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 Darby Power, LLC, Gavin Power, LLC,)
 Lawrenceburg Power, LLC, Waterford Power,) Docket No. EC24-125-000
 LLC, Lightstone Marketing LLC, ECP)
 ControlCo, LLC)
)

3 As a result of the proposed transaction, funds controlled by ECP and Javelin Global Commodities US Holdings Inc. (“Javelin”) will indirectly acquire 100 percent of the voting equity interests in Gavin Power, LLC (“Gavin”), and funds controlled by ECP will indirectly acquire 100 percent of the voting equity interests in the remaining Lightstone Public Utilities, consisting of Darby Power, LLC, Lawrenceburg Power, LLC, and Waterford Power, LLC.

owned Lightstone resources. It also involves Javelin's proposed joint ownership with ECP of one of the Lightstone resources, the Gavin coal plant.

The Market Monitor's December 11th Answer included a market power analysis and raised issues also raised in the Joint Protest and the PJM Comments.^{4 5} The primary issues raised in the Joint Protest were the ITOCHU ownership position in Javelin, Javelin's position in the coal market, the potential retirement of the Gavin plant, and the potential for co-located load arrangements at any of the Lightstone plants. The primary issue raised in the PJM Comments (at 3) is that "any proposed retirement of the Gavin unit as a condition of [the transaction] could give rise to serious market power concerns that necessitate further analysis and scrutiny."

The December 24th Answer fails to address the fundamental issue which is that this transaction increases the structural market power of ECP in the PJM markets. The Commission should require that the Applicants implement the recommendations of the Market Monitor that would mitigate that market power as a condition of approval of the Transaction.

I. ANSWER

A. Javelin

1. ITOCHU Ownership.

The December 11th Answer supported the Joint Protest's request for further information about the relationship between ITOCHU and Javelin. ITOCHU owns other

⁴ Answer and Motion for Leave to Answer of the Independent Market Monitor for PJM, Docket No. EL25-20-000 (December 11, 2024) ("December 11th Answer"); Joint Protest of Public Citizen, Private Equity Stakeholder Project, and Sierra Club, Docket No. EC24-125 (November 26, 2024). ("Joint Protest")

⁵ Motion to Intervene Out-of-time, Motion for Leave to File Protest Out-of-time, Motion for Leave to File Comments Out-of-time, and Comments of PJM Interconnection, L.L.C., Docket No. EC24-135 (December 6, 2024). ("PJM Comments")

resources in the PJM market and holds an equity position in Javelin. Javelin would be a partial owner of Gavin under the proposed Transaction. The December 11th Answer (at 3) stated that the ownership share of ITOCHU in Javelin is less than 10 percent.

Based on the Market Monitor's review and analysis, the ITOCHU ownership position in Javelin does not create a market power issue because its minority ownership share in Javelin, which would acquire 40 percent ownership share of the Gavin plant, does not create control over Gavin and does not create an opportunity to exercise market power in connection with ITOCHU's other resources in PJM.

2. Additional Analysis Is Needed to Evaluate Vertical Market Power Related to Coal Supply in the PJM Region.

The Market Monitor's December 11th Answer sought more information as to whether Javelin has market power in the supply of coal in the PJM Region. Both the original application and the December 24th Answer rely on only 2024 data in attempt to establish that Javelin has a *de minimis* share in PJM coal supply. The Market Monitor reviewed EIA-923 data, which showed that Javelin was a larger supplier of coal to PJM resources in recent years.⁶ Javelin's market share in PJM coal supply is not the only relevant data point. It would also indicate potential market power over Lightstone's competitors if Javelin were a coal supplier to any other PJM plant. In its January 6th Deficiency Letter, the Commission requires a vertical market power analysis to further examine these issues.⁷ The Market Monitor will review the response to the Deficiency Letter and provide additional comments as needed.

B. Gavin's Plan to Follow PJM Retirement Processes.

The December 11th Answer, along with PJM's December 6th Protest, emphasized the importance of resources following the retirement processes defined in the PJM tariff to ensure

⁶ Form EIA-923 detailed data with previous form data (EIA-906/920) - U.S. Energy Information Administration (EIA), (October 20, 2024) <<https://www.eia.gov/electricity/data/eia923/>>.

⁷ FERC Office of Energy Market Regulation Deficiency Letter, Docket No. EC24-125 (January 6, 2025).

that there are no market power or reliability issues caused by a potential retirement of the Gavin plant. The Applicants' December 20th Commitment Letter states that the new Gavin owners plan to follow the retirement processes defined in the tariff before making any commitment to deactivate or retire Gavin or any other Lightstone resource unless required by a governmental authority.⁸

C. Commitments Related to Co-location Arrangements Are Needed.

The December 24th Answer's attempts to dismiss co-location as the issue *du jour* are unavailing. Some PJM generators are attempting to pursue such arrangements, which pose a threat to the public interest in reasonably priced and reliable power. The December 24th Answer (at 7) asserts that no co-location commitments should apply to the Lightstone resources separately from all other PJM resources. The PJM OATT does not provide for the type of co-location arrangements being pursued by some. The Market Monitor's proposal is that ECP agree to not pursue such an arrangement because it is not consistent with an open access, competitive and reliable market. The Commission is currently evaluating the rules governing the ways in which large new loads may interconnect to the grid.⁹ If such a co-location arrangement is part of the value to ECP of the proposed Lightstone acquisition, that information needs to be disclosed to determine if the transaction is in the public interest. ECP has not made statements in the Application regarding co-location at any existing PJM generation site. The Transaction should not be approved except on condition that ECP commit that it will not pursue co-location at the sites of the resources in the transaction.

⁸ See *Joint Application for Authorization Under Section 203 of the Federal Power Act*, ECP-Javelin Commitment, Docket No. EC24-125 (December 20, 2024).

⁹ See, e.g., Docket No. AD24-11-000.

D. The Public Interest Requires that ECP's Market Power Resulting from the Transactions Be Addressed with Conditions.

The December 24th Answer does not contest the Market Monitor's findings that ECP's structural market power as determined by the Three Pivotal Supplier test will be increased as a result of the acquisition. The Market Monitor identified constraints for which ECP has market power that would be increased by the acquisition of Lightstone. ECP's acquisition of Lightstone will create new opportunities for ECP to exercise market power in the PJM markets. The December 24th Answer does not contest the Market Monitor's well documented conclusion that the current PJM market power mitigation provisions do not provide sufficient protection for consumers from the exercise of local market power. The current market design is the framework within which ECP seeks to obtain approval of the transaction. ECP must show that the acquisition will not harm the public interest given that it results in increased local market power and potential harm from the exercise of market power. The December 24th Answer does not disagree with this point but rather asks the Commission to ignore it. The Transaction should not be approved without the modest conditions proposed by the Market Monitor that are required to protect the public interest.

The December 24th Answer, Exhibit 1 (Solomon-Opgrand Supplement) at 5n.6) requests clarification of the treatment of Blackstone affiliated assets in the Market Monitor's report. For purposes of calculating market shares and Three Pivotal Supplier scores in this report, the Market Monitor included under ArcLight all current ArcLight and Lightstone resources and no other Blackstone affiliated resources.

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 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,



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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 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).

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Dated: January 8, 2025

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 8th day of January, 2025.



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