

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

MD Solar 2, LLC)	
)	Docket No. EL23-52-001
)	

ANSWER OF THE INDEPENDENT MARKET MONITOR FOR PJM

Pursuant to Rule 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”),² submits this answer to the motion submitted by MD Solar 2, LLC (“MD Solar”) on July 13, 2023, requesting that the Chief Administrative Law Judge issue an order severing the threshold eligibility issue and setting it for hearing (“Motion”). The Motion also requests that the period for answers to the Motion be shortened to three days.³ MD Solar 2 does not provide good cause to support either part of the Motion. Staff has opposed the Motion. Granting the Motion would also be unduly prejudicial to the Market Monitor and would not serve the public interest. The Motion should be denied.

The Motion claims that severance of the eligibility issue would promote administrative efficiency and encourage settlement. Severance would have the opposite effect. With severance, discovery on the issues would occur sequentially and unnecessarily delay the hearing.

¹ 18 CFR § 385.213 (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”).

³ Rules 213 provides 15 days for answer to a motion. 18 CFR § 385.213(d)(1).

The Motion cites to the severance of the eligibility issue in the *Whitetail* hearing.⁴ In the *Whitetail* hearing, the eligibility issue was an issue of first impression. We now have the guidance provided by the *Whitetail* initial decision. There is no need for severance of the eligibility issue in this matter.

After the Commission set the issues in this case for hearing, April 28, 2023, became the refund date.⁵ The protection for customers afforded by refunds for customers expires after 15 months, on July 28, 2024.⁶ After July 28, 2024, payments to MD Solar 2 for reactive capability will not be refunded even after an order determining that MD Solar 2 was not eligible to file a rate under OATT Schedule 2, or determining that the rate is excessive, unjust and unreasonable.

Severance of the eligibility issue is not relevant to the pace of settlement discussions. Nothing prevents the parties from engaging in settlement discussions.

The motion for severance of the eligibility issue should be denied.

The request for a shortened answer period should also be denied. MD Solar 2 knew that the Motion would be opposed. A shortened answer is appropriate only where there is no opposition and/or good cause.⁷ MD Solar 2's concern for defining a schedule at the first prehearing conference is not a valid reason for prejudicing the rights of other parties by denying them ample time to respond to the Motion.

The Market Monitor respectfully requests that the Commission afford due consideration to this answer and deny the Motion.

⁴ See Motion at 2, citing *Whitetail Solar 2, LLC, et al.*, 176 FERC ¶ 63,023 at P 9 (2021) (*Whitetail*).

⁵ See *MD Solar 2, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date*, 88 Fed. Reg. 26298 (April 28, 2023).

⁶ See 16 U.S. Code § 824e(b).

⁷ See *Chevron Products Company, et al. v. SFPP, L.P.*, Order Denying Request for Shortened Answer Period and Expedited Consideration of SFPP, L.P.'s Motion to Compel, Docket No. OR16-6-000 (November 17, 2016) at PP 3,5.

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Respectfully submitted,



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Dated: July 17, 2023

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 17th day of July, 2023.



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