

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

Red Oak Power, LLC)
) Docket No. ER22-2946-000
)

To: The Honorable Andrew Satten
Acting Chief Administrative Law Judge

**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 answer submitted on November 30, 2022, by Red Oak Power, LLC (“Red Oak”) (“November 30th Answer”).² The November 30th Answer responds to the Market Monitor’s motion to intervene out of time submitted November 23, 2022 (“Motion to Intervene”).

The November 30th Answer alleges (at 1) that granting the Motion to Intervene does not establish good cause and that permitting it would cause prejudice to and impose additional burdens on “the existing parties.” Red Oak’s arguments against the Motion to Intervene lack merit and should be rejected. The Motion to Intervene should be granted.

¹ 18 CFR §§ 385.212 & 385.213 (2022).

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”).

I. ANSWER

A. Good Cause Exists for Granting the Motion to Intervene.

An evaluation of whether good cause exists to grant a motion to intervene out of time requires the consideration of multiple factors.³ In this case, fair consideration of the factors considered under Rule 214(d) shows good cause exists to waive the time limitation and grant the Motion to Intervene.⁴

Red Oak complains (at 2–3) that good cause for late filing of the Motion to Intervene has not been established under the first factor because no justification is offered other than “no individual notice was provided.”

The Market Monitor and PJM have requested that PJM Members provide service of filings implicating PJM markets, and have proposed for consideration rules that would require service of all such filings.⁵ The Market Monitor has formally requested service of

³ See 18 CFR § 385.214(d) (“Grant of late intervention. (1) In acting on any motion to intervene filed after the period prescribed under Rule 210, the decisional authority may consider whether: (i) The movant had good cause for failing to file the motion within the time prescribed; (ii) Any disruption of the proceeding might result from permitting intervention; (iii) The movant’s interest is not adequately represented by other parties in the proceeding; (iv) Any prejudice to, or additional burdens upon, the existing parties might result from permitting the intervention; and (v) The motion conforms to the requirements of paragraph (b) of this section.”) [emphasis added].

⁴ *Id.*; 18 CFR § 385.214(b)(3) (“If a motion to intervene is filed after the end of any time period established under Rule 210, such a motion must, in addition to complying with paragraph (b)(1) of this section, show good cause why the time limitation should be waived.”)

⁵ See, e.g., PJM, Copy PJM with Members Governing Documents Filings Education–Presentation (September 14, 2022), which can be accessed at: <[item-02---copy-pjm-with-members-governing-documents-filings---presentation.pdf](#)>; PJM Markets and Reliability Committee, Problem/Opportunity Statement: Service on PJM of Member Filings (June 29, 2022), which can be accessed at: <[item-01---2-service-on-pjm-of-members-tariff-rate-and-waiver-filings---problem-statement \(1\).pdf](#)>.

Members' Schedule 2 filings and other filings impacting the market monitoring function.⁶ No such service was provided by Red Oak.

Rules requiring service have not yet been approved by PJM Members. PJM Members should provide service on a voluntary basis so that the Market Monitor and PJM receive service, and PJM Members avoid the compliance risk that they allege would result from a rule requiring service. The Market Monitor does not here assert that service is required, but the Market Monitor's and PJM's communications of their request should be considered in evaluating the Motion to Intervene.

In addition, the Commission has specifically inquired in a pending rulemaking proceeding:

Reactive power filings set for hearing and settlement judge procedures often do not have active intervening parties other than the market monitor and RTO/ISO. Why do other parties not participate more in these proceedings?⁷

Service of Schedule 2 filings on stakeholders that have clearly established an interest in such proceedings would facilitate greater participation by stakeholders.

It is important to Schedule 2 proceedings that rate filings be fully vetted, that notice and opportunity to be heard is maximized, and that as complete a record as possible supports the decision making process.

B. The Motion to Intervene Does Not Impose Burdens on the Parties or Disrupt the Proceeding.

Red Oak alleges (at 4–6) “[a]dding a new party at this stage will delay these proceedings and impose additional burdens on the parties, as such parties will have to invest

⁶ See PJM Market Monitoring Unit Advisory Committee, Request for Service (December 4, 2020), which can be accessed at: [<item-01--2-service-on-pjm-of-members-tariff-rate-and-waiver-filings--problem-statement \(1\).pdf>](#).

⁷ *Reactive Power Capability Compensation*, Notice of Inquiry, 177 FERC ¶ 61,118 at P 28 (Question 5.e) (2021).

even more time to understand the Movant’s concerns.” In recent years, no stakeholder has intervened and actively participated in more Schedule 2 proceedings than the Market Monitor, nor has any stakeholder provided more information about its position on Schedule 2 filings than the Market Monitor.⁸ Red Oak knows or should know the position that the Market Monitor will take in settlement discussions and at hearing.⁹

By order issued November 22, 2022 (“Hearing Order”), the Commission has set this matter for hearing and settlement judge proceedings.¹⁰ The Motion to Intervene was filed on November 23, 2022, the following day. A settlement judge was appointed November 29, 2022, six days after the Motion to Intervene. The first settlement conference is scheduled for December 15, 2022. The Market Monitor’s participation burdens no party nor causes any disruption or delay.

Red Oak may not like the substantive position that it knows or should know the Market Monitor will take in settlement discussions and at hearing, but the substance of the Market Monitor’s position is not within the proper scope of consideration of “burdens” relevant to an evaluation of a Motion to Intervene under Rule 214(d). There are no burdens. The Market Monitor accepts the Hearing Order as issued and it accepts the record as it exists on the date of the Motion to Intervene. The timing of the Motion to Intervene has no material impact on the conduct of the proceedings.

⁸ See, e.g., *Panda Stonewall* (Docket No. ER21-1821-002); *Whitetail Solar 3, et al.* (Docket No. ER20-1851-004 et al.); *Mechanicsville Solar, LLC* (Docket No. ER21-2091-000); the *Holloman Lessee, LLC* (Docket No. ER20-2576-001); *Fern Solar LLC* reactive supply capability case (ER20-2186-003, et al.); *Meyersdale Storage, LLC* (ER21-864-000); *Bluestone Farm Solar, LLC* (ER21-1696-000); *Altavista Solar, LLC* (ER21-1937); *Pleinmont Solar 1, LLC et al.* (ER21-2819 et al.); *Camp Grove Wind Farm* (ER21-2919); *Crescent Ridge LLC* (ER22-387); *PSEG Energy Trade & Resources LLC* (ER22-351); and *Grand Ridge Energy LLC* (ER19-2925).

⁹ *Id.*

¹⁰ *Red Oak Power, LLC*, 181 FERC ¶ 61,156.

C. The Market Monitor's Interests Are Not Represented by Others.

Red Oak alleges that the Market Monitor has not shown that its interests are not represented by other parties, pointing to PJM, the only timely intervenor. The Market Monitor is independent of PJM.¹¹ PJM does not represent the Market Monitor's interests.

PJM does not actively participate in Schedule 2 proceedings. If the Market Monitor does not participate, there will no formal party other than Red Oak participating in the hearing. The ability of the proceeding to achieve a meaningful result will be significantly compromised if the Market Monitor does not participate.

The Market Monitor is the only party that can and does represent the public interest in competitive markets in PJM.¹² The Commission has recognized this basis for the Market Monitor's intervention in Schedule 2 proceedings.¹³

The Motion to Intervene should be granted.

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.¹⁴ In this answer, the Market Monitor provides the

¹¹ See, e.g., OATT Attachment M.

¹² See, e.g., OATT § 12A.

¹³ See *PA Solar Park, LLC*, 164 FERC ¶ 61,118 at PP 12, 14 (2018) (“The IMM was an active participant in that broader effort, [n22:] and has been a regular intervenor in individual reactive power rate proceedings since then. The Commission has routinely granted ... timely-filed motions to intervene by the IMM in reactive power rate proceedings. Consistent with that precedent, and in recognition of the IMM's ongoing role in monitoring the provision of reactive power service within PJM, we find that the IMM's participation in this case is in the public interest under Rule 214(b)(2)(iii).”).

¹⁴ 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

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 Motion to Intervene be granted.

Respectfully submitted,



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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).

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 December, 2022.



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