

I. ANSWER

The substance of Applicant's answer is that the Market Monitor has failed to show that Applicant has market power. It is Applicant's burden to demonstrate lack of market power or explain its reliance on PJM market power mitigation. Applicant initially stated its reliance on PJM market power mitigation. The Market Monitor explained why such reliance is misplaced. Applicant did not respond to the explanation.

Applicant's argument (at 3) that the Protest is procedurally improper because it raises issues not germane to or outside of the scope of this proceeding should be disregarded. The reliability of the market power mitigation that Applicant exclusively relies on in support of its application are plainly within the proper scope of this proceeding. The Protest references flaws in PJM market power mitigation to rebut Applicant's exclusive reliance on such market power mitigation but does not seek to change market power mitigation in this proceeding.

Applicant argues (at 2-3) that the Commission: "should reject the IMM Protest for the reasons it rejected the protest filed by the IMM in the *Harts Mill Solar* market-based rate petition proceeding." The Market Monitor has filed protests in other proceedings similar to the protest filed in this proceeding. Orders have issued in some of those proceedings finding "that the IMM has failed to provide any evidence related to Sellers' market power."⁴ The Market Monitor has filed a motion for clarification seeking additional guidance on those Orders.⁵ The Market Monitor is seeking clarification on how the process set forth in Order No. 861 is intended to operate when the applicant has not filed any information concerning market power and has instead relied exclusively on PJM market

⁴ See *Albemarle Beach Solar, LLC, Mechanicsville Lessee, LLC, and AB Lessee, LLC*, 173 FERC ¶ 61,215 at P 26 (2020); *Harts Mill Solar, LLC*, 173 FERC ¶ 61,216 at P 26 (2020).

⁵ Motion for Clarification of the Independent Market Monitor for PJM, Docket No. ER20-2845-001 et al. (January 8, 2021).

power mitigation. The Market Monitor is requesting guidance on the evidence necessary to show sellers' market power. The Market Monitor will take appropriate action in this proceeding based on guidance received from the Commission in response to the Market Monitor's pending motion for clarification.

The Market Monitor proposes that the Commission grant Applicant's request for market based rates on the condition that Applicant submit competitive offers in the energy market and in the capacity market. Applicant does not show why this condition is not just and reasonable in PJM. Applicant does not explain how this condition would constrain its behavior. Competitive offers in the energy market are cost-based offers with operating parameters that are at least as flexible as the defined unit specific parameter limits in the PJM energy market.^{6 7} Competitive offers in the capacity market, defined consistent with the mathematics of the PJM capacity performance design and the actual number of PAI, are equal to the Avoidable Cost Rate adjusted for expected Capacity Performance penalties and bonuses.⁸ The evidence, provided by the Market Monitor, that PJM market power mitigation cannot be properly relied upon as the basis for unconditional market based rate authorization is unrefuted. The responses do not and cannot identify any harmful impact to granting the relief requested in the Protest.

The market based rate authorization should be conditioned as requested in the Protest.

⁶ See OA Schedule 2.

⁷ See OA Schedule 1 § 6.6.

⁸ See Attachment A to the Complaint of the Independent Market Monitor for PJM, Docket No. EL19-47-000 (February 21, 2019).

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.⁹ 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.

⁹ 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).

III. CONCLUSION

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

Respectfully submitted,



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Dated: January 27, 2021

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 27th day of January, 2021.



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