

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

NRG Power Marketing LLC)	
)	Docket No. ER22-1539-000
)	

**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 (“Market Monitor”) for PJM Interconnection, L.L.C. (“PJM”), submits this answer to the answer submitted in this proceeding on June 24, 2022 (“NRG Answer to Motion”), by NRG Power Marketing LLC (“NRG”).²

I. ANSWER

On April 1, 2022, NRG filed for a rate pursuant to Part V, Section 119, of the OATT to recover the costs of operating its Indian River Unit No. 4 (“Indian River 4”) for a defined period after its desired deactivation date (“Deactivation Filing”). On May 6, 2022, the Market Monitor filed a protest (“Protest”) to the Deactivation Filing, explaining that NRG did not provide a rate for operating the unit pursuant to and consistent with Part V of the OATT. On May 19, 2022, NRG filed an answer opposing rejection of its filing, but stating (at 2): “because certain of the arguments made in the Protests ... raise policy issues beyond the scope of the

¹ 18 CFR §§ 385.212 & 385.213 (2021).

² 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”).

RMR Rate Schedule, such arguments must be resolved by the Commission now, rather than through settlement.” By order issued May 31, 2022 (“May 31st Order”), NRG’s filing was set for hearing and settlement judge procedures.³

On June 9, 2022, the Market Monitor moved that key issues identified by the Market Monitor and NRG, which the Market Monitor characterizes as (i) whether Section 119 allows for the recovery of capital costs incurred prior to the decision of the unit owner to deactivate, and (ii) whether, if the issue is not resolved under (i), Section 119 allows for the recovery of capital costs that were written off, or impaired, by the owner, be resolved at hearing. In the NRG Answer to Motion, NRG claims (at 4) that the Commission “has already ruled on the IMM Issues.”

The May 31, 2022, Order states (at P 43): “the RMR Rate Schedule to recover the cost of operating the generating unit until such time as the generating unit is deactivated is set for hearing and settlement judge procedures.” The issues requiring hearing concern the proper interpretation of this language. Otherwise, the May 31st Order does not address such issues. The NRG Answer to Motion does not argue that the May 31st Order resolved the Market Monitor’s issues. The NRG Answer to Motion restates NRG’s litigation position.

The May 31st Order did not resolve the issues that the Market Monitor and NRG have both stated need to be resolved because they will impede a settlement. The Market Monitor’s motion should be granted and the issues should be resolved at hearing.

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

³ *NRG Power Marketing LLC*, 179 FERC ¶ 61,156 (2022).

assists in creating a complete record.⁴ 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 considers the Market Monitor’s motion for hearing.

Respectfully submitted,



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⁴ 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 1st day of July, 2022.



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