

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

Todd Solar, LLC	)	
	)	Docket No. ER21-258-000
	)	

**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,<sup>1</sup> Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (“Market Monitor”) for PJM Interconnection, L.L.C. (“PJM”),<sup>2</sup> submits this answer to the answer submitted on December 7, 2020, by Todd Solar, LLC (“Seller”). Seller responds to the protest filed by the Market Monitor to its application for authorization to charge market based rates (“Protest”).<sup>3</sup> Seller’s response provides no reason not to include the condition proposed by the Market Monitor on any such authorization. Seller provides no substantive response to the Market Monitor’s evidence about the market power mitigation process in PJM. Seller’s response provides no reason that Seller would not want to follow the proposed condition. The condition simply requires the submission of competitive offers. The Market Monitor does not oppose granting authorization to Seller to charge market based rates, provided that reasonable conditions are included to protect the public interest.

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<sup>1</sup> 18 CFR §§ 385.212 & 385.213 (2020).

<sup>2</sup> 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”).

<sup>3</sup> Protest of the Independent Market Monitor for PJM, Docket No. ER21-258-000 (October 30, 2020).

Seller's argument (at 2) that the Market Monitor's protest is procedurally improper because it includes a complaint should be disregarded because the protest references flaws in PJM market power mitigation but does not seek to change the market power mitigation rules.

## **I. ANSWER**

The substance of Seller's answer is that the Market Monitor has failed to show that Seller has market power. It is Seller's burden to demonstrate lack of market power or explain its reliance on PJM market power mitigation. Seller initially stated its reliance on PJM market power mitigation. The Market Monitor explained why such reliance is misplaced. Seller did not respond to the explanation.

The Market Monitor proposes that the Commission grant Seller's request for market based rates on the condition that Seller submit competitive offers in the energy market and in the capacity market. Seller does not show why this condition is not just and reasonable in PJM. Seller does not explain how this condition would constrain its behavior. Competitive offers in the energy market are cost-based offers with operating parameters that are at least as flexible as the defined unit specific parameter limits in the PJM energy market.<sup>4 5</sup> Competitive offers in the capacity market, defined consistent with the mathematics of the PJM capacity performance design and the actual number of PAI, are equal to the Avoidable Cost Rate adjusted for expected Capacity Performance penalties and bonuses.<sup>6</sup> The evidence, provided by the Market Monitor, that PJM market power mitigation cannot be properly relied upon as the basis for unconditional market based rate authorization is

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<sup>4</sup> See OA Schedule 2.

<sup>5</sup> See OA Schedule 1 § 6.6.

<sup>6</sup> See Attachment A to the Complaint of the Independent Market Monitor for PJM, Docket No. EL19-47-000 (February 21, 2019).

unrefuted. The responses do not and cannot identify any harmful impact to granting the relief requested in the Protests.

The market based rates authorization should be conditioned as requested in the Protest.

## 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.<sup>7</sup> 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.

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<sup>7</sup> 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).

### III. CONCLUSION

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

Respectfully submitted,



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Dated: December 22, 2020

## 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 22<sup>nd</sup> day of December, 2020.



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