

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

PJM Transmission Owners)	
)	Docket No. ER20-841-000
)	

**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 and motion for leave to answer the protests/comments submitted on February 7, 2020. This proceeding concerns a proposal filed by the PJM Transmission Owners (“PJM TOs”) to change the PJM market design to add a new closed process for developing supplemental projects at certain stations and substations and to thereby constrain the scope of planned transmission projects subject to competition (“TO Filing”).

The Market Monitor agrees with commenters that the filing is unauthorized and should be rejected as procedurally deficient without consideration on the merits. Accepting proposals from PJM TOs to modify the competitive market design is contrary to the Commission’s long standing goals to create independent and effective Regional

¹ 18 CFR §§ 385.212 & 385.213 (2019).

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”).

Transmission Organizations (RTOs) and to promote competitive transmission development.

The Market Monitor also disagrees with protests/comments attempting to support the PJM TOs proposal on its merits. Neither the PJM TOs nor their supporters offer any valid justification for removing certain projects from competition because such projects are at stations or substations that have been required to meet North American Electric Reliability Corporation (“NERC”) reliability standard CIP-014-2. The proposal is contrary to the public interest and should not be approved.

I. ANSWER

A. The TO Filing Is Unauthorized and Should Be Rejected.

Many protests/comments point out that PJM TOs are not authorized anywhere in the governing documents to file market design proposals.³ The TO Filing is not authorized. The provisions relied upon by PJM TOs concern cost recovery, not market design. The TO Filing does not concern cost recovery. It concerns the process for identifying and classifying projects for inclusion in the Regional Transmission Expansion Plans (“RTEP”). The TO Filing would modify the design of PJM markets, and, specifically, the scope of projects subject to competition.

Accepting the TO Filing would be inconsistent with important Commission policies establishing independent RTOs, enabling such RTOs to effectively advance the goals of regulation through competition,⁴ and promoting competitive transmission development.⁵

³ See, e.g., Protest of American Municipal Power, Inc., ER20-841-000 (Feb. 10, 2020) at 1–2, 5–8 (“AMP”); Protest of LSP Transmission Holdings II, LLC and Central Transmission, LLC, ER20-841-000 (Feb. 7, 2020) at 14–18, 26 (“LSP”); Protest of Old Dominion Electric Cooperative, ER20-841-000 (Feb. 7, 2020) at 5–9; Comments of Securing American’s Future Energy (SAFE), ER20-841-000 (Feb. 7, 2020) *passim*.

⁴ See, e.g., *Regional Transmission Organizations*, Order No. 2000 (2000), *aff’d sub nom. Pub. Util. Dist. No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001), *mimeo* at 485 (“the RTO

Allowing PJM TOs to file proposed revisions to the tariff that undermine the RTOs' role would be contrary to the public interest. Accepting the TO Filing would create a harmful precedent. The TO Filing presents instead an opportunity to strengthen the independence of RTOs; protect, confirm and advance RTOs' responsibility for transmission planning; and promote competitive transmission development. Accordingly, the TO Filing should be rejected without consideration of its merits.

B. The TO Filing Has No Merit and Should Not Be Approved.

Comments supporting the TO Filing claim it is needed because "transmission owners should have the ability to plan and develop transmission projects that mitigate risks associated with CIP-014 facilities."⁶ The TO Filing has no merit because it does not address a valid problem.

PJM develops the RTEP to identify and build projects that improve the reliable operation of the system. All stations and substations requiring investments to comply with CIP-014-2 have made or will make the necessary investments in physical security at their location outside of the planning process. This filing addresses a purported need to revise the process to allow for voluntary proposals designed to address the system reliability or capability issues that made these system components vulnerable. The premise is that the

must have ultimate responsibility for both transmission planning and expansion within its region that will enable it to provide efficient, reliable and non-discriminatory service").

⁵ See, e.g., *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012) at P 42 ("the reforms adopted in this Final Rule are designed to work together to ensure an opportunity for more transmission projects to be considered in the transmission planning process on an equitable basis").

⁶ Motion Intervene and Comments of the Edison Electric Institute, ER20-841-000 (Feb. 2, 2020) at 3-4; see also Motion to Intervene and Comments of Wires LLC, ER20-841-000 (Feb. 2, 2020) at 1; AMP at 13-15, 18-19; Protest and Comments of the Joint Consumer Advocates, ER20-841-000 (Feb. 7, 2020) at 8-11; LSP at 8-14, 20-22.

existing process would require the disclosure of CIPS-014-2 covered facilities, and that a separate process including PJM TOs, PJM and state commissions, and excluding potential competitors, is needed. The PJM TOs fail to explain why, in identifying such projects and developing them through competitive processes, PJM must necessarily reveal the security compliant status of the underlying system components.

Even if PJM did reveal such information to participants competing for such projects, there is no reason why the existing rules for Critical Energy Infrastructure Information (CEII) are not sufficient to prevent harmful disclosures. The principal result of accepting the TO Filing would be to inhibit competitive transmission development in PJM, which is contrary to the public interest. There is no reason why RTEP cannot allow for a competitive selection process that avoids harmful disclosure of confidential information. The TO Filing should not be approved.

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.⁷ 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.

⁷ 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 26, 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 26th day of February, 2020.



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