UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

	)	
PJM Interconnection, L.L.C.	)	Docket No. ER12-513-000
	)	

MOTION FOR LEAVE TO ANSWER AND 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 PJM[2] ("Market Monitor"), moves for leave to answer and answers the answers filed jointly by parties collectively identifying themselves as "Protestors,"[3] first on January 10, 2012 and later on January 25, 2012 (respectively, "Protestors January 10th Answer" and Protestors January 25th Answer"), and by PJM Interconnection, L.L.C. ("PJM") on January 13, 2012.

Protestors attempt to defend the 2.5 Percent Holdback Rule, asserting both that the 2.5 Percent Holdback Rule does not suppress prices, and that the rule does suppress prices, but that this suppressing effect should be ignored.[4] Neither defense has merit. The 2.5

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1 18 CFR §§ 385.212 & 385.213 (2011).

2 PJM Interconnection, L.L.C. is a Commission approved Regional Transmission Organization. Capitalized terms used herein and not otherwise defined have the meaning provided in the PJM Open Access Transmission Tariff ("OATT") or the PJM Reliability Assurance Agreement ("RAA").

3 "Protestors" include the PJM Industrial Customer Coalition; EnerNOC, Inc.; Viridity, Inc.; the People's Counsel of the District of Columbia; New Jersey Division of Rate Counsel; Maryland Office of People's Counsel; and Delaware Division of the Public Advocate.

4 Protestors January 25th Answer at 5–12.

Percent Holdback Rule suppresses prices with material impacts to RPM performance that should not be ignored.

PJM does not defend the merits of the recommendation to retain the 2.5 Percent Holdback Rule. PJM claims that eliminating this defect is not within the scope of this proceeding.[5] But it is PJM and not intervenors who raised this issue. PJM stated in its transmittal letter that it considered eliminating the 2.5 Percent Holdback Rule as an approach to removing artificial barriers to participation of demand response in Base Residual Auctions in the Reliability Pricing Model ("RPM"). Moreover, PJM's filing is in compliance with a required triennial review intended to afford to the Commission periodic opportunity to correct RPM market design flaws. PJM has not sustained its claim that the Commission's consideration of eliminating the 2.5 Percent Holdback is not properly within the scope of this proceeding.

I. ANSWER

A. Protestors' Attempt to Defend the 2.5 Percent Holdback Rule Offered Lacks Merit and Should Be Rejected.

Despite the lengthy discussion of whether some supply has the flexibility to offer in Base Residual Auctions ("BRAs"), Protestors (January 25th Answer) never address the actual issue. Protestors assert both that the 2.5 Percent Holdback Rule does not suppress prices, and that the rule does suppress prices, but that this suppressing effect should be ignored because it offsets the effects of other rules. Neither argument has any merit.

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[5] PJM at 34–35; see also Protestors January 10th Answer at 3–5.

The 2.5 Percent Holdback Rule does suppress price, this price suppression has been unambiguously demonstrated by the Market Monitor using real world data and correct analysis, and this price suppression has had real impacts on Base Residual Auction outcomes.

Regardless of whether all or only some supply has a must offer requirement in the BRA, shifting the demand curve reduces the price in the BRA compared to the price without a shift in the demand curve. The only exception is a case where the supply curve is flat in the relevant portion, which has not been and is unlikely to be the case in RPM BRAs. As a result, the level of capacity that has some flexibility to offer is irrelevant.

Protestors assert that the price suppression identified by the Market Monitor actually serves "to moderate the elevation of prices that would otherwise occur."[6] Thus, Protestors concede that the 2.5 Percent Holdback Rule does suppress prices but claim that this price reduction is only fair because prices would be too high otherwise. Protestors object to the design of the RPM and the level of reliability that the auctions are designed to obtain, arguing that the defined demand is too high. This is equivalent to arguing that because Protestors do not like the RPM design, it is acceptable to distort prices to produce an outcome more to Protestors liking. The argument is not acceptable, it is an attack on competition-based regulation, and it should be rejected.

Suppressing prices in BRAs damages the interests of all suppliers, including Demand Resource suppliers. Suppressing prices in BRAs damages the interests of load

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[6] January 25th Answer at 10.

seeking maximum competition from new entry to discipline energy and capacity prices. Suppressing prices damages the public interest in efficient and competitive energy markets.

B. PJM Has Raised Retention of the 2.5 Percent Holdback Rule as an Issue in this Proceeding, and Even Had PJM Not Done So, It Would Be Appropriate to Address This RPM Market Design Flaw in the Context of the Triennial Review Required by the Tariff.

In the course of its triennial review PJM, with the assistance of the Brattle Group, has identified a flaw with the 2.5 Percent Holdback Rule. PJM has shown that the 2.5 Percent Holdback Rule does not serve its purpose, which was to facilitate the participation of demand-side resources in RPM on the basis of the assumption that such demand resources that do not yet exist, unlike supply resources that do not yet exist, cannot be offered three years in advance. PJM shows that the 2.5 Percent Holdback Rule is unneeded. The problem, following the breakdown of DR into Limited DR and Annual DR products is redefined as enabling Limited DR to participate in the Incremental Auctions. This is necessary because without a rule change, Limited DR reaches its maximum level in the BRA. This leaves only Annual DR eligible to participate in the Incremental Auctions, which PJM explains (at 26) "overwhelmingly consist of generation resources, and generation resources do not have short lead times for their development."

This finding necessarily contradicts and eliminates the prior assumption that DR, including Limited DR, cannot effectively participate in auctions for delivery years three years forward. The problem, as PJM now understands it, is to channel capped Limited DR away from the three-year forward Base Residual Auctions and into the shorter term Incremental Auctions.

Recognition that demand response can participate in three year forward auctions, and that demand has a strong interest in full participation in such auctions, means

abandonment of the original and never compelling justification for the 2.5 Percent Holdback Rule. One approach that would remove the obstacle posed by the 2.5 Percent Holdback Rule to demand side participation in Base Residual Auctions is to eliminate the 2.5 Percent Holdback Rule. PJM reports that it considered and rejected this approach, but does not explain that decision. Another approach is to attempt to modify the rule in a way that manages DR's participation in the three year forward and incremental auctions so that such participation appears to be consistent with the rationale behind the 2.5 Percent Holdback Rule and ignore the plain implications of this need to manage DR participation. The second approach is the solution proposed, but PJM states that it was one of two solutions evaluated by PJM in connection with the same issue.

In its transmittal letter, PJM states that the PJM Board considered eliminating and affirmatively determined to retain the 2.5 Percent Holdback Rule.[7] PJM recognizes and explains to the Commission that elimination of the 2.5 Percent Holdback Rule is an approach that could address the problem that it identifies. This representation places retention of the 2.5 Percent Holdback Rule squarely within the scope of this proceeding. PJM is certainly free to propose the solution that it prefers. However, PJM cannot reasonably argue that an alternative approach that it considered and rejected is beyond the scope of consideration on this issue.

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[7] PJM transmittal letter initiating Docket No. ER12-3322-000 (December 1, 2011) ("[T]he PJM Board determined to revise the RPM parameters as follows: … retain the 2.5 percent Short-term Resource Procurement Target ("STRPT") or "hold-back" that defers resource procurement for a portion of the overall load in RPM from the Base Residual Auction to the Incremental Auctions, but eliminate the current application of the hold-back to the separate minimum procurement requirements for two distinct resource categories, i.e., Annual Resources and Extended Summer Resources.").

An argument limiting the scope of the proceeding is particularly inappropriate in this proceeding, which concerns the triennial review of the RPM market rules. Eliminating the 2.5 Percent Holdback Rule is the best approach to address a problem that PJM specifically identified. PJM explains that this solution was considered and rejected for unexplained reasons. But even if a proposal does not solve a problem identified by PJM, and if that proposal was not specifically considered by PJM, as in this case it was, it should be recognized as within the scope of a triennial review of the RPM Auction parameters if it corrects a flaw with those parameters.

The Commission has recognized that "the triennial review process provides a valuable cross-check to ensure both that consumers are not paying more than a reasonable price and that the VRR curve is set to support new entry when new resources are needed."[8] The 2.5 Percent Holdback Rule is an example of exactly the type of the defect in the rules that the triennial review process should address. The triennial review has been included in the RPM rules since its initial filing in 2004.[9] This provision provides the Commission an opportunity to correct imperfections in the market rules even when PJM does not propose such correction. An interpretation of the triennial review process that accords no meaning to triennial review beyond PJM's existing and undisputed right to propose changes to any of its market rules at any time pursuant to its authority under section 205 of the Federal

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[8] *PJM Interconnection, L.L.C.*, 128 FERC ¶61,157 (2009) at P 45, quoting Mirant's Request for Rehearing at 18 n.63, citing Affidavit of Robert B. Stoddard in Support of the Mirant Parties (Attachment A to Mirant February 23, 2009 Comments) at PP 35–39.

[9] PJM Explanatory Statement filed with RPM Settlement in Docket No. ER05-1410-000 et al. at 9–10 (September 29, 2006).

Power Act, a right PJM carefully reserved in addition to the provision for triennial review, is an interpretation that would deprive the provision for triennial review of meaning.[10]

If PJM believes that the capacity market rules have matured to the point where special provision for triennial review is no longer needed, then it should propose to eliminate the triennial review directly rather seek to do so indirectly by attempting to narrow the scope of any such review to its specific proposals.

If the Commission does not agree with PJM's evaluation of the relative merits of these alternatives and finds that PJM has not met its burden to sustain its preferred approach, then the Commission can act, as it does routinely, to resolve the issue by adopting an approach that is just and reasonable. That such action would come in a proceeding established by the Commission to allow it a regular opportunity to refine the RPM rules reinforces its propriety.

II. MOTION FOR LEAVE TO ANSWER

The Commission's Rules of Practice and Procedure, 18 CFR § 385.213(a)(2), do not permit answer 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.[11] In this answer, the Market Monitor provides the

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[10] *Id*.

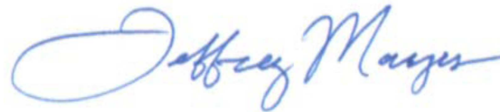
[11] *See, e.g., N.Y. Indep. Sys. Operator, Inc.*, 121 FERC ¶61,112 at P 4 (2007) (answer to protest accepted because it provided information that assisted the Commission in its decision-making process); *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,318 at P 36 (2007) *(accepted answer to answer that* "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

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 resolves the issues raised in this proceeding.

Respectfully submitted,



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(2002) (answer accepted to provide new factual and legal material to assist the Commission in 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 27th day of January, 2012.

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