UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Pleinmont Solar 1, LLC	)	Docket Nos. ER20-2819-000
	)	EL21-10-000
Richmond Spider Solar, LLC	)	Docket Nos. ER21-521-000
	)	EL21-25-000
Pleinmont Solar 2, LLC	)	Docket Nos. ER21-2474-000
	)	EL21-101-000

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 joint offer of settlement ("Offer") filed in this proceeding on May 24, 2022, by Pleinmont Solar 1, LLC ("Pleinmont 1"), Richmond Spider Solar, LLC ("Richmond Solar"), and Pleinmont Solar 2, LLC ("Pleinmont 2") (collectively, the "Owners"), and Old Dominion Electric Cooperative, Northern Virginia Electric Cooperative, Inc., and Dominion Energy Services, Inc. on behalf of Virginia Electric and Power Company d/b/a Dominion Energy Virginia. Because the Owners operate asynchronous resources, solar power production facilities, their filings for reactive capability compensation under Schedule 2 to the PJM OATT ("Schedule 2") raise unresolved issues, including whether the *AEP* Method is a just and reasonable approach to

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1 18 CFR § 385.602(f) (2021).

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

calculate cost compensation under Schedule 2.[3] The Owners propose on a black box basis annual revenue requirements for Reactive Capability of $342,000, or $4,560 per MW-Year, or $12.49 per MW-Day for the 75 MW Pleinmont Solar 1 facility; of $91,200, or $4,560 per MW-Year, or $12.49 per MW-Day for the 20 MW Richmond Spider Solar facility; and of $1,026,000, or $4,560 per MW-Year, or $12.49 per MW-Day for the 225 MW Pleinmont Solar 2 facility. The levels for each facility are excessive and should not be accepted, particularly without evidentiary support.

The Commission may approve a contested offer of settlement only based on its merits.[4] A contested settlement may be approved on its merits under one of the four approaches set forth in *Trailblazer Pipeline Company*.[5] 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 orders setting these matters for hearing.[6] The Offer does not establish a just and reasonable basis for calculating a rate for an asynchronous solar facility.[7] There is no

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[3] *See American Electric Power Service Corp.*, 80 FERC ¶ 63,006 (1997), *aff'd*, 88 FERC ¶ 61,141 (1999); *Reactive Power Capability Compensation*, Notice of Inquiry, 177 FERC ¶ 61,118 at PP 20–28 (2021) ("NOI").

[4] 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.")

[5] 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).

[6] *Pleinmont Solar 1, LLC*, 173 FERC ¶ 61,126 at P 20 (2021); *Richmond Spider Solar*, LLC, 174 FERC ¶ 61,065 at P 24 (2021); and *Pleinmont Solar 2, LLC*, 176 FERC ¶ 61,167 at P 17 (2021).

[7] Whether the *AEP* Method applies to asynchronous solar facilities is a question under active review in Commission proceedings. See NOI at PP 20–28.

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.[8] An offer of settlement, as in this case, that is unfair, unreasonable, or against the public interest must be rejected.[9] 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.

Article 6.3 of the Offer's proposed settlement provides: "The Commission's approval of this Settlement shall not constitute precedent nor be used to prejudice any otherwise available rights or arguments of any participant in a future proceeding." If the Offer is approved, it will unavoidably indicate that solar facilities like those in this proceeding can receive compensation for reactive capability under Schedule 2 based on a filing using the *AEP* Method, and it would further contribute to a benchmark rate level for solar 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 *AEP* Method does not apply to solar facilities and why the requested revenue requirement is excessive. [10]

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

9 496 F.3d at 701.

10 18 CFR § 385.602(f)(4).

The issues raised in this proceeding have significant cost implications going forward. Failing to resolve these issues risks requiring customers to make payments to the facilities in this proceeding and similar facilities which the facilities are not eligible to receive. 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.

In the Affidavit, Dr. Bowring explains why the levels of the annual revenue requirements are excessive. The issue of an appropriate rate level under Schedule 2 needs resolution on the merits in this case and for future cases. 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: June 13, 2022

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 13th day of June, 2022.

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Attachment
Exhibit Nos. IMM-0001–0003

Bowring Affidavit
and Supporting Exhibits