

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

Albemarle Beach Solar, LLC)	Docket No. ER20-2845-000
)	
Mechanicsville Lessee, LLC)	Docket No. ER20-2846-000
)	
AB Lessee, LLC)	Docket No. ER20-2847-000
)	
)	(not consolidated)

**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 (“Market Monitor”) for PJM Interconnection, L.L.C. (“PJM”),² submits this answer to the answers and motions submitted on October 15, 2020, by Albemarle Beach Solar, LLC (“Albemarle Beach”), Mechanicsville Lessee, LLC (“Mechanicsville”) and AB Lessee, LLC (“AB Lessee”) (collectively, “Sellers”). Sellers respond to protests filed by the Market Monitor in each of the above proceedings, not consolidated, to their applications for authorization to charge market based rates (“Protests”).³ The arguments and motions raised by Sellers have no merit and should be rejected and denied. The limited condition to market

¹ 18 CFR §§ 385.212 & 385.213 (2020).

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 Protest of the Independent Market Monitor for PJM, Docket No. ER20-2845-000 (September 29, 2020); Protest of the Independent Market Monitor for PJM, Docket No. ER20-2846-000 (September 29, 2020); Protest of the Independent Market Monitor for PJM, Docket No. ER20-2847-000 (September 29, 2020).

based rates authorizations supported in the Protests is in the public interest and should be included.

I. ANSWER

Sellers each assert (at 5) lack of market power based solely on the size of each facility. Such claims are irrelevant. The size of the facility is not the only determining factor as to whether structural market power exists. Because facilities of any size may have structural market power due to transmission constraints, all PJM resources are subject to market power mitigation. The PJM market rules do not exempt small sellers from market power mitigation.

Sellers also assert (at 5–6) that the resources are committed under long term PPAs with third parties, suggesting that the existence of PPAs alleviates structural market power. The existence of PPAs is irrelevant.⁴

Sellers' applications rely solely on PJM market power mitigation to support their requests for market based rates. The presumption that market power mitigation is sufficient to mitigate any market power that Sellers may have now or at a future time is the relevant issue of the application. The Market Monitor has followed exactly the process set forth in Order No. 861 in challenging such reliance.

Structural market power exists in PJM markets. Such market power can only be addressed through market power mitigation. The Market Monitor directly responds to Sellers' statements in their applications relying on the effectiveness of PJM market power mitigation.

Sellers state (at 5): "The IMM's primary requested relief is in the form of a Section 206 proceeding to investigate whether the existing market power mitigation in PJM continues to be just and reasonable." Sellers misstate the Market Monitor's requested relief.

⁴ If the PPAs were evaluated as a transfer of ownership to a third party, the transfers may in fact increase rather than mitigate structural market power.

The requested relief is a condition to market based rates authorizations requiring competitive offer behavior. The Market Monitor's recommendation to investigate the existing market power mitigation in PJM would be a separate proceeding.

Market based rates authorizations should be conditioned on the submittal of competitive offers in the energy market and in the capacity market. Competitive offers in the energy market are cost-based offers with operating parameters that are at least as flexible as the defined unit specific parameter limits in the PJM energy market.⁵ ⁶ Competitive offers in the capacity market, defined consistent with the mathematics of the PJM capacity performance design and the actual number of PAI, are equal to the Avoidable Cost Rate adjusted for expected Capacity Performance penalties and bonuses.⁷ The evidence offered that PJM market power mitigation cannot properly be relied upon in its current state is unrefuted. The responses do not and cannot identify any harmful impact to granting the relief requested in the Protests.

Referring to the overstated capacity market offer cap, Sellers state (at 7): "Raising the issue again here is a collateral attack on the Commission's actions so far and deliberations in that docket, as well as on the Commission's market-based rate authority precedent generally, including Order Nos. 861 and 697-A." The Protests raise no collateral attack on any Commission order or precedent. The issue raised in the Protests is whether the current market power mitigation can be relied upon as the basis to grant market based rates authorizations unconditionally.

The Commission may decide in response to the Protests to exercise the option that it defined in Order No. 861 to initiate an inquiry under Section 206 into whether PJM market

⁵ See OA Schedule 2.

⁶ See OA Schedule 1 § 6.6.

⁷ See Attachment A to the Complaint of the Independent Market Monitor for PJM, Docket No. EL19-47-000 (February 21, 2019).

power mitigation requires reform. The Commission could then correct the flaws identified in that proceeding and remove the conditions on market based rate authorizations in PJM. Until those steps are taken and even without those steps, the conditions defined in the Protests would be sufficient to protect the public against the potential exercise of market power.

The most curious argument against the Protests is the claim that the Protests are collateral attacks on Order No. 861. The Protests follow exactly the process explicitly set forth in Order No. 861.⁸

Sellers argue (at 7–8) that “the IMM’s Protest is not bona fide protest of [Sellers’] application[s]” and move for dismissal. The motion should be denied. The responses should not be permitted to avoid the issue of whether the market power mitigation is adequate to support continued unconditional market based rates authorizations in PJM.

Sellers suggest that effective PJM market power mitigation is not their concern. PJM and its governing Members, including Sellers, should view effective market power mitigation as an essential part of PJM markets. If these proceedings serve to encourage correction of the inadequate market power mitigation, then the public interest will be well served. If these proceedings do not spur reform, the relief requested in the Protests is sufficient.

The Protests are properly filed. The relief requested in the Protests is appropriately limited, proportional to the problems identified and supported by strong evidence. The responses are off point and fail to refute the substance of the Protests or demonstrate that the requested relief is not needed. The market based rates authorizations should be conditioned as requested in the Protests.

⁸ See Order No. 861 at P 21.

II. MOTION FOR LEAVE TO ANSWER

In most cases this pleading responds to answers. 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.⁹ In this answer, the Market Monitor provides the 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 these proceedings.

Respectfully submitted,



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⁹ 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).

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Dated: October 29, 2020

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 29th day of October, 2020.



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