

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

PSEG Fossil LLC and Yards Creek Energy, LLC)))))	Docket No. EC20-49-000
Hummel Generation, LLC, Panda Hummel Station LLC)))	Docket No. EC20-55-000 (not consolidated)

**MOTION FOR LEAVE TO FILE COMMENTS OUT OF TIME, MOTION TO
ESTABLISH COMMENT DATE AND FOR SHORTENED ANSWER PERIOD OF
THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rule 212 of the Commission’s Rules and Regulations,¹ Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (“Market Monitor”) for PJM Interconnection, L.L.C. (“PJM”),² respectfully moves for leave to file out of time and to establish a reasonable deadline for comment in response to certain applications for approval of transactions under Section 203 of the Federal Power Act. The Market Monitor also moves to shorten the comment period for answer to this motion.

Request for approval of the first transaction was filed March 30, 2020, in Docket No. EC20-49. Request for approval of the second transaction was filed April 23, 2020, in Docket No. EC20-55. Each transaction involves the acquisition of additional interests in generation

¹ 18 CFR § 385.212 (2019).

² Capitalized terms used herein and not otherwise defined have the meaning used in the PJM Open Access Transmission Tariff (“OATT”).

facilities that would be added to the 9,106 MW existing portfolio of generation assets in PJM owned by LS Power Development, LLC.³

Because a central issue in this proceeding is whether the acquisitions would result in an increase in market power affecting the public interest, both transactions should be considered in conjunction even they are currently assigned to separate dockets.⁴ Applicants concede this point by including both transactions in the analysis provided in Docket No. EC20-55.⁵

The current deadline for the submission of comments in Docket No. EC20-48 is May 14, 2020.⁶ This date was established to be 45 days after filing at the applicants' request, as opposed to the Commission's general policy providing for 60 days.⁷ The Market Monitor had no advance discussions or opportunity to analyze the transaction prior to the filing date and needs at least the full 60 days generally provided under Commission policy in order to perform the necessary analysis

Under current circumstances, it is unreasonable to expect an unusually expedited process. The Commission has recognized that entities have taken steps to protect the health and safety of their employees that may impact the ability to meet regulatory requirements

³ See Hummel Generation, LLC and Panda Hummel Station LLC, Joint Application for Approval under Section 203 of the Federal Power Act, Docket No. EC20 – 55 (April 23, 2020), at p. 6.

⁴ Likewise, any additional transactions that may be filed before these proceedings finally conclude should also be considered before the applications are granted. See Section 203 Application, Docket No. EC20-49 at 10 (“Buyer is also considering transactions ... that would involve the acquisition of up to 2,000 MW of natural gas-fired, combined-cycle generation in the PJM market.”).

⁵ See Section 203 Application, Docket No. EC20-55 at 9–10.

⁶ See Notice of Complaint, Docket Nos. EL20-41-000 (April 10, 2020).

⁷ See Section 203 Application, EC20-49 at 3; Section 203 Application, EC2-055 at 3.

and has announced a policy indicating that it would take appropriate and expeditious action on motions requesting an extension of deadlines.⁸

Accordingly, the Market Monitor requests leave for it to file comments out of time, with a new deadline for the Market Monitor of June 22, 2020. June 22, 2020, constitutes a two-week extension from the June 1, 2020, deadline that would have applied under Commission policy.

The deadline for comments in Docket No. EC20-55 has not been established. The applicants request 45 days. Applicants claim (at 2) the shortened time is needed to avoid “significant adverse commercial consequences,” but offer no details. Applicants have not provided any unusual or compelling specific reason to rush the administrative process. There is no reason to apply the typical time frames for review of such applications.

Under current circumstances, it is unreasonable to expect an unusually expedited process. As noted above, the Commission has stated that it would take appropriate and expeditious action on motions requesting an extension of deadlines.⁹ Accordingly, the Market Monitor opposes applicants’ motions for a shortened comment period. Applying the general policy of 60 days for such deadlines, the comment date would be June 22, 2020. Accordingly, the Market Monitor requests a comment date for all parties no later than June 22, 2020, in Docket No. EC20-55.

Setting the comment date for both dockets on the same day for the Market Monitor, on June 22, 2020, promotes administrative and analytical efficiency, as the impacts of both acquisitions properly must be considered in the analyses for each proceeding. It is essential that the ability to perform analyses of market power not be disrupted artificially by treating transactions serially that should be considered together. Applicants have not proposed to

⁸ Extension of Non-Statutory Deadlines, Docket No. AD20-11-000 (March 19, 2020).

⁹ Extension of Non-Statutory Deadlines, Docket No. AD20-11-000 (March 19, 2020).

treat the transactions separately, but the process and deadlines need to be appropriately conformed.

The applicants have requested that the Commission issue an order in Docket EC20-49 by June 3, 2020, and in Docket No. EC20-55 by June 16, 2020. At least 30 days is necessary to fully evaluate the applications after all comments are received. It is unreasonable to expect an order within a shorter time frame. The time frame proposed by applicants would be unreasonable even if the health and safety and working conditions of Commission staff were not at issue along with that of everyone else.

In addition, to facilitate an expeditious decision, the Market Monitor requests that the answer period to these motions be shortened, with any comments due Tuesday, April 28, 2020.

Good cause exists to support the Market Monitor's request to submit comments out time in Docket No. EC20-49 and establish a date consistent with the policy for such deadlines for comments in Docket No. EC20-55., such that comments in both proceedings would be due June 22, 2020, and to support the Market Monitor's request for a shortened answer period on such motions.

Accordingly, the Market Monitor respectfully requests that the Commission grant the motions.

Respectfully submitted,



Jeffrey W. Mayes

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

General Counsel
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8053
jeffrey.mayes@monitoringanalytics.com

Dated: April 24, 2020

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 24th day of April, 2020.



Jeffrey W. Mayes

General Counsel

Monitoring Analytics, LLC

2621 Van Buren Avenue, Suite 160

Eagleville, Pennsylvania 19403

(610) 271-8053

jeffrey.mayes@monitoringanalytics.com