



Section of the Virginia Code on Taxation (“Virginia Pollution Control Statute”).” For the reasons explained in the Market Monitor’s comments filed January 15, 2021, the December 22<sup>nd</sup> Petition should be denied.

Innergex raises issues outside of the scope of the December 22<sup>nd</sup> Petition. Innergex seeks to expand the scope of this proceeding to include consideration of another statute in another state. Although the Innergex pleading is styled as an answer, the pleading operates as a separate petition asking the Commission to address different questions. Innergex’s pleading should be rejected as outside the scope of this proceeding.

Innergex also mischaracterizes the Market Monitor’s position. Innergex argues (at 10): “PJM’s and the IMM’s arguments could be applied to a broad range of state laws and programs without regard to whether those programs are in fact intended to serve states’ legitimate interests and to generally encourage economic development and local investment, without any intent to influence the types of capacity resources available in PJM.”

Innergex’s concerns are misplaced. The Market Monitor does not argue that the Virginia Pollution Control Statute is illegitimate. The Market Monitor does not criticize or find fault with the statute or state lawmakers. The petition concerns how the MOPR applies to participants receiving subsidies under the statute. The MOPR rules are designed to protect competition and competitive market prices. The MOPR does not evaluate the legitimacy of, the merits of, or the intent of state laws. The MOPR operates to accommodate rather than exclude participation in the PJM Capacity Market by resources benefitting from state subsidies under such statutes. Innergex’s mischaracterizations of the Market Monitor’s position and the purpose of the MOPR create confusion and should be disregarded.

## **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.<sup>3</sup> 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.

Respectfully submitted,



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<sup>3</sup> 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).

## 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 12<sup>th</sup> day of March, 2021.



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