

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

Chalk Point Power, LLC)	Docket No. ER21-573-000
Dickerson Power, LLC)	Docket No. ER21-574-000
Lanyard Power Marketing, LLC)	Docket No. ER21-575-000
Morgantown Power, LLC)	Docket No. ER21-577-000
Morgantown Station, LLC)	Docket No. ER21-578-000
)	

**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 answer submitted on January 11, 2021, by Chalk Point Power, LLC; Dickerson Power, LLC; Lanyard Power Marketing, LLC; Morgantown Power, LLC; and Morgantown Station, LLC, all of which are wholly owned direct and indirect subsidiaries of GenOn Holdings, LLC (“Applicants”). Applicants respond to the protest filed by the Market Monitor to their applications for authorization to charge market based rates (“Protest”).³ Applicants’ response ignores the fact that that the Market Monitor included a market power analysis specific to the Applicants in the Protest. Applicants’ response provides no reason not to

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. ER21-573-000, et al. (December 24, 2020).

include the condition proposed by the Market Monitor on its market based rates authorizations. Applicants provide no substantive response to the Market Monitor's evidence about the market power mitigation process in PJM or to the Market Monitor's market power analysis. Applicants' response provides no reason that Applicants would not want to follow the proposed condition. The condition simply requires the submission of competitive offers. The Market Monitor does not oppose granting authorization to Applicants to charge market based rates, provided that reasonable conditions are included to protect the public interest.

I. ANSWER

The substance of Applicants' answer is that the Market Monitor has failed to show that any of the Applicants have market power. Applicants incorrectly claim (at 4): "The IMM Protest makes no attempt to show that the GenOn MBR Applicants have or can exercise market power." The Market Monitor included an analysis indicating market power concerns specific to Applicants as confidential Attachment A. The Market Monitor did not provide a comparable analysis in the other proceedings cited by Applicants (at 7) in which the Commission did not accept the Market Monitor's arguments.⁴ For this reason, it is not correct to claim, as Applicants do (*id.*), that the protest filed in this proceeding is "substantively identical" to the Market Monitor's protests in the cited proceedings.

⁴ Orders have issued in some other market based rate authorization proceedings finding "that the IMM has failed to provide any evidence related to Sellers' market power." See *Albemarle Beach Solar, LLC, Mechanicsville Lessee, LLC, and AB Lessee, LLC*, 173 FERC ¶ 61,215 at P 26 (2020); *Harts Mill Solar, LLC*, 173 FERC ¶ 61,216 at P 26 (2020). The Market Monitor filed a motion for clarification seeking additional guidance on those orders. The Market Monitor is seeking clarification on how the process set forth in Order No. 861 is intended to operate when the applicant has not filed any information concerning market power and has instead relied exclusively on PJM market power mitigation. The Market Monitor is requesting guidance on the evidence necessary to show sellers' market power. The Market Monitor will take appropriate action in this proceeding based on guidance received from the Commission in response to the Market Monitor's pending motion for clarification.

Applicants have not provided the nondisclosure certificates to the Market Monitor that are necessary to receive confidential information in this proceeding, have not requested to receive such information and do not respond to the Market Monitor's analysis in their answer.

It is each Applicant's burden to demonstrate lack of market power or explain its reliance on PJM market power mitigation. Applicants' initial filing stated their reliance on PJM market power mitigation. Applicants continue (at 2-3) to rely solely on PJM market monitoring and mitigation. The Market Monitor explained why such reliance is misplaced, and, contrary to Applicants' assertion (at 4-5), such explanation constitutes a direct response to the application. Applicants' contention (at 6) that the Market Monitor's arguments about PJM market power mitigation are outside of the proper scope of the proceeding is incorrect. The Market Monitor's arguments respond directly to the core factual assertion relied upon by Applicants in support of their applications. Applicants did not respond to the Market Monitor's explanation.

Applicants' claim (at 6) that the Market Monitor's protest constitutes a collateral attack on other Commission orders and decisions has no merit. The Market Monitor does not seek any relief in this proceeding other than a condition on approval of the applications in this proceeding. There is no collateral attack.

The Market Monitor proposes that the Commission grant Applicants' requests for market based rates on the condition that Applicants submit competitive offers in the energy market and in the capacity market. Applicants do not show why this condition is not just and reasonable. Contrary to Applicants' assertion (at 5), the Market Monitor is not required to request that Applicants' request for market based rate authorization be denied instead of requesting reasonable alternative relief. Applicants do not explain how this condition would constrain their behavior. 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, provided by the Market Monitor, that PJM market power mitigation cannot be properly relied upon as the basis for unconditional market based rate authorization is unrefuted. The responses do not and cannot identify any harmful impact to granting the relief requested in the Protests.

The market based rates authorization should be conditioned as requested in the Protest.

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.⁸ 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.

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).

⁸ 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).

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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Dated: January 26, 2021

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 26th day of January, 2021.



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