

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

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| Cordova Energy Company, LLC |)))) | Docket No. ER25-3375-000 |
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PROTEST OF THE INDEPENDENT MARKET MONITOR FOR PJM

Pursuant to Rule 211 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 protest to the request filed September 3, 2025, by Cordova Energy Company, LLC (“Cordova”) for waiver of the RPM must offer requirement as set forth in Section 6.6(a) and Section 6.6(g) of Attachment DD to the OATT for the Base Residual Auction (“BRA”) for 2027/2028 Delivery Year, or, in the alternative, waiver of the deadlines contained in Section 6.6(g) of Attachment DD of the PJM Tariff to allow Cordova to resubmit its RPM must offer exception request after the Commission has ruled on Cordova’s proposed affiliate capacity purchase agreement.³ The request for waiver fails to satisfy the criteria for a waiver and should be denied.⁴

¹ 18 CFR § 385.211 (2025).

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 See Docket No. ER25-3365-000.

⁴ See, e.g., *Empire Dist. Elec. Co.*, 166 FERC ¶ 61,164 (2019) (“The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.”).

I. BACKGROUND

On August 6, 2025, Cordova timely submitted a request for an exception from the RPM must offer requirement according to Section 6.6(g) of the PJM Tariff. The Market Monitor informed Cordova that it did not qualify for an exception because Cordova had not shown a financially firm commitment to an external sale of its capacity from its facility because the proposed sale is based on an affiliate transaction that had not been approved by the Commission and has still not been approved by the Commission.

II. COMMENTS

Cordova has not met the requirement to support a blanket exception to the RPM must offer rule in Section 6.6(a) or a waiver of the deadline for obtaining an exception to the RPM must offer rule in Section 6.6(g)(ii).

A. The Request Seeks a Blanket Exception to the RPM Must Offer Requirement.

The petition relies on the OATT provision in 6.6(g) that is conditioned on: “If a Capacity Market Seller doesn’t timely seek...” In fact, the RPM must offer exception request submitted on August 5, 2025, did meet the applicable deadline. The request was denied because it failed to meet the substantive test defined in the OATT in section 6.6(g).

The must offer rules in the capacity market exist to help ensure that all capacity resources offer as a match for the fact that all load must buy capacity. The must offer rule is essential to a competitive capacity market. The must offer rule should not simply be waived because a request is made. Simply waiving the must offer rule would set an unfortunate precedent that generators that cannot meet the rules are simply allowed to ignore them.

B. The Request for Waiver of the Deadline in 6.6(g) Should Be Denied.

Cordova has not shown that it has acted in good faith. Market participants should act with diligence to conform their planning to the market rules rather than attempt to alter the

rules to conform to their plans.⁵ Cordova has not shown that it acted diligently to avoid the problem. The fact that Cordova did not request Commission approval of its sale to an affiliate until September 3, 2025, contemporaneous with Cordova's filing requesting a waiver in this proceeding, demonstrates that Cordova did not act diligently to avoid the problem.⁶ The RPM must offer rule is a longstanding provision of the PJM OATT and Cordova does not assert that it was not aware of the rule. The must offer rule is core to maintaining a competitive capacity market.

Cordova has not shown that the waiver is of limited scope. Cordova requests a waiver of the substantive requirements for the RPM must offer requirement. Cordova did not commit to providing a revised waiver request by a date certain.⁷

⁵ See *Oxbow Solar, LLC*, 191 FERC ¶ 61,057 at P 27 (2025) ("Specifically, we find that Oxbow Solar has not demonstrated that it has acted in good faith. Oxbow Solar does not dispute that it failed to meet the Amended Oxbow Solar GIA's September 1, 2022 milestone to issue an authorization to proceed to SWEPCO to begin construction, nor does it dispute that it issued the authorization to proceed almost two and half years late, and only shortly after SPP issued a notice of default. Although Oxbow Solar describes the circumstances that led to the original load-serving entity counterparty withdrawing from negotiations in 2022, Oxbow Solar provides only a vague explanation about 'market conditions' outside of its control that prevented it from securing financing and issuing an authorization to proceed to SWEPCO since that time. Based on the record, we find that Oxbow Solar has not shown that it acted in good faith to diligently advance the Facility, and it appears that Oxbow Solar's need for the instant waiver may have been caused, in part, by its own inaction.").

⁶ See *Cordova Energy Company, LLC and MidAmerican Energy Company*, Application for Affiliate Purchase Agreement, Docket No. ER25-3365-000.

⁷ Cf. *Midcontinent Independent System Operator, Inc., et al.*, 192 FERC ¶ 61,004 at P 20 (2025) ("First, we find that the requested waiver is not limited in scope because, although Filing Parties claim that waiver would apply only to the 2024-2025 CSP study and would modify specific technical requirements within the existing CSP framework, waiver of those provisions would broadly alter the parameters of the CSP study. Specifically, Filing Parties' request for waiver of language in section 9.6.3.1.1 of the JOA so that they may evaluate benefits without using a multi-year analysis would appear to relieve them of a discrete tariff obligation, i.e., the requirement to use a multi-year analysis to evaluate benefits. However, waiving the tariff obligation for Filing Parties to evaluate the benefits of reliability and public policy interregional transmission projects as the avoided cost of regional transmission projects that address the same reliability or public policy issue is a significant change to the CSP study scope.").

Cordova has not shown that granting the relief requested in the waiver request will address a concrete problem.⁸ Cordova seeks to avoid compliance with the substantive rules for obtaining an RPM must offer exception for an export. As the Commission has repeatedly explained, “Simply having to follow [the] Tariff requirements . . . is not a concrete problem that warrants waiver of the Tariff’s requirements.”⁹ Cordova’s problem is that they cannot comply with the rules and effectuate their plans. This is not the showing of a concrete problem required to support the extraordinary relief of waiving the applicable market rules.

Cordova has not shown that the waiver does not have undesirable consequences, such as harming third parties. If the requested waiver is granted, Cordova’s facility would not be offered in the 2027/2028 capacity market Base Residual Auction (BRA). The withholding of Cordova’s facility is likely to increase capacity clearing prices as a result and cause harm to customers in PJM. The same issues will arise in future capacity auctions. In the absence of a valid exception, Cordova requests permission to violate the RPM must offer requirement of the PJM Capacity Market and to withhold that capacity. The Market Monitor does not allege that Cordova has an incentive or intent to exercise market power. The fact is that the proposal does not comply with the capacity market must offer rule and the failure to comply will contribute to the capacity shortfall in PJM and create upward pressure on capacity market prices.

Cordova has not shown that it meets any of the criteria to support a waiver, the request for waiver should be denied.

⁸ See *Midcontinent Independent System Operator, Inc., et al.*, 192 FERC ¶ 61,004 at P 21 (2025) (“[W]e find that the waiver request does not address a concrete problem because Filing Parties have not shown that expanding the study scope would address the problem the Filing Parties have identified.”); *Oxbow Solar, LLC*, 191 FERC ¶ 61,057 at P 28 (2025) (“Given the absence of a detailed explanation in the record of how the 24-month extension will allow Oxbow Solar to secure financing and achieve commercial operation, we find that Oxbow Solar has failed to sufficiently demonstrate that its waiver request will remedy a concrete problem.”).

⁹ *Erie Power, LLC*, 148 FERC ¶ 61,038 at P 20 (2014), quoted in *Midcontinent Independent System Operator, Inc., et al.*, 192 FERC ¶ 61,004 at P 21 (2025).

III. CONCLUSION

The Market Monitor respectfully requests that the Commission afford due consideration to this protest as it resolves the issues raised in this proceeding.

Respectfully submitted,



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Dated: September 24, 2025

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 24th day of September, 2025.



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