a group of members that is responsible for developing, reviewing, and recommending to the Markets and Reliability Committee (“MRC”) standard procedures for calculating the costs of products or services provided to PJM when those products or services are required to be provided to PJM at a cost-based rate. Cost-based offers are used by PJM, rather than market-based rates, when there is a determination of market power. Bowring contends that cost-based rates are central to the market power mitigation rules in PJM’s Tariff. Bowring alleges that in 2003, the CDTF was transferred to the MMU with the market monitor to serve as chair. On March 19, 2007, PJM removed Bowring as chairperson and unilaterally transferred the CDTF to the PJM VP of Markets, without consulting the members or informing them of the transfer.)

(PJM responds that in November 2003, the PJM Board directed that Market Services, and not the MMU, should chair any working groups charged with market rules development and that “a separation of market design from market assessment” should apply across all PJM market rules. PJM claims it was implementing the Board’s policy when it designated Mr. Ott as the Chair of the CDTF in March 2007. Additionally, the PJM Operating Agreement (at section 8.6) expressly gives the PJM President the authority to appoint the Chair of each Senior Standing Committee, Standing Committee, and “any other committees.” Therefore, PJM could unilaterally change the CDTF chair and move the function to Markets.)

We are tasked to investigate the factual circumstances surrounding the transfer of the chairmanship of the Cost Development Task Force from the Market Monitor to the Vice President of Markets.

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5/15/2003	<p>Bowring email to Cloud, Dessender, Racioppi, Hein & MMU employee (cc: Laughlin, Hagele, Ott, Bressler)</p> <p>re: CDTF</p> <p>“It is my opinion that we should disband the CDTF or, at minimum, retain the group to be called together only when PJM wants their input on an issue.</p> <p>The only reason the group continues to exist is to set prices for cost capped units, arguably an antitrust violation.</p> <p>I would also propose that the Cost Development Manual be the responsibility of the MMU, as it is now and that any proposed changes by member companies be handled bilaterally...”</p>
5/15/2003	<p>Reply email from Ken Laughlin (former VP Market Services)</p> <p>“Write a proposal to the EMC for their information and discussion (not approval). Include that all changes will be presented and discussed and that we will ask for their input on all changes...”</p>
5/16/2003	<p>Cost Development Task Force Meeting Minutes</p> <p>Cheryl Cloud, Chair</p> <p>Anti-trust Issues –it was emphasized that this group (CDTF) is one PJM group which must pay special attention to this matter, given the highly sensitive nature of some of the areas addressed by CDTF. After the presentation, there was an expression of concern among several attendees as to whether future meetings should be convened without some sort of clarification of legal status for CDTF continuing its mission.</p>

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6/18/2003	<p>Energy Market Committee Meeting Minutes</p> <p>“Market Monitoring Issues: Mr. Bowring suggested changes with the role of the Cost Development Task Force (“CDTF”) and presented suggested changes. The Committee discussed the need for the CDTF and the role of the CDTF.”</p>
7/9/2003	<p>Draft Energy Market Committee Meeting Minutes</p> <p>“Market Monitoring Issues: Mr. Bowring suggested that he convene the Cost Development Task Force to discuss future changes to the PJM Cost Development process. The results of the CDTF discussions will be reported and discussed at future EMC meetings.”</p>
7/15/2003	<p>Cloud email re: CDTF Meeting Notice for 9/23/03</p> <p>“Purpose of this meeting will be to discuss the future of the CDTF. Joe Bowring (Manager, PJM MMU) will be leading the discussion.”</p>
9/17/2003	<p>Cloud email re: CDTF Meeting Reminder – 9/23/03</p> <p>Same purpose stated as in TOC ID 2170</p>
9/23/2003	<p>Cost Development Task Force Meeting Minutes</p> <p>Cheryl Cloud, Chair</p> <p>“Discuss Future of CDTF: This discussion, led by Mr. Bowring and Mr. Hein, centered on deciding the future direction of CDTF, given the increased concern on Anti-trust issues and an overall objective of optimizing the group’s productivity. After briefly discussing the two primary alternatives - 1) abolishing CDTF entirely, or 2) continuing the CDTF, but with a modified activity structure, - the group reaffirmed its mission statement, and reached a consensus of following choice #2.. .”</p>

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<u>DATE/TIME</u>	<u>DESCRIPTION OF EVENT</u>
9/24/2003	<p>Market Monitoring Issues Power Point prepared by Joseph Bowring for EMC (Energy Markets Committee) Meeting</p> <p>“Cost Development Task Force</p> <p>-- Met on 9/23 to discuss future of CDTF</p> <p>Consensus:</p> <p>-- CDTF will continue to exist in a modified form</p> <p>-- Meetings will be held only to address specific issues</p> <p>-- Meetings will be called by MMU or at member’s request to MMU</p> <p>-- Meetings will focus on generic cost-related issues</p> <p>-- Members will discuss company and unit specific cost issues bilaterally with the MMU</p> <p>-- CDTF will report to the MIWG/EMC/MC</p> <p>-- CDTF will regularly review the Cost Development Guidelines Manual</p> <p>-- Meetings will be chaired by MMU</p>
11/13/2003	<p>PJM Board of Managers’ Review of Market Monitoring Unit Organization.</p> <p>Section 4 notes the need to distinguish carefully the role of market design from market design assessment. The former is primarily the Market Services’ function. The latter is the MMU’s function.</p> <p>[NOTE: PJM relies on this document for support that Market Services, and not the MMU, should chair any working groups charged with market rules development. However, as indicated from entries referenced below (3/10/2004 entry) MMU assumed the role of chair of the CDTF shortly thereafter with concurrence of Markets.]</p>

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<u>DATE/TIME</u>	<u>DESCRIPTION OF EVENT</u>
2/12/2004	<p>Email from Racioppi to Erik Paulson re: NICA Market Regulation and Spin Market Implementation</p> <p>Notes: MMU is developing an addition to the CDTF manual on the calculation of Regulation costs and compensation for a cost-based market.</p>
3/10/2004	<p>Stellabotte (formerly of Markets) email to Dessender (Manager, Market Settlement Services Dept.) re: CDTF Changes</p> <p>Proposes his removal from CDTF activity now that MMU has assumed full control of CDTF issues.</p>
3/10/2004	<p>Dessender reply email to Stellabotte</p> <p>“I agree. Continue with Frank (Racioppi) on the hand off.”</p>
7/27/2004	<p>E-mail thread between Racioppi and Bowring re:</p> <p>CDTF Regulation Cost Calculation Procedure was approved by CDTF, EMC, MC and the Board and should be included in the Manual.</p>
8/3/2006	<p>PJM Manual 15</p> <p>Cost Development Guidelines</p> <p>Joseph E. Bowring, Chairman</p> <p>Cost Development Task Force</p> <p>Manual is maintained by the PJM Cost Development Task Force (CDTF) under the auspices of the PJM Energy Market Committee.</p> <p>CDTF Mission: The Cost Development Task Force (CDTF) reports to the PJM Energy Market Committee (EMC) and is responsible for developing, reviewing, and recommending to the EMC standard procedures for calculating the costs of products or services provided to PJM when those products or services are required to be provided to PJM at a cost based rate.</p>

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<u>DATE/TIME</u>	<u>DESCRIPTION OF EVENT</u>
8/8/2006	Bowring Memo to Competitive Markets Committee, (cc: Zibelman & Ott) Proposes changes to Cost Development Guidelines
8/21/2006	Bowring PowerPoint Presentation to CMC re Modification of Generation Cost Definition as recommended by CDTF.
11/20/2006	Draft MMU Work plan 2007 Cost Development Task Force Host periodic meetings If CDTF recommends changes, facilitate review and approval. Update CDTF manual, as needed. Answer inquiries regarding cost development.
12/30/2006	MMU Activities Report for 2005. Notes various responsibilities and activities for CDTF.
3/9/2007	Spector (Wright & Talisman) draft Memo to Zibelman; cc: Hagele and Duane re: Potential Changes in Market Monitoring in PJM. As to CDTF, the memo notes:” Significantly, none of the specific procedures established by the Cost Development Guidelines Manual, including the role of the MMU in implementing those procedures or approving generator submittals, is established by the Operating Agreement, the Market Monitoring Plan, or any other FERC directive. Under the Operating Agreement, it is expressly the Board’s role, upon consideration of the advice of the members, to establish how ‘costs’ are determined. Therefore, there is considerable latitude for PJM to re-examine and re-structure responsibilities and procedures for evaluating generator costs, although that would not be without controversy among some members.” Date of Final Memo is 3/19/07.
3/19/2007	Bowring meets with Zibelman and Ott re: transfer of CDTF function

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3/20/2007	Andy Ott meets with Racioppi re: his transfer to Markets w/CDTF function
3/20/2007	Bowring e-mail to Zibelman re: transfer of CDTF to Ott “Based on the meeting that you had with me and Andy on Monday, you had stated that you wanted to move responsibility for the CDTF to Andy. . . While I don’t agree that moving the CDTF or requiring one of my staff to fill that role is appropriate, all that is very different from what Andy told Frank today.”
3/21/2007	Mannheimer e-mail to Bowring re: MMU Issue “Audrey spoke to me about CDTF transition. Let’s discuss today.”
3/21/2007	Wright Memo to Johnston re: “Racioppi discussion and recommendation” stating: “Situation: Should CDTF and the appropriate employee(s) supporting this initiative transfer or be reassigned to the Market Services Division from the MMU? Potential Outcomes/Recommendations: The Market Services Division will acquire an experienced lead to further assist in analysis and help with the CDTF function which has transferred the Chair to Market Services. Again, this function, due to the nature of the analysis and end result is better aligned with work performed in the Performance Compliance department.”
3/21/2007	Racioppi e-mail to Wright re: Job Functions

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3/23/2007	<p>Zibelman Draft Memo to Bowring responding to Bowring’s March 20 e-mail to Zibelman.</p> <p>“I am also surprised by your statement that you do not support moving the CDTF responsibility into Markets. This is directly contrary to your statements to me when we met on this topic several days ago . . .</p> <p>Based on all of the above, the following are my conclusions:</p> <p>“The decision to move CDTF responsibility to Markets is not a decision that requires the concurrence of the Market Monitoring function or you in particular. This is an administrative decision predicated on the PJM policy that the development of market rules and design of practices belongs with Market Services, not the Market Monitoring. As you agreed during our meeting, historically CDTF resided with Markets. It was moved under your control because of staffing issues. That was a mistake and we are rectifying it now.” . . .</p>
3/23/2007	Meeting with Zibelman and Bowring re: Racioppi incident and transfer of CDTF function
3/23/2007	<p>Memo to File from Mannheimer Meeting with Joe Bowring on 3/23/07</p> <p>Regarding CDTF, Audrey responded to Bowring’s March 20, 2007 email regarding the transfer of the CDTF responsibility to Market Services and issues arising from the Andy Ott meeting. Bowring was presented with a memo summarizing this matter.</p>
3/23/2007	<p>Wright memo to Johnston re: MMU Meeting with Joe Bowring.</p> <p>“Joe called the meeting as he was upset regarding his prior discussion with Mannheimer and Zibelman, during which he was advised that his claims regarding Andy Ott threatening his employee were unfounded and during which he was provided with a memo Wright sent dated 3/21/07.”</p> <p>Wright was concerned that the memo that she sent in confidence was provided to Bowring, as “it is not our practice to provide copy of this type of documentation for review.”</p>

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<p>3/25/2007</p> <p>Memo was sent by email on 3/26/2007</p>	<p>Bowring’s Memo summarizing 3/23 meeting and proposals for MMU and CDTF function and transfer of Racioppi. “The CDTF role should remain with the MMU. The role of the CDTF is to recommend changes to the definition of marginal costs. Those costs are relevant only to offer capping units for local market power. The CDTF is not making market rules. The MMU is the appropriate organization to facilitate the CDTF because appropriate offer capping for local market power is in our issue area and in our area of expertise.”</p> <p>“My position on the CDTF does not represent a change of position. I have consistently maintained that the function belongs with the MMU. While the function did reside with Markets, it has been with the MMU for a number of years and we have done an excellent job with it. When asked, I stated to you that the transfer was not “ok” but that I recognized that you apparently have the authority to move the CDTF regardless of my views”...</p> <p>DRAFT MEMO contained the following paragraph, which was deleted from the final memo: “Change in responsibility for the CDTF requires a member process. The MMU’s CDTF role is defined in Manual M-15, Cost Development Guidelines and this role was the result of a member process. The CDTF Charter states that the market monitor is the chair of the CDTF. The Members Handbook states that the MRC is responsible for providing advice and recommendations regarding changes to manuals.”</p> <p>[NOTE: The Cost Development Guidelines Manual do not support Bowring’s position that member process was required.]</p>
<p>3/26/07</p>	<p>Wright e-mail to Racioppi telling him to check in with Ott regarding CDTF meeting to review format & process.</p>
<p>3/26/07</p>	<p>Bowring e-mail to MMU employee re CDTF seeking slides or committee minutes to confirm that some member committee approved the current set up of the CDTF</p>
<p>3/26/07</p>	<p>MMU employee responds with the Charter, Members Handbook cite, Bowring presentation to the EMC on 9/24/03 and 9/24/03 EMC Minutes.</p>

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3/26/2007	Bowring e-mail to Ott re: CDTF “The current structure of CDTF governance was approved by the members and is in the manual. In my view, any change would also require member approval. It would probably make sense to discuss this offline prior to having a public discussion.”
3/26/2007	Bowring e-mail to Zibelman and Mannheimer re: attaching draft memo of terms agreed upon relating to job function of Racioppi and transfer.
3/26/2007	Zibelman reply e-mail re: this is not what we agreed to and I am extremely angry
3/26/2007	E-mail thread between Zibelman & Bowring re: Bowring’s memo does not characterize what Zibelman said at Friday meeting; Bowring wants to meet with her again; Zibelman responds that Toby prepared notes and meeting is not necessary; Bowring wants to meet anyway.
3/26/2007	Zibelman -email to Bowring; (cc: Harris, Mannheimer) re: attaching memo from Zibelman of Friday discussion and Mannheimer’s memo summarizing meeting “You question the authority of management to reassign the CDTF function from the MMU to Market Operations. This matter was reviewed by counsel. I requested Vince Duane to prepare a memo that specifically addresses your concern...” “I have requested that the position(s) supporting work for the CDTF be posted as soon as possible enabling Frank Racioppi or others to apply if they choose. This is in accord with standard PJM procedure.”

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3/27/2007	Mannheimer Memo to File re: Code of Conduct Follow-up “Ms. Zibelman will be meeting with the MMU on Thursday, March 29 and will address the transfer of the CDTF and clarify that positions associated with this transfer will be posted in accordance with standard PJM procedure.”
3/27/07	Bowring e-mail to Duane seeking discussion on topic of management authority to reassign CDTF to Markets.
3/29/2007	MMU Employee’s Notes from 3/29/2007 MMU Meeting with Phil Harris “CDTF . . . 1997 decided to keep it internal (not to go to FERC). Joe ‘volunteered’ to take it on.” Rebuttal notes as to the comment re CDTF above, State: “All of this is incorrect; we have documentation to ‘prove’ it.”
3/29/2007	Mannheimer e-mail to Zibelman re 3/29/07 MMU meeting with Harris. Notes meeting went well. Harris’ presentation was clear and balanced. Mannheimer advised HR to proceed with posting the two CDTF positions.
3/30/2007	PJM Sr. Lead Engineer Market Services/Performance Compliance posting.
4/9/2007	Johnston Memo to Bowring re: Two positions posted to reflect work transferred to Markets; Recommendation of backfilling positions based on the fact that some of the MMU work “has been or is being transferred and in some cases following the employees to Markets.”
4/9/2007	Bowring e-mail to Johnston and Wright re: transition plans for Racioppi “given that Markets does not currently perform any of the functions that Frank now performs for the MMU.”
4/9/2007	Ott email to Johnston; Mannheimer & Wright re: “The CDTF functions are moving to markets.”
4/26/2007	Johnston Memo to Racioppi re: Transition to Markets

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4/29/2007	<p>Zibelman e-mail to Johnston in connection with responses to FERC Data Requests:</p> <p>“Just so it is clear – Markets is doing CDTF development. However, Joe is still reviewing the avoided costs – so there is no functionality change from MMU to Markets. The only change is the data posting – Joe [Bowring] continues to analyze the data as he deems fit.”</p>
4/29/2007	<p>Bowring e-mail to Zibelman & Johnston.</p> <p>“While I don’t concur in the overall process that led to the transfer of these two staff, I believe the issues associated with the actual transition can be resolved.”</p>