

ignores all currently relevant locational issues as well as the dynamic nature of the PJM energy market. The indicative screens do not show that Applicant cannot exercise market power in PJM. The Market Monitor does not oppose granting authorization to Applicant to charge market based rates, provided that reasonable conditions are included to protect the public interest. The relative size of the Applicant is not relevant to the reasons for including the conditions requested by the Market Monitor.

I. ANSWER

Applicant's request to dismiss and the substance of its answer is that the Market Monitor has failed to show that Applicant has market power. It is Applicant's burden to demonstrate lack of market power or explain its reliance on PJM market power mitigation. Applicant initially stated its reliance on PJM market power mitigation. The Market Monitor explained why such reliance is misplaced. Applicant did not respond to the explanation.

Applicant instead attached indicative screens in an effort to establish a rebuttable presumption that Applicant lacks market power.⁴ The screens do not establish a lack of market power. Applicant used only the PJM East market, which is included in the list of Commission accepted market power study areas. However, the PJM East market is not currently a relevant local market because the constraint does not bind frequently.⁵ Inclusion in the list of accepted market power study areas does not establish that the area is currently relevant or exhaustive in assessing market power. The PJM East constraint was binding in the real-time energy market during 16 hours in 2019 and zero hours in 2020. The PJM East constraint was binding in the day-ahead energy market during 113 hours in 2019 and 9 hours in 2020. The relevant constraints in the PJM energy market are shown in the State of

⁴ Applicant at 6.

⁵ See Accepted Market Power Studies and SIL Values (10/06/20), Federal Energy Regulatory Commission, <<https://www.ferc.gov/media/accepted-market-power-studies-and-sil-values-chart-100620>>, accessed February 3, 2021.

the Market reports.⁶ Applicant does not analyze its market power for any of the relevant constraints.

Despite the irrelevance of calculating indicative screens for local markets that bind less than one percent of the time over the last two years in either day-ahead or real-time energy markets, the generic screens referenced by Applicant are based on an analytical approach that predates the LMP markets and do not recognize that constraints are dynamic and that many constraints exist in LMP markets. In LMP markets constraints create local markets and local market power.⁷ The data provided by the Applicant show that the Applicant has 325 MW of capacity in PJM. Market sellers of any size may have structural market power at any time due to transmission constraints in an LMP market and in the PJM locational capacity market design.⁸ In the energy market, PJM can and routinely does offer cap units belonging to sellers significantly smaller than the Applicant. All PJM market sellers are subject to market power mitigation. The PJM market rules do not exempt small sellers from market power mitigation.

Applicant's argument (at 8–9) that the Protest is procedurally improper because it raises issues outside of the scope of this proceeding and does not directly respond to the application are incorrect and should be disregarded. The effectiveness of the market power

⁶ See Monitoring Analytics, LLC, 2020 Quarterly State of the Market Report for PJM: January through September, Section 11: Congestion and Marginal Losses at Table 11-29.

⁷ The generic screens have not been adapted for use in the LMP markets. Screens that rely on market share at peak periods have little or no relevance to the operation of dynamic LMP markets and the potential to exercise market power in such markets. See *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity & Ancillary Services by Public Utilities*, Order No. 697, 119 FERC ¶ 61,295 at PP 33–45 (2007) (“Order No. 697”), *order on reh’g*, Order No. 697-A, 123 FERC ¶ 61,055 at PP 37–41 (2008) (“Order 697-A”), *order on reh’g*, Order No. 697-B, 125 FERC ¶ 61,326 (2008), *order on reh’g*, Order No. 697-C, 127 FERC ¶ 61,284 (2009), *order on reh’g*, Order No. 697-D, 130 FERC ¶ 61,206 (2010), *aff’d sub nom.* Mont. Consumer Counsel v. FERC, 659 F.3d 910 (9th Cir. 2011).

⁸ With reference to the capacity market, see *2020 Quarterly State of the Market Report for PJM: January through September*, Vol. 2, Section 5, Capacity.

mitigation that Applicant relies on in support of its application is plainly within the proper scope of this proceeding. The Protest references flaws in PJM market power mitigation to directly rebut Applicant's reliance on such market power mitigation, but the Market Monitor does not seek to change PJM market power mitigation in this proceeding.

The Market Monitor proposes that the Commission grant Applicant's request for market based rates on the condition that Applicant submit competitive offers in the energy market and in the capacity market. Applicant does not show why this condition is not just and reasonable. Applicant does not explain how this condition would unreasonably constrain its 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.⁹ ¹⁰ 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.¹¹ 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 rate authorization should be conditioned as requested in the Protest.

⁹ See OA Schedule 2.

¹⁰ See OA Schedule 1 § 6.6.

¹¹ See Attachment A to the Complaint of the Independent Market Monitor for PJM, Docket No. EL19-47-000 (February 21, 2019).

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.¹² 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.

¹² 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 this proceeding.

Respectfully submitted,



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Dated: February 3, 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 3rd day of February, 2021.



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