UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

	)	
Illinois Municipal Electric Agency	)	Docket No. ER15-834-000
	)	

PROTEST OF THE INDEPENDENT MARKET MONITOR FOR PJM

Pursuant to Rule 211 of the Commission's Rules and Regulations,[1] Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM ("Market Monitor"), submits this protest to the request for waiver submitted by the Illinois Municipal Electric Agency ("IMEA") on January 8, 2015. IMEA requests (at 1) "a waiver for the 2018/2019 PJM Delivery Year of Section D.5 of Schedule 8.1 [PJM Reliability Assurance Agreement] ("RAA"), and the related provisions of any other governing PJM document, as necessary to permit IMEA to serve part of its load within the Commonwealth Edison ("ComEd") Zone or Locational Deliverability Area ("LDA") under PJM's Fixed Resource Requirement ("FRR") Alternative from resources located outside of the ComEd Zone." Because IMEA's request does not meet the conditions for waiver of a filed tariff rule, the request should be denied.[2]

---

1 18 CFR § 385.211 (2014).

2 The Commission will grant a request for a waiver that meets the following conditions: (i) the applicant has been unable to comply with the tariff provision at issue in good faith; (ii) the waiver is of limited scope; (iii) the waiver would address a concrete problem; and (iv) the waiver would not have undesirable consequences, such as harming third parties. *See, e.g.*, *Invenergy Nelson*, 147 FERC ¶ 61,067 at 23 (2014); *Southwest Power Pool, Inc.*, 146 FERC ¶ 61,110 at P 10 (2014); *PJM Interconnection, L.L.C.,* 144 FERC ¶ 61,060 at P 12 (2013); *New York Independent System Operator, Inc.*, 144 FERC ¶ 61,147 at P 8 (2013); *New York Independent System Operator, Inc.*, 139 FERC ¶ 61,108 at P 14 (2012); *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,184 at P 13 (2011); *ISO New England Inc.*, 134

IMEA argues (at 9–10) that it should not be required to include in its FRR Capacity Plan the Percentage Internal Resources Required ("PIRR") that would be mandatory under Section D.5 if PJM establishes a Variable Resource Requirement (VRR) Curve for the ComEd Zone/LDA for the Delivery Year. The potential result of the establishment of a separate VRR curve is that the ComEd LDA capacity market price could be higher than the price for the rest of the RTO as a result of constrained capacity import capability and higher priced internal capacity resources. IMEA explains that PJM may establish a VRR Curve for the ComEd Zone/LDA for the 2018/2019 Delivery Year, but that IMEA's business plans did not anticipate that this would happen. IMEA explains that if PJM establishes a separate VRR Curve, IMEA will be worse off than if future events had unfolded as IMEA had expected. On this basis, IMEA asks for waiver of Section D.5.

The Illinois Commerce Commission and Commission Moeller have correctly observed that IMEA fails to meet the test for the Commission to grant a waiver because granting the waiver will have adverse impacts on other parties.[3] The unjust, unreasonable, and unduly discriminatory potential impacts on other parties constitute independent, sufficient grounds to deny the waiver. Failure to satisfy this condition is not the only reason to deny waiver.

Another reason to deny the waiver is because IMEA has not shown that its request meets the condition that the waiver would address a concrete problem.[4] Section D.5 is

---

FERC ¶ 61,182 at P 8 (2011); *California Independent System Operator Corp.*, 132 FERC ¶ 61,004, at P 10 (2010).

3 *See* Comments of the Illinois Commerce Commission, Docket No. ER15-834-000 (January 28, 2015), citing *Southwest Power Pool, Inc.*, 146 FERC ¶ 61,110 at P 10 (2014); *PJM Interconnection, L.L.C.*, 144 FERC ¶ 61,060 at P 12 (2013); *New York Independent System Operator, Inc.*, 144 FERC ¶ 61,108 at P 14 (2012); *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,184 at P 13 (2011); *ISO New England Inc.*, 134 FERC ¶ 61,182 at P 8 (2011); *California Independent System Operator Corp.*, 132 FERC ¶ 61,004 at P 10. (2010); *Illinois Municipal Electric Agency* 147 FERC ¶ 61,090 (2014), Moeller Dissent.

4 See 147 FERC ¶ 61,067 at P 23 (2014).

operating exactly as it is intended to operate. An FRR plan in a constrained LDA must include sufficient internal resources if PJM determines that the LDA may be constrained. IMEA has not shown that Section D.5 is not operating exactly as it is intended to operate if PJM determines that a separate VRR Curve is need for ComEd Zone/LDA for the 2018/2019 Delivery Year. There is no reason to apply a different rule to IMEA than to any other party affected by the consequences of PJM's proper administrative determinations.

IMEA made certain investments in external units to meet its capacity needs. IMEA made a voluntary election to submit an FRR plan. IMEA made these decisions based on expectations that were not realized. IMEA's unrealized expectations do not justify waiving the rules. Market expectations are often unrealized. IMEA is no different than any party that invested in resources with certain expectations that were altered by the implementation of RPM. IMEA has the same options for adapting to changed circumstances that are available to any resource owner. Unlike other owners, IMEA already has had its expectations preserved for year due to the waiver received for the 2017/2018 Delivery Year. The Commission expressly limited that waiver to one Delivery Year.[5]

It is not clear why IMEA did not act immediately after identifying the issue a year ago to solve the issue.

Another condition for granting a waiver is a showing that the applicant cannot in good faith comply with the tariff provision in question.[6] IMEA has not shown that it could not, in good faith, comply with Section D.5. It is not yet known that Section D.5 will apply to the ComEd Zone/LDA for the 2018/2019 Delivery Year. If Section D.5 does apply, IMEA has not shown that it tried but failed to meet the PIRR. IMEA has not shown that it could

---

5 *See Illinois Municipal Electric Agency*, 150 FERC ¶ 61,040 at P 13 (2015), *denying reh'g*, 47 FERC ¶ 61,090 (2014).

6 See 147 FERC ¶ 61,067 at P 23 (2014).

not pay the FRR Commitment Insufficiency Charge that it would be required to pay if PJM doe not accept its FRR Plan or if IMEA tries and fails to meet the PIRR requirement.[7]

Because IMEA has not supported its request for waiver of the application of Section D.5 to the 2018/2018 Delivery Year, the request should be denied.

The Market Monitor respectfully requests that the Commission afford due consideration to these comments as the Commission resolves the issues raised in these proceedings.

Respectfully submitted,

Jeffrey W. Mayes

General Counsel
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Valley Forge Corporate Center
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
Valley Forge Corporate Center
Eagleville, Pennsylvania 19403
(610) 271-8051
joseph.bowring@monitoringanalytics.com

Dated: January 29, 2015

7 *See* RAA Schedule 8.1 § D.7. IMEA states (at 10 & n.11) that it appears that "IMEA is at risk of a penalty for Delivery Year 2018/2019 of approximately $97 million per year."

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 29th day of January, 2015.

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