

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

Illinois Municipal Electric Agency

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Docket No. ER15-1232-000

PROTEST OF THE INDEPENDENT MARKET MONITOR FOR PJM

Pursuant to Rule 211 of the Commission’s Rules and Regulations,¹ Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (“Market Monitor”), submits this protest to the request for waiver submitted by the Illinois Municipal Electric Agency (“IMEA”) on March 11, 2015. This is the third request filed by IMEA for waiver of the rules for Fixed Resource Requirement (“FRR”) plans. The FRR and the Reliability Pricing Model (“RPM”) rules became effective June 1, 2007. IMEA elected to submit an FRR plan on March 7, 2014. Subsequent events have revealed IMEA’s lack of preparation to comply with the applicable rules. In its latest filing, IMEA requests waiver of the cap on sales by FRR entities into RPM auctions, specifically for the Base Residual Auction (“BRA”) for the 2018/2019 PJM Delivery Year. Because IMEA’s request does not meet the conditions for waiver of a filed tariff rule, the request should be denied.²

¹ 18 CFR § 385.211 (2014).

² The Commission will grant a request for a waiver that meets the following conditions: (i) the applicant has been unable to comply with the tariff provision at issue in good faith; (ii) the waiver is of limited scope; (iii) the waiver would address a concrete problem; and (iv) the waiver would not have undesirable consequences, such as harming third parties. *See, e.g., Invenenergy Nelson*, 147 FERC ¶ 61,067 at 23 (2014); *Southwest Power Pool, Inc.*, 146 FERC ¶ 61,110 at P 10 (2014); *PJM Interconnection, L.L.C.*, 144 FERC ¶ 61,060 at P 12 (2013); *New York Independent System Operator, Inc.*, 144 FERC ¶ 61,147 at P 8 (2013); *New York Independent System Operator, Inc.*, 139 FERC ¶ 61,108 at P 14 (2012); *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,184 at P 13 (2011); *ISO New England Inc.*, 134

IMEA's waiver request does not solve a concrete problem that needs to be remedied. The FRR sales cap for FRR entities is designed to protect competitive investment in the non-FRR PJM region. It operates much like the Minimum Offer Price Rule ("MOPR").³ The 2006 RPM settlement permits FRR entities to sell a defined, limited amount of surplus capacity into the PJM capacity market subject to a cap.⁴ No rationale based on sound market design principles exists for the existence of any cap greater than zero.

The FRR sales cap exists because the market design for RPM, based on competitive investment, must coexist with neighboring markets and FRR entities that do not rely on competitive investment, but instead assign investment risks to captive customers. The FRR rules established under the settlement permit IMEA to sell an amount up to the FRR sales cap.⁵ The settlement agreement would more effectively protect competitive investment in PJM if it prevented all such sales.

IMEA is free to sell the balance of capacity to control areas other than PJM.

There is no reason why a special exception should be made for IMEA to sell any amount in excess of the FRR sales cap in the tariff. Because IMEA has not supported its request for waiver of the application of the FRR sales cap in the BRA for the 2018/2018 Delivery Year, the request should be denied.

Contrary to IMEA's assertions (at 2-4), neither the FRR rules that IMEA selectively specifies nor the Commission order denying IMEA's prior waiver request creates a problem that that needs to be solved by excusing IMEA from the filed rules. If there is any problem,

FERC ¶ 61,182 at P 8 (2011); *California Independent System Operator Corp.*, 132 FERC ¶ 61,004, at P 10 (2010).

³ OATT Attachment DD § 5.14(h).

⁴⁴ See PJM and Settling Parties filing, Docket No. ER05-1410-000 et al. (September 29, 2006); *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331 (2006).

⁵ See PJM Reliability Assurance Agreement ("RAA") Schedule 8.1 § E.

it is IMEA's election to submit an FRR Plan when it was not prepared to comply with the FRR rules (set forth in 14 tariff pages) and the rule that prevents IMEA from rescinding its notice now that certain FRR rules apply that IMEA does not like.⁶ In its comments opposing IMEA's prior waiver request, the Illinois Commerce Commission suggested that the Commission consider "a waiver request from IMEA to be excused from the five-year stay-in provision for FRR participants as described in Schedule 8.1 of the RAA."⁷ If IMEA files with Commission a request for such relief, the Market Monitor would not oppose it. Any such request should be on condition that IMEA not elect FRR status again for five years, consistent with the filed FRR rules.⁸

The Market Monitor respectfully requests that the Commission afford due consideration to these comments as the Commission resolves the issues raised in these proceedings.

Respectfully submitted,



Jeffrey W. Mayes

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

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

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⁶ RAA Schedule 8.1 § C.1 & 2.

⁷ Comments of the Illinois Commerce Commission, Docket No. ER15-834-000 (January 28, 2015) at 7.

⁸ RAA Schedule 8.1 § C.2.

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 25th day of March, 2015.



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