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## **ATTACHMENT M – APPENDIX**

### **I. CONFIDENTIALITY OF DATA AND INFORMATION**

#### **A. Party Access:**

1. No Member shall have a right hereunder to receive or review any documents, data or other information of another Member, including documents, data or other information provided to the Market Monitoring Unit, to the extent such documents, data or information have been designated as confidential pursuant to the procedures adopted by the Market Monitoring Unit or to the extent that they have been designated as confidential by such other Member; provided, however, a Member may receive and review any composite documents, data and other information that may be developed based on such confidential documents, data or information if the composite does not disclose any individual Member's confidential data or information.

2. Except as may be provided in this Appendix, the Plan, the PJM Operating Agreement or in the PJM Tariff, the Market Monitoring Unit shall not disclose to PJM Members or to third parties, any documents, data, or other information of a Member or entity applying for Membership, to the extent such documents, data, or other information has been designated confidential pursuant to the procedures adopted by the Market Monitoring Unit or by such Member or entity applying for membership; provided that nothing contained herein shall prohibit the Market Monitoring Unit from providing any such confidential information to its agents, representatives, or contractors to the extent that such person or entity is bound by an obligation to maintain such confidentiality.

The Market Monitoring Unit, its designated agents, representatives, and contractors shall maintain as confidential the electronic tag (“e-Tag”) data of an e-Tag Author or Balancing Authority (defined as those terms are used in FERC Order No. 771) to the same extent as Member data under this section I. Nothing contained herein shall prohibit the Market Monitoring Unit from sharing with the market monitor of another Regional Transmission Organization (“RTO”), Independent System Operator (“ISO”), upon their request, the e-Tags of an e-Tag Author or Balancing Authority for intra-PJM Region transactions and interchange transactions scheduled to flow into, out of or through the PJM Region, to the extent such market monitor has requested such information as part of its investigation of possible market violations or market design flaws, and to the extent that such market monitor is bound by a tariff provision requiring that the e-Tag data be maintained as confidential, or in the absence of a tariff requirement governing confidentiality, a written agreement with the Market Monitoring Unit consistent with FERC Order No. 771, and any clarifying orders and implementing regulations.

The Market Monitoring Unit shall collect and use confidential information only in connection with its authority under this Appendix, the Plan, the PJM Operating Agreement or in the PJM Tariff and the retention of such information shall be in accordance with the Office of the Interconnection's data retention policies.

3. Nothing contained herein shall prevent the Market Monitoring Unit from releasing a Member's confidential data or information to a third party provided that the Member has delivered

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to the Market Monitoring Unit specific, written authorization for such release setting forth the data or information to be released, to whom such release is authorized, and the period of time for which such release shall be authorized. The Market Monitoring Unit shall limit the release of a Member's confidential data or information to that specific authorization received from the Member. Nothing herein shall prohibit a Member from withdrawing such authorization upon written notice to the Market Monitoring Unit, who shall cease such release as soon as practicable after receipt of such withdrawal notice.

4. Reciprocal provisions to this section I hereof, delineating the confidentiality requirements of the Office of the Interconnection and PJM members, are set forth in Operating Agreement, section 18.17.

**B. Required Disclosure:**

1. Notwithstanding anything in the foregoing section to the contrary, and subject to the provisions of section I.C below, if the Market Monitoring Unit is required by applicable law, order, or in the course of administrative or judicial proceedings, to disclose to third parties, information that is otherwise required to be maintained in confidence pursuant to the PJM Tariff, PJM Operating Agreement, Tariff, Attachment M or this Appendix, the Market Monitoring Unit may make disclosure of such information; provided, however, that as soon as the Market Monitoring Unit learns of the disclosure requirement and prior to making disclosure, the Market Monitoring Unit shall notify the affected Member or Members of the requirement and the terms thereof and the affected Member or Members may direct, at their sole discretion and cost, any challenge to or defense against the disclosure requirement. The Market Monitoring Unit shall cooperate with such affected Members to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law. The Market Monitoring Unit shall cooperate with the affected Members to obtain proprietary or confidential treatment of such information by the person to whom such information is disclosed prior to any such disclosure.

2. Nothing in this section I shall prohibit or otherwise limit the Market Monitoring Unit's use of information covered herein if such information was: (i) previously known to the Market Monitoring Unit without an obligation of confidentiality; (ii) independently developed by or for the Office of the Interconnection and/or the Market Monitoring Unit using non-confidential information; (iii) acquired by the Office of the Interconnection and/or the Market Monitoring Unit from a third party which is not, to the Office of the Interconnection's or Market Monitoring Unit's knowledge, under an obligation of confidence with respect to such information; (iv) which is or becomes publicly available other than through a manner inconsistent with this section I.

3. The Market Monitoring Unit shall impose on any contractors retained to provide technical support or otherwise to assist with the implementation of the Plan or this Appendix a contractual duty of confidentiality consistent with the Plan or this Appendix. A Member shall not be obligated to provide confidential or proprietary information to any contractor that does not assume such a duty of confidentiality, and the Market Monitoring Unit shall not provide any such information to any such contractor without the express written permission of the Member providing the information.

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**C. Disclosure to FERC and CFTC:**

1. Notwithstanding anything in this section I to the contrary, if the FERC, the Commodity Futures Trading Commission (“CFTC”) or the staff of those commissions, during the course of an investigation or otherwise, requests information from the Market Monitoring Unit that is otherwise required to be maintained in confidence pursuant to the PJM Tariff, the PJM Operating Agreement, the Plan or this Appendix, the Market Monitoring Unit shall provide the requested information to the FERC, CFTC or their staff, within the time provided for in the request for information. In providing the information to the FERC or its staff, the Market Monitoring Unit may request, consistent with 18 C.F.R. §§ 1b.20 and 388.112, or to the CFTC or its staff, the Market Monitoring Unit may request, consistent with 17 C.F.R. §§ 11.3 and 145.9, that the information be treated as confidential and non-public by the respective commission and its staff and that the information be withheld from public disclosure. The Market Monitoring Unit shall promptly notify any affected Member(s) if the Market Monitoring Unit receives from the FERC, CFTC or their staff, written notice that the commission has decided to release publicly or has asked for comment on whether such commission should release publicly, confidential information previously provided to a commission Market Monitoring Unit.

2. The foregoing section I.C.1 shall not apply to requests for production of information under Subpart D of the FERC’s Rules of Practice and Procedure (18 CFR Part 385) in proceedings before FERC and its administrative law judges. In all such proceedings, the Office of the Interconnection and/or the Market Monitoring Unit shall follow the procedures in section I.B.

**D. Disclosure to Authorized Commissions:**

1. Notwithstanding anything in this section I to the contrary, the Market Monitoring Unit shall disclose confidential information, otherwise required to be maintained in confidence pursuant to the PJM Tariff, the PJM Operating Agreement, the Plan or this Appendix, to an Authorized Commission under the following conditions:

(i) The Authorized Commission has provided the FERC with a properly executed Certification in the form attached to the PJM Operating Agreement as Operating Agreement, Schedule 10A. Upon receipt of the Authorized Commission’s Certification, the FERC shall provide public notice of the Authorized Commission’s filing pursuant to 18 C.F.R. § 385.2009. If any interested party disputes the accuracy and adequacy of the representations contained in the Authorized Commission’s Certification, that party may file a protest with the FERC within 14 days of the date of such notice, pursuant to 18 C.F.R. § 385.211. The Authorized Commission may file a response to any such protest within seven days. Each party shall bear its own costs in connection with such a protest proceeding. If there are material changes in law that affect the accuracy and adequacy of the representations in the Certification filed with the FERC, the Authorized Commission shall, within thirty (30) days, submit an amended Certification identifying such changes. Any such amended Certification shall be subject to the same procedures for comment and review by the FERC as set forth above in this paragraph.

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(ii) Neither the Office of the Interconnection nor the Market Monitoring Unit may disclose data to an Authorized Commission during the FERC’s consideration of the Certification and any filed protests. If the FERC does not act upon an Authorized Commission’s Certification within 90 days of the date of filing, the Certification shall be deemed approved and the Authorized Commission shall be permitted to receive confidential information pursuant to this Section I. In the event that an interested party protests the Authorized Commission’s Certification and the FERC approves the Certification, that party may not challenge any Information Request made by the Authorized Commission on the grounds that the Authorized Commission is unable to protect the confidentiality of the information requested, in the absence of a showing of changed circumstances.

(iii) Any confidential information provided to an Authorized Commission pursuant to this section I shall not be further disclosed by the recipient Authorized Commission except by order of the FERC.

(iv) The Market Monitoring Unit shall be expressly entitled to rely upon such Authorized Commission Certifications in providing confidential information to the Authorized Commission, and shall in no event be liable, or subject to damages or claims of any kind or nature hereunder, due to the ineffectiveness or inaccuracy of such Authorized Commission Certifications.

(v) The Authorized Commission may provide confidential information obtained from the Market Monitoring Unit to such of its employees, attorneys and contractors as needed to examine or handle that information in the course and scope of their work on behalf of the Authorized Commission, provided that (a) the Authorized Commission has internal procedures in place, pursuant to the Certification, to ensure that each person receiving such information agrees to protect the confidentiality of such information (such employees, attorneys or contractors to be defined hereinafter as “Authorized Persons”); (b) the Authorized Commission provides, pursuant to the Certification, a list of such Authorized Persons to the Office of the Interconnection and the Market Monitoring Unit and updates such list, as necessary, every ninety (90) days; and (c) any third-party contractors provided access to confidential information sign a nondisclosure agreement in the form attached to the PJM Operating Agreement as Operating Agreement, Schedule 10 before being provided access to any such confidential information.

2. The Market Monitoring Unit may, in the course of discussions with an Authorized Person, orally disclose information otherwise required to be maintained in confidence, without the need for a prior Information Request. Such oral disclosures shall provide enough information to enable the Authorized Person or the Authorized Commission with which that Authorized Person is associated to determine whether additional Information Requests are appropriate. The Market Monitoring Unit will not make any written or electronic disclosures of confidential information to the Authorized Person pursuant to this section I.D.2. In any such discussions, the Market Monitoring Unit shall ensure that the individual or individuals receiving such confidential information are Authorized Persons as defined herein, orally designate confidential information that is disclosed, and refrain from identifying any specific Affected Member whose information is disclosed. The Market Monitoring Unit shall also be authorized to assist Authorized Persons in interpreting confidential information that is disclosed. The Market Monitoring Unit shall provide

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any Affected Member with oral notice of any oral disclosure immediately, but not later than one (1) Business Day after the oral disclosure. Such oral notice to the Affected Member shall include the substance of the oral disclosure, but shall not reveal any confidential information of any other Member and must be received by the Affected Member before the name of the Affected Member is released to the Authorized Person; provided however, disclosure of the identity of the Affected Party must be made to the Authorized Commission with which the Authorized Person is associated within two (2) Business Days of the initial oral disclosure.

3. As regards Information Requests:

(i) Information Requests to the Office of the Interconnection and/or Market Monitoring Unit by an Authorized Commission shall be in writing, which shall include electronic communications, addressed to the Market Monitoring Unit, and shall: (a) describe the information sought in sufficient detail to allow a response to the Information Request; (b) provide a general description of the purpose of the Information Request; (c) state the time period for which confidential information is requested; and (d) re-affirm that only Authorized Persons shall have access to the confidential information requested. The Market Monitoring Unit shall provide an Affected Member with written notice, which shall include electronic communication, of an Information Request by an Authorized Commission as soon as possible, but not later than two (2) Business Days after the receipt of the Information Request.

(ii) Subject to the provisions of section I.D.3(iii) below, the Market Monitoring Unit shall supply confidential information to the Authorized Commission in response to any Information Request within five (5) Business Days of the receipt of the Information Request, to the extent that the requested confidential information can be made available within such period; provided however, that in no event shall confidential information be released prior to the end of the fourth (4th) Business Day without the express consent of the Affected Member. To the extent that the Market Monitoring Unit cannot reasonably prepare and deliver the requested confidential information within such five (5) day period, it shall, within such period, provide the Authorized Commission with a written schedule for the provision of such remaining confidential information. Upon providing confidential information to the Authorized Commission, the Market Monitoring Unit shall either provide a copy of the confidential information to the Affected Member(s), or provide a listing of the confidential information disclosed; provided, however, that the Market Monitoring Unit shall not reveal any Member's confidential information to any other Member.

(iii) Notwithstanding section I.D.3(ii), above, should the Office of the Interconnection, the Market Monitoring Unit or an Affected Member object to an Information Request or any portion thereof, any of them may, within four (4) Business Days following the Market Monitoring Unit's receipt of the Information Request, request, in writing, a conference with the Authorized Commission to resolve differences concerning the scope or timing of the Information Request; provided, however, nothing herein shall require the Authorized Commission to participate in any conference. Any party to the conference may seek assistance from FERC staff in resolution of the dispute or terminate the conference process at any time. Should such conference be refused or terminated by any participant or should such conference not resolve the dispute, then the Office of the Interconnection, Market Monitoring Unit, or the Affected Member may file a complaint with

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the FERC pursuant to Rule 206 objecting to the Information Request within ten (10) Business Days following receipt of written notice from any conference participant terminating such conference. Any complaints filed at the FERC objecting to a particular Information Request shall be designated by the party as a “fast track” complaint and each party shall bear its own costs in connection with such FERC proceeding. The grounds for such a complaint shall be limited to the following: (a) the Authorized Commission is no longer able to preserve the confidentiality of the requested information due to changed circumstances relating to the Authorized Commission’s ability to protect confidential information arising since the filing of or rejection of a protest directed to the Authorized Commission’s Certification; (b) complying with the Information Request would be unduly burdensome to the complainant, and the complainant has made a good faith effort to negotiate limitations in the scope of the requested information; or (c) other exceptional circumstances exist such that complying with the Information Request would result in harm to the complainant. There shall be a presumption that “exceptional circumstances,” as used in the prior sentence, does not include circumstances in which an Authorized Commission has requested wholesale market data (or Market Monitoring Unit workpapers that support or explain conclusions or analyses) generated in the ordinary course and scope of the operations of the Market Monitoring Unit. There shall be a presumption that circumstances in which an Authorized Commission has requested personnel files, internal emails and internal company memos, analyses and related work product constitute “exceptional circumstances” as used in the prior sentence. If no complaint challenging the Information Request is filed within the ten (10) day period defined above, the Office of the Interconnection and/or Market Monitoring Unit shall utilize its best efforts to respond to the Information Request promptly. If a complaint is filed, and the Commission does not act on that complaint within ninety (90) days, the complaint shall be deemed denied and the Market Monitoring Unit shall use its best efforts to respond to the Information Request promptly.

(iv) Any Authorized Commission may initiate appropriate legal action at the FERC within ten (10) Business Days following receipt of information designated as “Confidential,” challenging such designation. Any complaints filed at FERC objecting to the designation of information as “Confidential” shall be designated by the party as a “fast track” complaint and each party shall bear its own costs in connection with such FERC proceeding. The party filing such a complaint shall be required to prove that the material disclosed does not merit “Confidential” status because it is publicly available from other sources or contains no trade secret or other sensitive commercial information (with “publicly available” not being deemed to include unauthorized disclosures of otherwise confidential data).

4. In the event of any breach of confidentiality of information disclosed pursuant to an Information Request by an Authorized Commission or Authorized Person:

(i) The Authorized Commission or Authorized Person shall promptly notify the Market Monitoring Unit, who shall, in turn, promptly notify any Affected Member of any inadvertent or intentional release, or possible release, of confidential information provided pursuant to this section I.

(ii) The Office Market Monitoring Unit shall terminate the right of such Authorized Commission to receive confidential information under this section I upon written notice to such

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Authorized Commission unless: (i) there was no harm or damage suffered by the Affected Member; or (ii) similar good cause is shown. Any appeal of the Market Monitoring Unit’s actions under this section I shall be to Commission. An Authorized Commission shall be entitled to reestablish its certification as set forth in section I.D.1 by submitting a filing with the Commission showing that it has taken appropriate corrective action. If the Commission does not act upon an Authorized Commission's recertification filing with sixty (60) days of the date of the filing, the recertification shall be deemed approved and the Authorized Commission shall be permitted to receive confidential information pursuant to this section.

(iii) The Office of the Interconnection, the Market Monitoring Unit, and/or the Affected Member shall have the right to seek and obtain at least the following types of relief: (a) an order from the FERC requiring any breach to cease and preventing any future breaches; (b) temporary, preliminary, and/or permanent injunctive relief with respect to any breach; and (c) the immediate return of all confidential information to the Market Monitoring Unit.

(iv) No Authorized Person or Authorized Commission shall have responsibility or liability whatsoever under this section for any and all liabilities, losses, damages, demands, fines, monetary judgments, penalties, costs and expenses caused by, resulting from, or arising out of or in connection with the release of confidential information to persons not authorized to receive it, provided that such Authorized Person is an agent, servant, employee or member of an Authorized Commission at the time of such unauthorized release. Nothing in this section I.D.4(iv) is intended to limit the liability of any person who is not an agent, servant, employee or member of an Authorized Commission at the time of such unauthorized release for any and all economic losses, damages, demands, fines, monetary judgments, penalties, costs and expenses caused by, resulting from, or arising out of or in connection with such unauthorized release.

(v) Any dispute or conflict requesting the relief in section I.D.4(ii) or I.D.4(iii)(a) above, shall be submitted to the FERC for hearing and resolution. Any dispute or conflict requesting the relief in section I.D.4(iii)(c) above may be submitted to FERC or any court of competent jurisdiction for hearing and resolution.

**E. [Reserved]**

## **II. DEVELOPMENT OF INPUTS FOR PROSPECTIVE MITIGATION**

### **A. Offer Price Caps:**

1. The Market Monitor or his designee shall advise the Office of the Interconnection whether it believes that the cost references, methods and rules included in the Cost Development Guidelines are accurate and appropriate, as specified in the PJM Manuals.

2. The Market Monitoring Unit shall review the incremental costs (defined in Operating Agreement, Schedule 1, section 6.4.2 and the parallel provisions of Tariff, Attachment K-Appendix, section 6.4.2) included in the Offer Price Cap of a generating unit in order to ensure that the Market Seller has correctly applied the Cost Development Guidelines, including its PJM-

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approved Fuel Cost Policy, and that the level of the Offer Price Cap is otherwise acceptable. The Market Monitoring Unit shall inform PJM if it believes a Market Seller has submitted a cost-based offer that is not compliant with these criteria and whether it recommends that PJM assess the applicable penalty therefor, pursuant to Operating Agreement, Schedule 2.

3. On or before the 21st day of each month, the Market Monitoring Unit shall calculate in accordance with the applicable criteria whether each generating unit with an offer cap calculated under Operating Agreement, Schedule 1, section 6.4.2 and the parallel provisions of Tariff, Attachment K-Appendix, section 6.4.2 is eligible to include an adder based on Frequently Mitigated Unit or Associated Unit status, and shall issue a written notice of the applicable adder, with a copy to the Office of the Interconnection, to the Market Seller for each unit that meets the criteria for Frequently Mitigated Unit or Associated Unit status.

4. Notwithstanding the number of jointly pivotal suppliers in any hour, if the Market Monitoring Unit determines that a reasonable level of competition will not exist based on an evaluation of all facts and circumstances, it may propose to the Commission the removal of offer-capping suspensions otherwise authorized by Operating Agreement, Schedule 1, section 6.4 and the parallel provisions of Tariff, Attachment K-Appendix, section 6.4. Such proposals shall take effect upon Commission acceptance of the Market Monitoring Unit's filing.

5. The Market Monitoring Unit shall review all Fuel Cost Policies submitted by Market Sellers for market power concerns. The Market Monitoring Unit shall communicate its determination regarding these criteria to PJM and the Market Seller pursuant to the process further described in PJM Manual 15.

**B. Minimum Generator Operating Parameters:**

1. For the 2014/2015 through 2017/2018 Delivery Years, the Market Monitoring Unit shall provide to the Office of the Interconnection a table of default unit class specific parameter limits to be known as the "Parameter Limited Schedule Matrix" to be included in Operating Agreement, Schedule 1, section 6.6(c) and the parallel provisions of Tariff, Attachment K-Appendix, section 6.6(c). The Parameter Limited Schedule Matrix shall include default values on a unit-type basis as specified in Operating Agreement, Schedule 1, section 6.6(c) and the parallel provisions of Tariff, Attachment K-Appendix, section 6.6(c). The Market Monitoring Unit shall review the Parameter Limited Schedule Matrix annually, and, in the event it determines that revision is appropriate, shall provide a revised matrix to the Office of the Interconnection by no later than December 31 prior to the annual enrollment period.

2. The Market Monitoring Unit shall notify Market Sellers of generating units and the Office of the Interconnection no later than April 1 of its determination of market power concerns raised regarding each request for a period exception or persistent exception to a value specified in the Parameter Limited Schedule Matrix or the parameters defined in Operating Agreement, Schedule 1, section 6.6 and the parallel provisions of Tariff, Attachment K-Appendix, section 6.6 and the PJM Manuals, provided that the Market Monitoring Unit receives such request by no later than February 28.



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If, prior to the scheduled termination date, a Market Seller submits a request to modify a temporary exception, the Market Monitoring Unit shall review such request using the same standard utilized to evaluate period exception and persistent exception requests, and shall provide its determination of whether the request raises market power concerns, and, if so, any modifications that would alleviate those concerns, to the Market Seller, with a copy to Office of the Interconnection, by no later than 15 Business Days from the date of the modification request.

3. When a Market Seller notifies the Market Monitoring Unit of a material change to the facts relied upon by the Market Monitoring Unit and/or the Office of the Interconnection to support a parameter limited schedule period or persistent exception, the Market Monitoring Unit shall make a determination, and provide written notification to the Office of the Interconnection and the Market Seller, of any change to its determination regarding the exemption request, based on the material change in facts, by no later than 15 Business Days after receipt of such notice.

4. The Market Monitoring Unit shall notify the Office of the Interconnection of any risk premium to which it and a Market Seller owning or operating nuclear generation resource agree or its determination if agreement is not obtained. If a Market Seller submits a risk premium for its nuclear generation resource that is inconsistent with its agreement or inconsistent with the Market Monitoring Unit's determination regarding such risk premium, the Market Monitoring Unit may exercise its powers to inform Commission staff of its concerns pursuant to Tariff, Attachment M.

**C. RPM Must-Offer Requirement:**

1. The Market Monitoring Unit shall maintain, post on its website and provide to the Office of the Interconnection prior to each RPM Auction (updated, as necessary, on at least a quarterly basis), a list of Existing Generation Capacity Resources located in the PJM Region that are subject to the RPM must-offer requirement set forth in Tariff, Attachment DD, section 6.6.

2. The Market Monitoring Unit shall evaluate requests submitted by Capacity Market Sellers for a determination that a Generation Capacity Resource, or any portion thereof, be removed from Capacity Resource status or exempted from status as a Generation Capacity Resource subject to section II.C.1 above and inform both the Capacity Market Seller and the Office of the Interconnection of such determination in writing by no later ninety (90) days prior to the commencement of the offer period for the applicable RPM Auction. A Generation Capacity Resource located in the PJM Region shall not be removed from Capacity Resource status to the extent the resource is committed to service of PJM loads as a result of an RPM Auction, FRR Capacity Plan, Locational UCAP transaction and/or by designation as a replacement resource under Tariff, Attachment DD.

3. The Market Monitoring Unit shall evaluate the data and documentation provided to it by a potential Capacity Market Seller to establish the EFORD to be included in a Sell Offer applicable to each resource pursuant to Tariff, Attachment DD, section 6.6(b). If a Capacity Market Seller timely submits a request for an alternative maximum level of EFORD that may be used in a Sell Offer for RPM Auctions held prior to the date on which the final EFORDs used for a Delivery Year

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are posted, the Market Monitoring Unit shall attempt to reach agreement with the Capacity Market Seller on the alternate maximum level of the EFORd by no later than ninety (90) days prior to the commencement of the offer period for the Base Residual Auction for the applicable Delivery Year. By no later than ninety (90) days prior to the commencement of the offer period for the Base Residual Auction for the applicable Delivery Year, the Market Monitoring Unit shall notify the Office of the Interconnection in writing, notifying the Capacity Market Seller by copy of the same, of any alternative maximum EFORd to which it and the Capacity Market Seller agree or its determination of the alternative maximum EFORd if agreement is not obtained.

4. The Market Monitoring Unit shall consider the documentation provided to it by a potential Capacity Market Seller pursuant to Tariff, Attachment DD, section 6.6 of Attachment DD, and determine whether a resource owned or controlled by such Capacity Market Seller meets the criteria to qualify for an exception to the RPM must-offer requirement because the resource (i) is reasonably expected to be physically unable to participate in the relevant auction; (ii) has a financially and physically firm commitment to an external sale of its capacity; or (iii) was interconnected to the Transmission System as an Energy Resource and not subsequently converted to a Capacity Resource. The Market Monitoring Unit shall notify the Capacity Market Seller and the Office of the Interconnection of its determination by no later than ninety (90) days prior to the commencement of the offer period for the applicable RPM Auction.

In order to establish that a resource is reasonably expected to be physically unable to participate in the relevant auction as set forth in (i) above, the Capacity Market Seller must demonstrate that:

A. It has a documented plan in place to retire the resource prior to or during the Delivery Year, and has submitted a notice of Deactivation to the Office of the Interconnection consistent with Tariff, Part V, section 113.1, without regard to whether the Office of the Interconnection has requested the Capacity Market Seller to continue to operate the resource beyond its desired deactivation date in accordance with Tariff, Part V, section 113.2 for the purpose of maintaining the reliability of the PJM Transmission System and the Capacity Market Seller has agreed to do so;

B. Significant physical operational restrictions cause long term or permanent changes to the installed capacity value of the resource, or the resource is under major repair that will extend into the applicable Delivery Year, that will result in the imposition of RPM performance penalties pursuant to Tariff, Attachment DD;

C. The Capacity Market Seller is involved in an ongoing regulatory proceeding (e.g. – regarding potential environmental restrictions) specific to the resource and has received an order, decision, final rule, opinion or other final directive from the regulatory authority that will result in the retirement of the resource; or,

D. A resource considered an Existing Generating Capacity Resource because it cleared an RPM Auction for a Delivery Year prior to the Delivery Year of the relevant auction, but which is not yet in service, is unable to achieve full commercial operation prior to the Delivery Year of the relevant auction. The Capacity Market Seller must submit to the Office of the Interconnection

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and the Market Monitoring Unit a written sworn, notarized statement of a corporate officer certifying that the resource will not be in full commercial operation prior to the referenced Delivery Year.

5. If a Capacity Market Seller submits for the portion of a Generation Capacity Resource that it owns or controls, and the Office of Interconnection accepts, a Sell Offer (i) at a level of installed capacity that the Market Monitoring Unit believes is inconsistent with the level established under Tariff, Attachment DD, section 5.6.6, (ii) at a level of installed capacity inconsistent with its determination of eligibility for an exception listed in section II.C.4 above, or (iii) a maximum EFORd that the Market Monitoring Unit believes is inconsistent with the maximum level determined under section II.C.3 of this Appendix, the Market Monitoring Unit may exercise its powers to inform Commission staff of its concerns and/or request a determination from the Commission that would require the Generation Capacity Resource to submit a new or revised Sell Offer, notwithstanding any determination to the contrary made under Tariff, Attachment DD, section 6.6.

The Market Monitoring Unit shall also consider the documentation provided by the Capacity Market Seller pursuant to Tariff, Attachment DD, section 6.6, for generation resources for which the Office of the Interconnection has not approved an exception to the RPM must-offer requirement as set forth in Tariff, Attachment DD, section 6.6(g), to determine whether the Capacity Market Seller's failure to offer part or all of one or more generation resources into an RPM Auction would result in an increase of greater than five percent in any Zonal Capacity Price determined through such auction as required by Tariff, Attachment DD, section 6.6(i), and shall inform both the Capacity Market Seller and the Office of the Interconnection of its determination by no later than two (2) Business Days after the close of the offer period for the applicable RPM Auction.

**D. Unit Specific Minimum Sell Offers:**

1. If a Capacity Market Seller timely submits an exception request, with all of the required documentation as specified in Tariff, Attachment DD, sections 5.14(h) and 5.14(h-1), the Market Monitoring Unit shall review the request and documentation and shall provide in writing to the Capacity Market Seller and the Office of the Interconnection by no later than ninety (90) days prior the commencement of the offer period for the RPM Auction in which it seeks to submit its Sell Offer (a) its determination whether the level of the proposed Sell Offer raises market power concerns, and (b) if so it shall calculate and provide to such Capacity Market Seller a minimum Sell offer Based on the data and documentation received.

2. All data submitted to the Office of the Interconnection or the Market Monitoring Unit by a Market Participant is subject to verification by the Market Monitoring Unit.

**E. Market Seller Offer Caps:**

1. Based on the data and calculations submitted by the Capacity Market Sellers for each Existing Generation Capacity Resource and the formulas specified in Tariff, Attachment DD,

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section 6.7(d), the Market Monitoring Unit shall calculate the Market Seller Offer Cap for each such resource and provide it to the Capacity Market Seller and the Office of the Interconnection by no later than ninety (90) days before the commencement of the offer period for the applicable RPM Auction.

2. The Market Monitoring Unit must attempt to reach agreement with the Capacity Market Seller on the appropriate level of the Market Seller Offer Cap by no later than ninety (90) days prior to the commencement of the offer period for the applicable RPM Auction. If such agreement cannot be reached, then the Market Monitoring Unit shall inform the Capacity Market Seller and the Office of the Interconnection of its determination of the appropriate level of the Market Seller Offer Cap by no later than ninety (90) days prior to the commencement of the offer period for the applicable RPM Auction, and the Market Monitoring Unit may pursue any action available to it under Attachment M.

3. Nothing herein shall preclude any Capacity Market Seller and the Market Monitoring Unit from agreeing to, nor require either such entity to agree to, an alternative market seller offer cap determined on a mutually agreeable basis. Any such alternative offer cap shall be filed with the Commission for its approval. This provision is duplicated in Tariff, Attachment DD, section 6.4(a).

**F. Mitigation of Offers from Planned Generation Capacity Resources:**

Pursuant to Tariff, Attachment DD, section 6.5, the Market Monitoring Unit shall evaluate Sell Offers for Planned Generation Capacity Resources to determine whether market power mitigation should be applied and notify in writing each Capacity Market Seller whose Sell Offer has been determined to be non-competitive and subject to mitigation, with a copy to the Office of the Interconnection, by no later than one (1) Business Day after the close of the offer period for the applicable RPM Auction.

**G. Data Submission:**

Pursuant to Tariff, Attachment DD, section 6.7, the Market Monitoring Unit may request additional information from any potential auction participant as deemed necessary by the Market Monitoring Unit, including, without limitation, additional cost data on resources in a class that is not otherwise expected to include the marginal price setting resource. All data submitted to the Office of the Interconnection or the Market Monitoring Unit by a Market Participant is subject to verification by the Market Monitoring Unit.

**H. Determination of Default Avoidable Cost Rates:**

1. The Market Monitoring Unit shall conduct an annual review of the table of default Avoidable Cost Rates included in Tariff, Attachment DD, section 6.7(c) and calculated on the bases set forth therein, and determine whether the values included therein need to be updated. If the Market Monitoring Unit determines that the Avoidable Cost Rates need to be updated, it shall provide to the Office of the Interconnection updated values or notice of its determination that updated values are not needed by no later than September 30<sup>th</sup> of each year.

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2. The Market Monitoring Unit shall indicate in its posted reports on RPM performance the number of Generation Capacity Resources and megawatts per LDA that use the retirement default Avoidable Cost Rates.

3. If a Capacity Market Seller does not elect to use a default Avoidable Cost Rate and has timely provided to the Market Monitoring Unit its request to apply a unit-specific Avoidable Cost Rate, along with the data described in Tariff, Attachment DD, section 6.7, the Market Monitoring Unit shall calculate the Avoidable Cost Rate and provide a unit-specific value to the Capacity Market Seller for each such resource, and notify the Capacity Market Seller and the Office of the Interconnection in writing by no later than ninety (90) days prior to the commencement of the offer period for the applicable RPM Auction whether it agrees that the unit-specific Avoidable Cost Rate is acceptable. The Capacity Market Seller and Office of the Interconnection's deadlines relating to the submittal and acceptance of a request for a unit-specific Avoidable Cost Rate are delineated in Tariff, Attachment DD, section 6.7(d).

**I. Determination of PJM Market Revenues:**

The Market Monitoring Unit shall calculate the Projected PJM Market Revenues for any Generation Capacity Resource to which the Avoidable Cost Rate is applied pursuant to Tariff, Attachment DD, section 6.8(d), and notify the Capacity Market Seller and the Office of the Interconnection of its determination in writing by no later than ninety (90) days prior to the commencement of the offer period for the applicable RPM Auction.

**J. Determination of Opportunity Costs:**

The Market Monitoring Unit shall review and verify the documentation of prices available to Existing Generation Capacity Resources in markets external to PJM and proposed for inclusion in Opportunity Costs pursuant to Tariff, Attachment DD, section 6.7(d)(ii). The Market Monitoring Unit shall notify, in writing, such Generation Capacity Resource and the Office of the Interconnection if it is dissatisfied with the documentation provided and whether it objects to the inclusion of such Opportunity Costs in a Market Seller Offer by no later than ninety (90) days prior to the commencement of the offer period for the applicable RPM Auction. If such Generation Capacity Resource submits a Market Seller Offer that includes Opportunity Costs that have not been documented and verified to the Market Monitoring Unit's satisfaction, then the Market Monitoring Unit may exercise its powers to inform Commission staff of its concerns and request a determination that would require the Generation Capacity Resource to remove them.

**III. BLACKSTART SERVICE**

A. Upon the submission by a Black Start Unit owner of a request for Black Start Service revenue requirements and changes to the Black Start Service revenue requirements for the Black Start Unit, the Black Start Unit owner and the Market Monitoring Unit shall attempt to agree to values on the level of each component included in the Black Start Service revenue requirements by no later than May 14 of each year. The Market Monitoring Unit shall calculate the revenue

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requirement for each Black Start Unit and provide its calculation to the Office of the Interconnection by no later than May 14 of each year.

B. Pursuant to the terms of Tariff, Schedule 6A and the PJM Manuals, the Market Monitoring Unit will analyze any requested generator black start cost changes on an annual basis and shall notify the Office of the Interconnection of any costs to which it and the Black Start Unit owner have agreed or the Market Monitoring Unit's determination regarding any cost components to which agreement has not been obtained. If a Black Start Unit owner includes a cost component inconsistent with its agreement or inconsistent with the Market Monitoring Unit's determination regarding such cost component, and the Office of the Interconnection accepts the Black Start Service revenue requirements submitted by the Black Start Unit owner, the Market Monitoring Unit may exercise its powers to inform Commission staff of its concerns and request a determination that would require the Black Start Service generator to utilize the values determined by the Market Monitoring Unit or the Office of the Interconnection or such other values as determined by the Commission.

#### IV. DEACTIVATION RATES

1. Upon receipt of a notice to deactivate a generating unit under Tariff, Part V from the Office of the Interconnection forwarded pursuant to Tariff, Part V, section 113.1, the Market Monitoring Unit shall analyze the effects of the proposed deactivation with regard to potential market power issues and shall notify the Office of the Interconnection and the generator owner (or, if applicable, its designated agent) ~~within 30 days of the deactivation request~~ if a market power issue has been identified. ~~The Market Monitoring Unit shall provide such notice by the following date: (a) May 31 of the current calendar year, if the Transmission Provider received the notice required pursuant to Tariff, Part V, section 113.1 between January 1 and March 31; (b) August 31 of the current calendar year, if the Transmission Provider received the notice required pursuant to Tariff, Part V, section 113.1 between April 1 and June 30; (c) November 30 of the current calendar year, if the Transmission Provider received the notice required pursuant to Tariff, Part V, section 113.1 between July 1 and September 30; or (d) February 28 of the following calendar year, if the Transmission Provider received the notice required pursuant to Tariff, Part V, section 113.1 between October 1 and December 31.~~ Such notice shall include the specific market power impact resulting from the proposed deactivation of the generating unit, as well as an initial assessment of any steps that could be taken to mitigate the market power impact.

2. The Market Monitoring Unit and the generating unit owner shall attempt to come to agreement on the level of each component included in the Deactivation Avoidable Cost Credit. In the case of cost of service filing submitted to the Commission in alternative to the Deactivation Cost Credit, the Market Monitoring Unit shall indicate to the generating unit owner in advance of filing its views regarding the proposed method or cost components of recovery. The Market Monitoring Unit shall notify the Office of the Interconnection of any costs to which it and the generating unit owner have agreed or the Market Monitoring Unit's determination regarding any cost components to which agreement has not been obtained. If a generating unit owner includes a cost component inconsistent with its agreement or inconsistent with the Market Monitoring Unit's determination regarding such cost components, the Market Monitoring Unit may exercise its

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powers to inform Commission staff of its concerns and seek a determination that would require the Generating unit to include an appropriate cost component. This provision is duplicated in Tariff, Part V, section 114 and Tariff, Part V, section 119.

## **V. OPPORTUNITY COST CALCULATION**

The Market Monitoring Unit shall review requests for opportunity cost compensation under Operating Agreement, Schedule 1, section 3.2.3(f-3) and Operating Agreement, Schedule 1, section 3.2.3B(h) and the parallel provisions of Tariff, Attachment K-Appendix, section 3.2.3(f-3) and Tariff, Attachment K-Appendix, section 3.2.

3B(h), discuss with the Office of the Interconnection and individual Market Sellers the amount of compensation, and file exercise its powers to inform Commission staff of its concerns and request a determination of compensation as provided by such sections. These requirements are duplicated in Operating Agreement, Schedule 1, section 3.2.3(f-3) and Operating Agreement, Schedule 1, section 3.2.3B(h) and the parallel provisions of Tariff, Attachment K-Appendix, section 3.2.3(f-3) and Tariff, Attachment K-Appendix, section 3.2.3B9H).

## **VI. FTR FORFEITURE RULE**

The Market Monitoring Unit shall calculate Transmission Congestion Credits as required under Operating Agreement, Schedule 1, section 5.2.1(b) and Tariff, Attachment K-Appendix, section 5.2.1(b), including the determination of the identity of the Effective FTR Holder and an evaluation of the overall benefits accrued by an entity or affiliated entities trading in FTRs and Virtual Transactions in the Day-ahead Energy Market, and provide such calculations to the Office of the Interconnection. Nothing in this section shall preclude the Market Monitoring Unit from action to recover inappropriate benefits from the subject activity if the amount forfeited is less than the benefit derived by the Effective FTR Holder. If the Office of the Interconnection imposes a forfeiture of the Transmission Congestion Credit in an amount that the Market Monitoring Unit disagrees with, then it may exercise its powers to inform Commission staff of its concerns and request an adjustment.

## **VII. FORCED OUTAGE RULE**

1. The Market Monitoring Unit shall observe offers submitted in the Day-ahead Energy Market to determine whether all or part of a generating unit's capacity (MW) is designated as Maximum Emergency and (i) such offer in the Real-time Energy Market designates a smaller amount of capacity from that unit as Maximum Emergency for the same time period, and (ii) there is no physical reason to designate a larger amount of capacity as Maximum Emergency in the offer in the Day-ahead Energy Market than in the Real-time Energy Market, the Market Monitoring Unit shall notify the Office of Interconnection.

2. If the Market Monitoring Unit observes that (i) an offer submitted in the Day-ahead Energy market designates all or part of capacity (MW) of a Generating unit as economic maximum that is less than the economic maximum designated in the offer in the Real-time Energy Market, and (ii) there is no physical reason to designate a lower economic maximum in the offer in the Day-ahead

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Energy Market than in the offer in the Real-time Energy Market, the Market Monitoring Unit shall notify the Office of Interconnection.

### **VIII. DATA COLLECTION AND VERIFICATION**

The Market Monitoring Unit shall gather and keep confidential detailed data on the procurement and usage of fuel to produce electric power transmitted in the PJM Region in order to assist the performance of its duties under Tariff, Attachment M. To achieve this objective, the Market Monitoring Unit shall maintain on its website a mechanism that allows Members to conveniently and confidentially submit such data and develop a manual in consultation with stakeholders that describes the nature of and procedure for collecting data. Members of PJM owning a Generating unit that is located in the PJM Region (including Dynamic Transfer units), or is included in a PJM Black Start Service plan, committed as a Generation Capacity Resource for the current or future Delivery Year, or otherwise subject to a commitment to provide service to PJM, shall provide data to the Market Monitoring Unit.