

where a state of emergency prevented Dominion from returning units to operation in a timely fashion” and “Dominion will be forced to secure replacement capacity in PJM's Third Incremental Auction to meet its capacity supply obligations even though its resources have a demonstrated capability to meets its capacity needs.”

The Market Monitor agrees with comments filed September 17, 2020, by the PJM Power Providers Group (“Power Providers”) that Dominion’s request fails to satisfy the criteria for granting a waiver and should be denied.

I. COMMENTS

A. Dominion Has Not Shown that It Meets the Requirements for a Waiver.

Dominion argues: “[T]he Commission has previously granted limited tariff waivers to applicants, where the requested waiver: (1) is made in good faith; (2) is of limited scope; (3) addresses a concrete problem that will be remedied; and (4) does not have undesirable consequences”³ Dominion has identified the applicable standards, but the request for waiver does not meet them.

1. Good Faith

No commenter alleges that the waiver request was filed in bad faith, and the Market Monitor does not allege bad faith.

2. The Waiver Request Is Not Limited in Scope

Dominion claims (at 13) that the waiver is limited in scope, alleging that certain health and safety restrictions imposed by the state prevented it “from bringing certain of its generation station units back online in a timely manner after planned, maintenance or forced outages for a limited period between March 22, 2020 and June 8, 2020.” The particular facts and circumstances cited by Dominion do not demonstrate limited scope.

³ Dominion at 12, citing *Duke Energy Carolinas LLC*, 172 FERC ¶ 61,074 at P 17 (2020); *Public Service Electric and Gas Company*, 172 FERC ¶ 61,068 at P 12 (2020).

Neither Dominion nor any other party disputes that the Dominion Units took outages and that no provision excludes such outages from the calculation of EFORd.

The risk that a range of factors may impair the operation of a generating unit is very broad and will persist indefinitely.

More generally, the basic logic cited by Dominion would extend to forced outages taken for any reason. There are many circumstances under which it could be argued by a generation owner that the forced outage experience during the prior year will not be repeated during the delivery year.

As noted by Power Providers (at 4), many unit operators faced the same or similar circumstances to Dominion during the indicated period and likely will face substantially the same or similar circumstances in the future. No limiting principle applies to Dominion's request. Dominion's request does not satisfy the limited scope criterion.

3. The Waiver Request Does Not Remedy a Concrete Problem

Dominion does not demonstrate a concrete problem. That the Dominion Units were unavailable for a period due to forced outages is undisputed. Dominion shows that the rules operated as intended. The rules for calculating a unit's forced outage rate, EFORd, require the calculation to be based on actual recent history. The EFORd, when combined with installed capacity (ICAP), determines the UCAP that must be offered into the capacity auctions. The reasons for the forced outages do not matter.

The PJM market rules do not allow for excuses for facts and circumstances "outside of management control" to affect the calculation of EFORd. The decision not to allow excuses was intentional. The PJM market rules assign risks to unit operators. Unit operators must manage those risks in accordance with the established rules.

Dominion has not shown a concrete problem because it has not shown that the rules do not operate as intended. The rules do operate as intended.

4. Granting the Waiver Request Would Have Undesirable Consequences

The market rules for calculating EFORd do not permit excuses. Allowing a waiver based on an excuse would directly contradict the rules and should not be and cannot be the basis for a waiver. Allowing excuses through waivers of the rules would result in subjective, discriminatory and inconsistent application of the rules.

The rules place the management of risks on the generator owners, who are best situated to manage those risks. Competitive markets reward those best at managing such risks.

Many resource owners faced or face the same or similar restrictions to those faced by Dominion. Granting Dominion's waiver request would excuse Dominion from application of the PJM market rules but not excuse other market participants. As Power Providers explain (at 4), "the waiver relief sought would indeed have undesirable consequences, as it would provide a preference to one utility's generation units to the exclusion of all other similarly-situated utilities in PJM's footprint."

Granting the requested waiver will have undesirable consequences.

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 assists in creating a complete record.⁴ In this answer, the Market Monitor provides the

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).

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 and deny the requested waiver.

Respectfully submitted,



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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 9th day of October, 2020.



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