

based rates, provided that reasonable conditions are included to protect the public interest. The relative size of the units is not relevant to the reasons for including the conditions requested by the Market Monitor.

I. ANSWER

Seller's motion to dismiss and the substance of its 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 rules. Seller initially stated its reliance on PJM market power mitigation rules. The Market Monitor explained why such reliance is misplaced. Seller did not respond to the explanation.

Seller instead attached information about the relative size of the units. Regardless of whether Seller followed the Commission's indicative screens, the generic screens referenced by Seller predate markets and do not recognize that constraints exist in LMP markets and create local markets and local market power. The data provided by the Seller show that the units are small. Facilities of any size may have structural market power due to transmission constraints in an LMP market and in the PJM locational capacity market design.⁴ In the energy market, PJM can and routinely does offer cap units significantly smaller than the Seller's units. All PJM resources are subject to market power mitigation. The PJM market rules do not exempt small sellers from market power mitigation.

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

⁴ With reference to the capacity market, see *2020 Quarterly State of the Market Report for PJM: January through September*, Vol. 2, Section 5, Capacity.

as flexible as the defined unit specific parameter limits in the PJM energy market.⁵ ⁶ 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.⁷ 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 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

In most cases this pleading responds to answers. 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.⁸ In this answer, the Market Monitor provides the Commission with information useful to the

⁵ See OA Schedule 2.

⁶ See OA Schedule 1 § 6.6.

⁷ See Attachment A to the Complaint of the Independent Market Monitor for PJM, Docket No. EL19-47-000 (February 21, 2019).

⁸ 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).

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 these proceedings.

Respectfully submitted,



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Dated: December 1, 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 1st day of December, 2020.



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