UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.	)	Docket No. ER20-1590-000

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"), submits this answer to the answers submitted on May 18, 2020, by PJM and Advanced Energy Management Alliance ("AEMA"); on May 20, 2020, by the PJM Industrial Customer Coalition ("PJMICC"); and on May 27, 2020, by the Office of the People's Counsel for the District of Columbia together with the Delaware Division of the Public Advocate ("DC OPC and DE DPA").[2]

On May 8, 2020, the Market Monitor submitted comments supporting the objectives of the filing submitted on April 17, 2020, to improve testing of DR ("April 17th Filing"), but explained that some elements of the proposed revisions are inconsistent with or are contrary to the stated objectives, and have not been shown to be just and reasonable. Neither PJM nor any of the other answers show that the proposal is just and reasonable. It is well within the scope of the Commission's authority, including under NRG Power

---

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").

Marketing, LLC v. FERC ("*NRG*"), to include the conditions recommended by the Market Monitor.[3]

I. ANSWER

A. The Commission Has the Authority to Include the Conditions Recommended by the Market Monitor.

DC OPC and DE DPA (at 4–5) argue that Market Monitor "does not demonstrate that the PJM Proposal is unjust and unreasonable," and others make similar arguments.[4] The Market Monitor has does not have the burden to show that PJM's proposal is unjust and unreasonable in this proceeding. PJM has the initial burden under Section 205 to demonstrate that its proposal is just and reasonable. That burden includes explaining why correcting the deficiencies in the filing identified by the Market Monitor is not necessary to make the proposal just and reasonable. PJM has not met that burden. Contrary to PJM's defense (at 2–3), stakeholder support does not excuse failure to support its proposal on the merits. The Commission retains its historical authority to include conditions on its approval of a proposal under Section 205. The Market Monitor does not argue that PJM has the same burden of proof as it would have if PJM had submitted the filing under Section 206 of the Federal Power Act.

PJM argues (at 4) that it "need not show that its proposal is the most just and reasonable among all possible alternatives so long as it demonstrates that the proposal is just and reasonable," and, further, that "… the issue before the Commission is not whether the Market Monitor's proposed modifications are better than PJM's proposed load management testing enhancements. The Market Monitor agrees that PJM is not required to demonstrate that its proposal is the best. PJM does have to show that its proposal is just and reasonable. PJM has failed to do so.

---

[3] 862 F.3d 108 (2017).

[4] *See* PJMICC at 8–9; AEMA at 3–4.

PJMICC argues (at 7–8), "The IMM's comments suggest changes that, if adopted, would transform and materially alter PJM's Proposal." The assertion is unsupported.. Including conditions on its approval of PJM's proposal as recommended by the Market Monitor would not mean that the Commission is "employ[ing] a rate design that follows 'a completely different strategy' than, or is 'methodologically distinct' from, a proposed rate."[5] None of the recommendations are material to the concerns raised in *NRG*.

It is well within the scope of the Commission's authority, including under *NRG*, to include the conditions recommended by the Market Monitor to address the identified deficiencies. *NRG* held that "Section 205 does not allow FERC to make modifications to a proposal that transform the proposal into an entirely new rate of FERC's own making."[6] Moreover, a key concern of the court was that stakeholders "did not have an opportunity to comment on FERC's modifications before FERC issued its decision."[7] *NRG* did not generally revoke the ability of the Commission to impose conditions on its approval of Section 205 filings. *NRG* did not find that the Commission can never impose conditions on its overall approval of tariff revisions where, as in the case here, such conditions do not require "an entirely new rate."[8]

If the Commission agrees that the Market Monitor's changes would advance the goals of the April 17th Filing and are just and reasonable, it is not required to reject the entire filing. The Commission has the authority to condition its approval on changes that would

---

5 862 F.3d at 115, citing Winnfield v. FERC, 744 F.2d 871, 875–876 (1984).

6 862 F.3d 108 at 110, 115–116.

7 *Id*. at 117.

8 *Id* at 110, 115–116; *see Old Dominion Elec. Coop.*, 162 FERC ¶ 61,262, 62400 (2018) ("The Commission's acceptance of ODEC's filing with the revisions agreed to by ODEC is a far cry from the situation in NRG. NRG involved a situation in which the Commission proposed the retention of the very provision the filer intended to replace…. It did not involve the type of adjustment to filings made pursuant to section 205 with the utility's agreement. Unlike NRG, the revisions accepted by ODEC did not result in "an entirely new rate scheme" or "completely different strategy.")

ensure that the April 17th Filing achieves its stated objectives and is therefore just and reasonable.

B. Ensuring Deliverability of Capacity for the Delivery Year

PJM argues (at 2) that the Market Monitor "does not address or even mention the costs to Curtailment Service Providers associated with more stringent load management testing modifications." DC OPC and DE DPA assert (at 4), "PJM's Proposal strikes an appropriate balance, enhancing testing to ensure that Load Management Resources can respond to actual market operations while limiting the costs associated with testing." Neither assertion is supported in the record. No party presented any calculations of either the gross or net cost of testing. An appropriate balance must, at a minimum, ensure the testing requirements prove deliverability during the entire delivery year, consistent with the obligation of the resources to provide reliability for the PJM markets. The PJM proposed method does not ensure that Load Management resources can respond to actual market operations during both summer and winter seasons. Accepting PJM's proposed changes would ensure deliverability for only half the year, depending on which season PJM tests the Load Management products. Compromising on testing actual deliverability, due to an increase of costs to CSPs, defeats the purpose of having accurate testing requirements. The cost to test resources that are not dispatched during the delivery year is small compared to the risk to PJM markets of PJM relying on resources that cannot perform. FERC should accept the Market Monitor's proposed changes to ensure that Load Management Resources can respond to actual market operations for the entire delivery year.

The AMEA argues (at 4) that the Market Monitor's proposed testing requirements would be "beyond the rigor imposed on generation." The PJMICC echoes the concern (at 6) and argues that the Market Monitor's proposed rule changes would be "more stringent criteria to Demand Resources than the criteria applied to generation resources." A similar argument would be made if this filing were updating generation testing requirements before updating load management testing requirements. The flaws in the load management testing requirement should be addressed regardless of the requirements for generation

resources. The Market Monitor agrees that the flaws in the generation testing requirements should also be addressed and that generation testing should be strengthened.

PJM asserts (at 4) that "the Market Monitor has not demonstrated that its proposed modification to the testing requirements will produce a greater degree of accuracy as to the end-use customers' ability to curtail load during an emergency event." The AMEA argues (at 4) and the PJMICC argue (at 5) that a test with a two hour duration is just and reasonable, but the Market Monitor's proposal of three hours is not just and reasonable. "A three hour test duration would align with the average duration of PJM load management events over the last 10 delivery years."[9] Load Management testing requirements that reflect the average duration of PJM load management events would result in a greater degree of accuracy for reflecting market operations. Requiring the test duration to equal the average event duration is a reasonable testing requirement for Load Management resources not dispatched during the delivery year. It could be reasonably argued that the test duration should match more extreme event durations in order to help ensure that these resources will be available when needed. It is clear that requiring tests in both summer and winter seasons and using a test duration equal to the average duration of actual events is more accurate than the PJM proposal. PJM fails to explain why this is not correct.

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.[10] In this answer, the Market Monitor provides the

---

[9] Comments of the Independent Market Monitor for PJM at 4.

[10] *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

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 this proceeding.

Respectfully submitted,

Jeffrey W. Mayes

General Counsel
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8053
jeffrey.mayes@monitoringanalytics.com

Joseph E. Bowring
Independent Market Monitor for PJM
President
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8051
joseph.bowring@monitoringanalytics.com

Skyler Marzewski
Analyst
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8050
skyler.marzewski@monitoringanalytics.com

Dated: June 5, 2020

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).

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 5th day of June, 2020.

Jeffrey W. Mayes
General Counsel
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8053
jeffrey.mayes@monitoringanalytics.com