

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

Calpine Corporation; Dynegy Inc.; Eastern)	Docket No. EL16-49-000
Generation, LLC; Homer City Generation,)	
L.P.; NRG Power Marketing LLC; GenOn)	
Energy Management, LLC; Carroll County)	
Energy LLC; C.P. Crane LLC; Essential Power,)	
LLC; Essential Power OPP, LLC; Essential)	
Power Rock Springs, LLC; Lakewood)	
Cogeneration, L.P.; GDF SUEZ Energy)	
Marketing NA, Inc.; Oregon Clean Energy,)	
LLC and Panda Power Generation)	
Infrastructure Fund, LLC)	
v.)	
PJM Interconnection, L.L.C.)	
)	

**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 for PJM² ("Market Monitor"), submits this answer to the answers filed by FirstEnergy Service Company on June 6, 2016 ("FirstEnergy"), by Calpine Corporation et al. on May 23, 2016 ("Calpine et al."), and by PJM Interconnection, L.L.C. on June 6, 2016 ("PJM"). Because the complaint in this proceeding continues to identify an unjust and unreasonable defect in the

¹ 18 CFR §§ 385.212 & 385.213 (2015).

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").

Minimum Offer Price Rule (“MOPR”),³ and continues to identify specific units that may receive subsidies to avoid market signals to retire, there is no valid basis to dismiss the complaint. The motion to dismiss should be denied.

I. ANSWER

FirstEnergy continues to argue (at 1) that the complaint is moot because “the factual basis for the Complaint no longer exists.” FirstEnergy argues that it is inaccurate to characterize its current position before the Public Utilities Commission of Ohio (PUCO) as a “modified scheme” that “will still provide subsidies for the continued operation of existing generation that FirstEnergy has suggested may otherwise retire.”⁴ Contrary to FirstEnergy’s assertions, the argument for a MOPR that protects against subsidies for units that would otherwise retire remains as urgent as ever and the factual basis for the complaint remains as strong as ever.

FirstEnergy continues to pursue an active proposal that would allow it to obtain subsidies in Ohio for its units in spite of the Commission’s actions blocking its use of noncompetitive wholesale power purchase agreements. Under FirstEnergy’s active proposal, subsidies would be paid to the transmission/distribution affiliate rather than the generation affiliate of the electric utility. Payment of the subsidies would be tied to the continued operation of designated units that FirstEnergy states would otherwise retire.⁵ The

³ OATT Attachment DD § 5.14(h).

⁴ FirstEnergy at 1 citing Calpine et. al. at 3.

⁵ See Rehearing Testimony of Eileen M. Mikkelsen on Behalf of Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, OPUC Case No. 14-1297-EL-SSO (May 2, 2016) at 15 l.8–15 (“In the event that during the time that Rider RRS remains in effect, less than 3,200 MWs of formerly rate-based nuclear or fossil generation owned by the Companies on January 2000 remains in operation, including at least 900 MWs of nuclear resources which may be needed to help meet any potential 111(d) state implementation plan, the Commission may proceed to reduce the charge/credit of Rider RRS by a proportionate amount pursuant to a Commission-initiated proceeding pursuant to R.C. 4905.26. Effectively, Rider RRS helps ensure the continued operation of 3,200 MWs of fuel diverse baseload generation.”).

accounting has changed and the need for a reviewable power purchase agreement avoided, but subsidies for the continued operation of the designated units remain in place in the rehearing proposal.⁶

Despite FirstEnergy's suggestion otherwise, nothing material to the specific basis for the complaint has changed that would render the complaint moot. The need to improve the MOPR is now greater precisely because the new scheme evades the Commission's ability to protect competition through review of wholesale power purchase contracts.

Whether the complaint is moot does not depend upon the outcome of the specific cases in Ohio that provide examples of the need to reform the MOPR. However, the Ohio cases are not resolved. FirstEnergy's and AEP's proposed schemes to subsidize units that otherwise would have retired were approved, remain approved and continue to provide a concrete example that the threat is not theoretical. Dayton Power and Light Company has proposed a similar scheme that is now pending in Ohio.⁷ PJM markets have no protection against this emergent threat.

Accurate signals for entry and exit are necessary for well functioning markets. Competitive investors rely on accurate signals to make decisions. The current MOPR only addresses subsidies for new entry. The actions of FE, AEP and Dayton Power and Light demonstrate that the markets need protection against subsidized, noncompetitive offers from existing as well as new resources. The MOPR should be expanded to address subsidies for existing units, and this proceeding provides an opportunity to address this issue expeditiously. This complaint will not become moot unless and until the MOPR is reformed.

⁶ See Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company's Application for Rehearing, OPUC Case No. 14-1297-EL-SSO (May 2, 2016) at 20.

⁷ See OPUC Docket No. 16-0395.

Action is needed in this proceeding to correct the MOPR immediately. PJM should be directed to make a compliance filing. Any stakeholder guidance to PJM should be provided in that compliance proceeding. PJM, the nominal target of the complaint, agrees that this is an appropriate path forward and commits to vetting its compliance proposal with stakeholders (at 5). The compliance directive should direct expansion of the MOPR to address subsidies to existing units and to develop an accurate default MOPR offer for existing units based on the principles established in the Capacity Performance market design.

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.⁸ 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.

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.

⁸ 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).

Respectfully submitted,



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Dated: June 13, 2016

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 13th day of June, 2016.



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