

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

Whitetail Solar 1, LLC)	Docket Nos. ER20-714-004
)	EL20-23-002
)	
Whitetail Solar 2, LLC)	Docket No. ER21-936-001
)	
)	
Whitetail Solar 3, LLC)	Docket Nos. ER20-1851-004
)	EL21-27-001
)	
Elk Hill Solar 2, LLC)	Docket No. ER21-1633-001
)	(Consolidated)
)	
)	

**BRIEF OPPOSING EXCEPTIONS OF THE
INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rule 711 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 submits

¹ 18 CFR § 385.711 (2022).

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”).

this Brief Opposing Exceptions to the Initial Decision issued July 15, 2022,³ filed by Whitetail Solar 1, et al. (collectively, “Whitetail”) on August 15, 2022.

This proceeding concerns filings submitted by Whitetail for certain generating facilities (collectively, the “Whitetail Facilities”) requesting a revenue requirement under Schedule 2 (“Schedule 2”) to the PJM Open Access Transmission Tariff (“OATT”).⁴ Schedule 2 provides for PJM’s reliance on generation and other sources to provide Reactive Supply and Voltage Control from Generation or Other Sources Service (“Reactive Supply and Voltage Control Service”). PJM provides Reactive Supply and Voltage Control Service on its Transmission Facilities where it serves as the Transmission Provider.

The Initial Decision explains (at P 2): “This consolidated proceeding considers a single issue that has been severed from all others in the underlying cases: whether the Facilities are eligible to receive compensation under Schedule 2 of the PJM Tariff.” In the Initial Decision, the Presiding Judge correctly concluded that the Whitetail Facilities “do not satisfy the eligibility requirements for Schedule 2 compensation.” The Presiding Judge first found (at P 5) “that Schedule 2 contains two eligibility criteria for generation facilities: (1) that the facility must be

³ *Whitetail Solar 3, et al.*, 180 FERC ¶ 63,009.

⁴ The Initial Decisions explains (at P 1): “Four solar generating facilities—Whitetail Solar 1, LLC (Whitetail 1), Whitetail Solar 2, LLC (Whitetail 2), Whitetail Solar 3, LLC (Whitetail 3), and Elk Hill Solar 2, LLC (Elk Hill) (collectively, the Facilities or Applicants)—seek compensation under Schedule 2 of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (PJM Tariff). Two of the Facilities, Whitetail 2 and Elk Hill, filed proposed revenue requirements pursuant to section 205 of the Federal Power Act (FPA).[16 U.S.C. § 824d.] The other two Facilities, Whitetail 1 and Whitetail 3, have revenue requirements that are subject to a Commission investigation under section 206 of the FPA.[16 U.S.C. § 824e.]”

under the control of PJM, and (2) that the facility must be operationally capable of providing voltage support to PJM’s transmission facilities such that PJM can rely on that generation facility to maintain transmission voltages.” The Presiding Judge then found that (*id.*) “a preponderance of the evidence in all four cases supports a finding that the Facilities do not satisfy the second criterion.” The Market Monitor supports these findings, which correctly resolve the issue raised in this case.

In their brief opposing exceptions, Whitetail repeats the arguments rejected by the Presiding Judge. The Presiding Judge correctly interpreted and applied Schedule 2. The Conclusions in the Initial Decision are well reasoned and supported in the record. Whitetail’s arguments have no merit and should be rejected by the Commission. The Initial Decision should be affirmed.

I. BACKGROUND

The Market Monitor incorporates by reference the background provided in the Initial Decision at PP 20–31.

II. SUMMARY OF ARGUMENT

The Presiding Judge correctly interpreted Schedule 2 (at P 60) to have two criteria for eligibility: (i) “the facility must be under the control of PJM” and (ii) “the generation facility must be operationally capable of providing voltage support to PJM’s transmission facilities such that PJM can rely on that generation facility to maintain transmission voltages.” The interpretation is consistent with the purpose of Schedule 2, which is to establish the terms pursuant under which PJM provides “Reactive Supply and Voltage Control from Generation or Other Sources Service ... for each transaction on the Transmission Provider’s transmission facilities.” The Initial Decision does not apply the first criterion. The Initial Decision correctly applies the second. The Presiding Judge correctly determined (at P 82) that a “preponderance of the record evidence supports a finding that none

of the Facilities are operationally capable of providing voltage support to PJM's transmission facilities such that PJM can rely on the Facilities to maintain transmission voltages," and concluded "none of the four Facilities is eligible for compensation under Schedule 2 of the PJM Tariff." The Initial Decision should be upheld in every respect.

III. POLICY CONSIDERATIONS WARRANTING REVIEW

Whitetail argues that various policy considerations (at 6–24) constitute grounds for exception to the Initial Decision. None of Whitetail's arguments have merit. This is not a complicated matter. The policy considerations cited by Whitetail are not relevant to the straightforward reading of Schedule 2 and the evidence. The Initial Decision is based on a direct reading of Schedule 2 and is fully consistent with the goals of the PJM market design and will ensure the proper implementation of the PJM market rules. There are no countervailing policy arguments.

Whitetail argues that the Initial Decision would set a precedent unfair to resources that do not meet the eligibility criteria under Schedule 2. The Initial Decision would set a precedent. That precedent would be fair and appropriate. The criteria distinguish between resources that support the service provided by PJM under Schedule 2 and those that do not. Whitetail has it exactly backwards. Ignoring the eligibility criteria would be unfair and unjust and unreasonable for PJM customers. Resources that provide reactive are paid and resources that do not provide the service are not paid.

Whitetail asserts that the Initial Decision would adversely impact resources' participation in PJM markets. The assertion is baseless and irrelevant. Resources should not be paid for services they do not provide.

IV. ARGUMENT

A. The Presiding Judge Correctly Interpreted Schedule 2.

In the relevant portion, Schedule 2 provides:

In order to maintain transmission voltages on the Transmission Provider's transmission facilities within acceptable limits, *generation facilities and non-generation resources capable of providing this service that are under the control of the control area operator are operated to produce (or absorb) reactive power.* Thus, Reactive Supply and Voltage Control from Generation or Other Sources Service must be provided for each transaction on the Transmission Provider's transmission facilities. The amount of Reactive Supply and Voltage Control from Generation or Other Sources Service that must be supplied with respect to the Transmission Customer's transaction will be determined based on the *reactive power support necessary to maintain transmission voltages within limits that are generally accepted* in the region and consistently adhered to by the Transmission Provider.

Reactive Supply and Voltage Control from Generation or Other Sources Service is to be provided directly by the Transmission Provider. The Transmission Customer must purchase this service from the Transmission Provider. [Emphasis added]

The Presiding Judge found (at P 60) “that Schedule 2 of the PJM Tariff contains two criteria for determining the eligibility of a generation facility to receive reactive power compensation.” Eligibility requires (*id.*) that (i) “the facility must be under the control of PJM” and (ii) “the generation facility must be operationally capable of providing voltage support to PJM’s transmission facilities such that PJM can rely on that generation facility to maintain transmission voltages.” The Presiding Judge noted (*id.* & n.104) that because no prior case law interprets Schedule 2, “this is an issue of first impression.”

1. The First Criterion: Control Requirement.

Whitetail argues (at 29) that the Presiding Judge does not explain why the Facilities “must be under the control of PJM if they are not capable of providing reactive power.” Whitetail argues (*id.*) that the “Judge’s interpretation renders the control criteria meaningless.” Whitetail ignores the fact that both criteria must be met and that when one is not met, the resource does not qualify for payment. The Presiding Judge did not find that the Whitetail Facilities are under PJM’s control per the first criterion.⁵ The Initial Decision is explicit on this point.⁶ The Initial Decision rests entirely on the interpretation and application of the second criterion.⁷

2. The Second Criterion: Operational Capability Requirement.

The Presiding Judge correctly interprets (at P 62) the second criterion, the operational capability requirement, to require that “a generation facility must be operationally capable of providing voltage support to PJM’s transmission facilities such that PJM can rely on that generation facility to maintain transmission voltages.” The interpretation is rooted in the plain text of Schedule 2 and properly recognizes that the purpose of Schedule 2 is to enable PJM, not generation resources, to provide Reactive Supply and Voltage Control Service. A resource’s eligibility depends upon the capability of a resource to operate in conjunction with other resources to support PJM. Whitetail’s arguments (at 28–53) that this

⁵ *Id.*

⁶ *Id.*

⁷ *See* OA Schedule 1 § 1.7.20(b).

interpretation is not supported by either the language or the purpose of Schedule 2 have no merit and should be rejected.

Whitetail argues (at 78) “that Schedule 2 does not require PJM to rely on the generation facility to maintain transmission voltages” and “does not contain a requirement for generation facilities, whether connected at the transmission or sub-transmission level, to demonstrate that PJM actually dispatches the generation to provide reactive support.” Whitetail objects (at 30–31, 33–36) that the Presiding Judge rejected its position.

Whitetail’s position has no basis in Schedule 2. Adopting Whitetail’s position would mean that any resource in the Eastern Interconnection could claim eligibility for compensation under Schedule 2 with a showing of an incidental MVAR output anywhere on the system. Whitetail’s position is inconsistent with the explicit exclusion of certain resources from eligibility under Schedule 2. The Initial Decision correctly held that a resource must show that it has the ability to impact or reach PJM’s transmission facilities and provide voltage support to PJM transmission facilities in order to satisfy the second criterion for eligibility under Schedule 2.

Whitetail further objects (at 53–54) to the finding (at P 78) that Schedule 2 “requires PJM to ‘directly’ provide Reactive Supply Control Service ‘for each transaction on the Transmission Provider’s transmission facilities.’”

Neither off system capability nor incidental reactive output is relevant to the criteria for eligibility under Schedule 2.⁸ Schedule 2 requires that eligible resources have the capability to be “operated to produce (or absorb) reactive power” and “to maintain transmission voltages.” “Capable” as used in Schedule 2 means the

⁸ See Whitetail at 54–59.

ability to respond to PJM directives when PJM provides Reactive Supply and Voltage Control Service on its system.⁹

The Presiding Judge carefully parses the language of Schedule 2 and concludes (at P 66): “First, a generation facility must be capable of producing or absorbing reactive power to provide Reactive Supply and Voltage Control Service. And second, the reactive power supplied by a generation facility must enable PJM to maintain transmission voltages within acceptable limits.” The Presiding Judge’s findings are correct and are well grounded in the text of Schedule 2 and in the record.

Whitetail argues that the Presiding Judge’s finding that Schedule 2 “ ‘clearly requires’ voltage support to transmission facilities ... is not supported by the language of Schedule 2 or the purpose of Schedule 2.” On the contrary, the language and purpose of Schedule 2 fully supports the Initial Decision.

Schedule 2 states:

The amount of Reactive Supply and Voltage Control from Generation or Other Sources Service that must be supplied with respect to the Transmission Customer’s transaction will be determined based on the reactive power support necessary to maintain transmission voltages within limits that are generally accepted in the region and consistently adhered to by the Transmission Provider.

⁹ Whitetail’s attempted reliance (78 at & n.174) on *Dynegy Midwest Generation, Inc.*, 121 FERC ¶ 61,025 at P 74 (2007), in support of its position is misplaced. That decision does not interpret Schedule 2, and it does not interpret or address the language in Schedule 2 that sets forth the criteria for eligibility or any language akin to it.

Whitetail’s objection at (at 53–54) to the Presiding Judge’s determination that resources must “directly” support PJM’s provision of Reactive Supply and Voltage Support contradicts the language of Schedule 2 and is illogical. Schedule 2 states: “Reactive Supply and Voltage Control from Generation or Other Sources Service is to be provided *directly* by the Transmission Provider” [emphasis added.]. It is logical that resources that PJM relies on must enable PJM to directly provide service because PJM must provide service directly. Whitetail’s attempt to read “directly” out of Schedule 2 has no merit and should be rejected.

The Presiding Judge finds support in *Ameren Energy Marketing* for the determination that “operational capability” is only relevant to the criterion in Schedule 2 when it is effective at the “point of need.”¹⁰ In *Ameren Energy Marketing*, the Commission accepted the proposed self supply of reactive supply and voltage control service when it was limited “to instances when the point of need is close enough to the generation resource so that [it] is operationally capable of providing this service.” The Presiding Judge explained that *Ameren Energy Marketing* “lends support” to his reading defining operational capability relevant to Schedule 2. Operational capability must impact “PJM’s “transmission facilities,” the analogous point of need.¹¹ Whitetail (at 40–41) does not really object to the relevance of the finding in *Ameren Energy Marketing*. Whitetail’s objection (*id.*) reflects its refusal to acknowledge that PJM’s transmission facilities and not the Whitetail Facilities’ point of interconnection is the “point of need.” Whitetail fails to ground its reading in the language of Schedule 2, and its objection has no merit.

¹⁰ Initial Decision at 69, citing *Ameren Energy Mktg. Co.*, 103 FERC ¶ 61,156 at P 8 (2003).

¹¹ *Id.*

Whitetail makes little or no effort in its 81 page brief on exceptions to make a positive case for how the text of Schedule 2 supports its position. Whitetail instead searches for an extrinsic substitutes for Schedule 2.

Whitetail claims (at 44–45) that its Interconnection Service Agreement, pursuant to which the Whitetail Facilities receive interconnection service from FirstEnergy subsidiaries constitutes sufficient evidence of eligibility under the second criterion. Whitetail also cites to other extrinsic sources (at 58–59) including the generally applicable operational requirements including in the PJM Manuals and NERC policies.

The Presiding Judge found (at P 73) that “nothing in the ISAs suggests that generation facilities must receive compensation under Schedule 2 even if they are not operationally capable of providing voltage support to PJM’s transmission facilities.”

The Initial Decision stated: “To the extent that Applicants believe they are automatically entitled to compensation for the investments they made as a precondition to interconnection, I agree with Trial Staff’s argument that such a position is foreclosed by the Commission’s decision in *Public Service Company of New Mexico*.”¹² Whitetail objects (at 47–48) that the context for that case is different, but concedes: “The Commission ... noted that an independent generator would not be entitled to compensation despite the fact that it designed its facility to meet the requirements of Public Service Company of New Mexico’s then-existing OATT and as provided in interconnection agreements.” That the requirements of ISAs do not create rights to compensation is the point. *Public Service Company of*

¹² Initial Decision at P 73, n.124, citing Trial Staff Reply Br. at 5–6 (discussing *Pub. Serv. Co. of N.M.*, 178 FERC ¶ 61,088 at P 33 (2022)).

New Mexico undercuts Whitetail’s attempt to rely on the terms of the ISAs instead of the requirements of Schedule 2.

The Initial Decision also noted (at P74) that certain provisions in the ISAs that reference Schedule 2 are either immaterial or “make clear that it is Schedule 2, not the ISA, that will determine a generation facility’s eligibility for compensation.” Likewise the Presiding Judge found that statements in the manuals on which Whitetail relies “make[] no indication as to whether a particular facility will qualify for compensation.”

Whitetail claims (at 33–34) the “concept” that “Schedule 2 ... requires evidence that a generation facility’s reactive power capability” must impact or reach PJM’s transmission system ... is contrary to the reactive power capability requirement that the Commission included in Order Nos. 888, 2003 and 827.” Whitetail claims the indicated orders do not “distinguish between generation facilities based on the interconnection voltage and [do not] include the requirement that the Presiding Judge adopts.” Whitetail would simply ignore Schedule 2.

Whitetail objects (at 42–43) that the Presiding Judge rejected its attempt to rely on cases where the Commission accepted filings and the issue of eligibility was not raised or litigated. The Presiding Judge correctly observed (at P 71) that none of these were cited on the merits and “determined that “these cases do not inform this Initial Decision’s analysis of Schedule 2.” The Presiding Judge correctly applied the law of issue preclusion.

Whitetail’s attempted reliance on extrinsic sources fails. The Initial Decision properly remains focused on that language of Schedule 2. Whitetail fails to find support for its position in that language.

B. The Presiding Judge Correctly Applied Schedule 2.

The Presiding Judge found (at PP 5, 34, 82, 102 & 117) that a preponderance of the evidence supports the finding that none of the Whitetail Facilities meet the operational capability criterion. There is no relevant un rebutted evidence that supports Whitetail’s case that it meets the operational capability criterion in Schedule 2.

Whitetail’s one attempt to make the necessary showing under the second criterion came in the form of a discredited modelling study.¹³ The Presiding Judge noted (at P 112) PJM’s statement in the record that “that Applicants’ ‘analysis is based on unreasonable assumptions’ and their use of the model is “beyond its intended design.” The Presiding Judge further noted (*id.*), “PJM is the creator of the model. [footnote omitted] Its view on the proper application of the model therefore warrants substantial weight.”

Other than its discredited modelling analysis, the “evidence” Whitetail provided is irrelevant to the core question presented on whether the operational capability criterion in Schedule 2 is satisfied.

The Initial Decision reasonably relies on evidence provided by Staff. Staff Witness Brian Fejka provided detailed testimony setting forth Staff’s position for why the Whitetail Facilities do not meet the operational reliability criterion.¹⁴ Witness Fejka examined where the Whitetail Facilities interconnect and the facts about the electrical configuration and electrical distance between the point of interconnection to the FirstEnergy system and the point of interconnection of the

¹³ See Initial Decision at PP 89–100.

¹⁴ See Initial Decision at P 96.

FirstEnergy system to the PJM system. In addition, Witness Fejka relied on the discovery responses obtained from PJM that confirmed his expert analysis and conclusions and rebutted Whitetails arguments.¹⁵

Whitetail objects (at 59–69) that the Initial Decision errs in reliance on evidence that PJM relies on Whitetail Facilities, in accepting Staff’s critique of modeling, and in affording substantial weight to PJM. Whitetail fails to demonstrate any of these objections are actually deficiencies in the Initial Decision. PJM’s measured responses in discovery undercut Whitetail’s case.

The Presiding Judge explained (at P 103):

PJM credibly explained that it cannot rely upon the Facilities for voltage support because they are not directly connected to the transmission system.[footnote omitted] PJM’s view on this matter warrants substantial weight because PJM operates the transmission system and is responsible for maintaining transmission voltages pursuant to Schedule 2. Moreover, PJM’s position is grounded in reasonable concerns about voltage conflicts and electrical distance, as discussed below. PJM’s statements also stand uncontested: no Participant called on PJM to testify at the hearing, and Applicants did not otherwise directly challenge PJM’s view on voltage support.

The Presiding Judge’s explanation is reasonable. It is also clear that the Initial Decision reflects not only the substance of PJM’s statements but Whitetail’s failure to present an effective response.¹⁶ Whitetail had the opportunity to conduct and did conduct its own discovery on PJM.

¹⁵ *Id.* at PP 94–95.

¹⁶ *See* Initial Decision at P 103 n.185 (“Applicants do not challenge or criticize PJM’s response to S-PJM-1.9, in which PJM states that the Facilities cannot

The Market Monitor also provided record evidence in the form of testimony from Dr. Joseph Bowring showing that PJM does not monitor or operate the facilities where Whitetail interconnects to the system.

The application of the second, operational capability, criterion in Schedule 2 in the Initial Decision should be upheld.

v. CONCLUSION

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

Respectfully submitted,



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

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

Dated: September 6, 2022

provide voltage support to the PJM transmission system. Ex. S-0005 at 10 (PJM response to S-PJM-1.9). Indeed, Applicants rely on that response to support their position that the Facilities may provide indirect benefits to the transmission system.”).

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 6th day of September, 2022.



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