UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Parkway Generation Keys Energy Center LLC	)	Docket Nos. ER22-279-000, -001
Parkway Generation Sewaren Urban Renewal Entity LLC	)	ER22-285-000, -001
Parkway Generation Operating LLC	)	ER22-294-000, -001

COMMENTS OF THE
INDEPENDENT MARKET MONITOR FOR PJM
IN OPPOSITION TO OFFER OF SETTLEMENT

Pursuant to Rule 602(f) 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.[2] ("PJM"), submits this reply in opposition to the offer of settlement ("Offer") filed in this proceeding on August 25, 2022, by: Parkway Generation Keys Energy Center LLC; Parkway Generation Sewaren Urban Renewal Entity LLC; and Parkway Generation Operating LLC ("Parkway") for 14 gas fired generating facilities located in the PJM region ("Parkway Facilities").

Parkway proposes on a black box basis a total annual revenue requirement ("ARR") for reactive capability of $17,474,398.0 for the generating units included in Table 1. Parkway's offer breaks down the total ARR by unit as indicated in Table 1 in the attached affidavit. The Market Monitor understands that the offer is a set of offers for each individual unit and is not a fleet rate. If there is a material change to an indicated unit, the Market Monitor understands that this would affect the individual unit's ARR as a separate and discrete rate and rate schedule. If any rate in the Offer is approved, such approval should be on a unit specific basis.

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1 18 CFR § 385.602(f) (2022).

2 Capitalized terms used herein and not otherwise defined have the meaning used in the PJM Open Access Transmission Tariff ("OATT").

The Market Monitor does not oppose individual unit ARRs that are less than $2,199 per MW-Year, only the ARRs that exceed $2,199 per MW-Year. If, contrary to the Market Monitor's understanding, and the Offer constitutes a fleet rate, then the Market Monitor opposes the fleet rate in its entirety.

The Offer proposes, on a black box basis, a total ARR of $17,474,398 for all 14 units. The proposed offer ARR is excessive. Specifically, the Offer ARR for 9 of the 14 units, Bergen 1, Bergen 2, Linden 1 Linden 2, Kearny 12, Kearny 13, Kearny 14, Sewaren 7, and Keys Energy Center, ("Indicated Parkway Facilities") are excessive. The total Offer ARR for these 9 facilities is $16,676,637. The proposed ARRs for the remaining five units, Linden 5, Linden 6, Linden 7, Linden 8, and Burlington are consistent with the current PJM rules ("Additional Parkway Facilities") and are therefore acceptable. The total Offer ARR for these five facilities is $797,761. The Offer level is excessive, has no evidentiary support and should not be accepted.

The proposed ARRs for the Indicated Parkway Facilities exceeds the $2,199 per MW-year level of the reactive revenue offset included in the PJM capacity market demand curve by 57.9.0 percent. The ARR should be capped at $2,199 per MW-Year, or $6.02 per MW-day. The total proposed black box ARR for the Indicated Parkway Facilities would require customers to pay $6,117,259 more per year than if the $2,199 per MW-Year value were used.

There is no reasonable basis for such a wide disparity in cost for the same service. No justification has been provided for why customers should pay 1.59 times, or more than 1.59 times, the PJM price of reactive embedded in the capacity market demand curve for reactive from the Indicated Parkway Facilities. Reactive is a homogeneous product which should have the same price for all sellers. This result has not been explained or supported by Parkway in their filing or their black box Offer. This disparity is inconsistent with competitive markets.

The facts relevant to whether the level of the rates proposed by Parkway is appropriate should be established at hearing.

The Commission may approve a contested offer of settlement only based on its merits.[3] A contested settlement may be approved on its merits under one of the four approaches set forth in *Trailblazer Pipeline Company*.[4] None of the approaches under *Trailblazer Pipeline Company* can be relied on for approval of the Offer. The Offer does not resolve the issues raised in the order setting this matter for hearing.[5] There is no record supporting the revenue requirement as just and reasonable, including as a "package." The Market Monitor represents the public interest in efficient and competitive markets. The settlement cannot be analyzed under the fair and reasonable standard applicable to uncontested settlements because the public interest in efficient and competitive markets is a central issue in this proceeding. There is no possibility of severing the issues in the manner contemplated under the *Trailblazer Pipeline Company* approaches.

Although the Commission encourages settlements, that policy is not a license to resolve cases at all costs.[6] An offer of settlement, as in this case, that is unfair, unreasonable, or against the public interest must be rejected.[7] Instead, this case should proceed to hearing so that the record can be developed and issues of material fact and law can be resolved on the merits.

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[3] 18 CFR § 385.602(h)(1) ("If the Commission determines that any offer of settlement is contested in whole or in part, by any party, the Commission may decide the merits of the contested settlement issues, if the record contains substantial evidence upon which to base a reasoned decision or the Commission determines there is no genuine issue of material fact.")

[4] The four approaches for approving a settlement under *Trailblazer Pipeline Company* include: (i) addressing the contentions of the contesting party on the merits when there is any adequate record; (ii) approving a contested settlement as a package on the ground that the overall result of the settlement is just and reasonable; (iii) determining that the contesting party's interest is sufficiently attenuated such that the settlement can be analyzed under the fair and reasonable standard applicable to uncontested settlements when the settlement benefits the directly affected settling parties; or (iv) preserving the settlement for the consenting parties while allowing contesting parties to obtain a litigated result on the merits. *See Trailblazer Pipeline Company*, 85 FERC ¶ 61,345 (1998).

[5] *PSEG Keys Energy Center LLC, et al.*, 177 FERC ¶ 61,224at P 16 (2021).

[6] *See, e.g.*, *Arkla Energy Resources*, 49 FERC ¶ 61,051, 61,217 (1989); *Transwestern Pipeline Co.*, 9 FERC ¶ 61,075, at 61,166 (1979).

[7] 496 F.3d at 701.

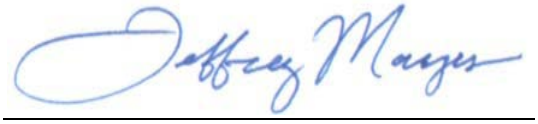
Article 23 of the Offer's proposed settlement provides: "The Settlement establishes no principles and no precedent with respect to any issue in these proceedings." If the Offer is approved, it will unavoidably establish a benchmark rate level for facilities like the Indicated Parkway Facilities. The public interest is better served by resolution of the issues raised in this proceeding on the basis of a full evidentiary record and reasoned analysis.

In the attached affidavit of Dr. Joseph E. Bowring ("Affidavit"), included pursuant to Rule 602(f)(4), Dr. Bowring explains why the indicated requested revenue requirements are excessive.[8]

The issues raised in this proceeding have significant cost implications going forward. Failing to resolve these issues means that customers must make payments to the facilities and similar facilities at levels exceeding the competitive and reasonable level for the facilities. Resolution of these issues should not be deferred. There is significantly greater administrative efficiency if new issues are resolved now, rather than after years of baseless and arbitrary settlements.

The Market Monitor opposes the Offer. The Offer should be rejected. Further, settlement discussions in the proceeding should be terminated, and the issues raised in this proceeding should be decided on the merits.

Respectfully submitted,



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Dated: September 14, 2022

[8] 18 CFR § 385.602(f)(4).

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 14th day of September, 2022.

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Attachment
Exhibit Nos. IMM-0001–0003

Bowring Affidavit
and Supporting Exhibits