

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

DC Energy, LLC and)	
DC Energy Mid-Atlantic, LLC)	Docket No. EL12-8-001
)	
v.)	
)	
PJM Interconnection, L.L.C.)	
)	

**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 for PJM² (“Market Monitor”), answers and moves for leave to answer the request for rehearing filed April 9, 2012, by DC Energy, LLC and DC Energy Mid-Atlantic, LCC (“DC Energy”) of the order issued in this proceeding on March 9, 2012 (“March 9th Order”).³

DC Energy’s request for rehearing for the most part raises arguments to which the Market Monitor and others have responded and which the Commission has considered and rejected. This answer responds solely to the allegation raised on rehearing (at 32) that “Dr. Bowring explained to Dr. Stevens that it was permissible for the DC Companies to use IBTs to offset deviations from virtual transactions under the PJM Tariff rules.”

¹ 18 CFR § 385.212 & 385.213 (2011).

² Capitalized terms herein are not otherwise defined have the meaning used in the PJM Open Access Transmission Tariff (“OATT”).

³ *DC Energy, LLC et al. v PJM Interconnection, L.L.C.*, 138 FERC ¶ 61,165 (2012).

This allegation, even if it were true, does not provide a basis for rehearing. The Market Monitor's statements on tariff compliance issues do not change the filed market rules. Nevertheless, the Market Monitor does dispute the characterization of the asserted facts and conclusions provided by DC Energy Witness Stevens.

DC Energy Witness Stevens alleges that Dr. Joseph Bowring provided "affirmative confirmation that DC Energy's proposed strategy was permitted."⁴ A close reading of Stevens' affidavit does not support this claim. Among other things, Witness Stevens never claims that he asked the question regarding the physical nature of the transactions that needed answering.

Witness Stevens does assert that "[i]t is inconceivable that PJM did not understand the character of the DC Companies' participation in the markets and that the DC Companies did not own generation nor serve load."⁵ This is simply Mr. Stevens' unsupported assertion. It is certainly conceivable that a company such as DC Energy could engage in internal bilateral transactions that could be appropriately reported to PJM. No one has alleged that DC Energy is barred from engaging in and reporting compliant transactions. The problem at the core of this proceeding is that the transactions that DC Energy reported to PJM that do not comply with the tariff.

Witness Stevens describes at length conversations with PJM and the Market Monitor. Witness Stevens relates (at 8) that "[Dr. Bowring] asked if the only purpose of these transactions was to avoid balancing operating reserve ("OR" or "deviation") charges that otherwise would be paid." Witness Stevens claims that these conversations, among

⁴ DC Energy, Third Affidavit of Dr. Andrew Stevens at 8.

⁵ *Id.* at 9.

other things, “addressed [Dr. Bowring’s] query about the use of these transactions to simply avoid OR charges for activity that [DC Energy] would otherwise be conducting.” Thus, Mr. Stevens recognizes that Dr. Bowring did explicitly raise the question about whether the purpose of these transactions was simply to avoid balancing operating reserves charges. The facts that Witness Stevens describes do not support the assertion that Mr. Stevens addressed Dr. Bowring’s concerns. Speculation about the Market Monitor’s evaluation of DC Energy’s response to a pointed question from the Market Monitor about its purpose is not a basis for reasonable reliance. On the contrary, the Market Monitor’s question and the quality of DC Energy’s purported response (at 8), that it wanted to engage in transactions “that would otherwise not be economically feasible,” reveals that DC Energy had good reason to carefully reevaluate its plans or seek explicit, written confirmation that they were permissible.

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

Respectfully submitted,



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Dated: May 7, 2012

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 7th day of May, 2012.



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