

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

PJM Interconnection, L.L.C. )  
 ) Docket No. ER19-1404-000  
 )

**COMMENTS OF THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rule 211 of the Commission’s Rules and Regulations,<sup>1</sup> Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (“Market Monitor”) for PJM Interconnection, L.L.C. (“PJM”),<sup>2</sup> submits these comments responding to request filed by Talen Energy Corporation, Vistra Companies<sup>3</sup> and Exelon Companies<sup>4</sup> (“Talen/Vistra/Exelon”) for waiver of certain filed tariff provisions of PJM Interconnection, L.L.C. (“PJM”). The request fails to satisfy the criteria for a waiver and should be denied.<sup>5</sup>

Talen/Vistra/Exelon request waiver of the 120-day advance filing requirement of the avoidable cost rate (“ACR”) provisions of Section 6 of Attachment DD to the OATT. Talen/Vistra/Exelon seek to avoid such review in anticipation of the possibility that the

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<sup>1</sup> 18 CFR § 385.211 (2018).

<sup>2</sup> Capitalized terms used herein and not otherwise defined have the meaning used in the PJM Open Access Transmission Tariff (“OATT”), the PJM Operating Agreement (“OA”) or the PJM Reliability Assurance Agreement (“RAA”).

<sup>3</sup> Vistra Companies include Vistra Energy Corp. and its wholly owned, indirect subsidiary, Dynegy Marketing and Trade, LLC.

<sup>4</sup> Exelon Companies include Exelon Corporation and its wholly owned subsidiary Exelon Generation Company, LLC.

<sup>5</sup> *See, e.g., Empire Dist. Elec. Co.*, 166 FERC ¶ 61,164 (2019) (“The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.”).

Market Monitor's complaint pending in Docket No. EL19-47-000 is granted. The Talen/Vistra/Exelon waiver should be denied.

Talen/Vistra/Exelon assert (at 4) that the Market Monitor's complaint requests that the Commission alter the method of calculating the default market seller offer cap in the capacity market. That is incorrect. The Market Monitor requested that the current method of calculating the default market seller offer cap be applied in a logically consistent manner based on PJM's filings in the capacity performance docket and the Commission's order.<sup>6</sup> Nonetheless, it is correct that market seller offer caps, defined as competitive offers in the capacity market, are equal to net ACR.

The Market Monitor filed its complaint seeking enforcement of the rules governing market seller offer caps in order to prevent the exercise of market power in the capacity market. This is not a speculative concern. Market power was exercised in the 2021/2022 base residual auction as a direct result of the identified issues with the calculation of the default market seller offer cap. This issue needs to be addressed prior to PJM running another base residual auction.

This is true regardless of the Commission's determinations in the related matters before it.<sup>7</sup> This is true if PJM runs a base residual auction under the existing rules while a Commission determination is pending in Docket No. EL18-178. Regardless, it would be reasonable for market participants to expect that ACR calculations will be necessary to support offers in the next base residual auction and to begin preparations now to be ready for that outcome. There is public interest in the conduct of ACR review to ensure competitive market outcomes. The Commission should encourage market participants to begin to develop ACR calculations as soon as possible.

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<sup>6</sup> See Docket No. ER15-623-000 et al.; *PJM Interconnection, L.L.C.*, 151 FERC ¶61,208 (2015).

<sup>7</sup> See, e.g., Dockets No. EL18-178 (MOPR reform), ER19-105 (quadrennial review of VRR curve).

Talen/Vistra/Exelon fail to show a concrete problem. Talen/Vistra/Exelon overstate the burden of ACR review. All owners of capacity have experience in calculating ACR, or using available alternatives, because net ACR was the defined market seller offer cap prior to the introduction of the capacity performance model. Such owners have intimate familiarity with their own costs. The notion that calculating net ACR is “extraordinarily time consuming” is hyperbole. The Market Monitor is prepared to engage in review of company ACR filings in a timely manner.

The fact that the Market Monitor’s complaint makes a compelling case that is likely to be granted does not create a problem, concrete or otherwise, that the requested relief would address. The likelihood of a rule change requiring ACR review prior to the next auction is a good reason to commence ACR review under the current effective deadline. Likelihood of a rule change is a bad reason to delay commencement of ACR review. Granting the waiver would more likely create, not avoid, a concrete problem.

Talen/Vistra/Exelon fail to show that the waiver does not have undesirable consequences. If the Commission grants the Market Monitor’s complaint just prior to the auction and the Commission grants the Talen/Vistra/Exelon waiver, ACR review will become more difficult than it needs to be, or potentially impossible. Accepting the Talen/Vistra/Exelon unilateral request for a waiver would unnecessarily constrain the Commission.

Talen/Vistra/Exelon fail to meet the applicable criteria to support a waiver. The requested waiver should be denied.

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

Respectfully submitted,



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Dated: April 2, 2019

## 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 2<sup>nd</sup> day of April, 2019.



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