

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

|                            |   |                         |
|----------------------------|---|-------------------------|
| Hill Top Energy Center LLC | ) |                         |
|                            | ) | Docket No. ER21-445-000 |
|                            | ) |                         |

**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 February 22, 2021, by Hill Top Energy Center LLC (“Hill Top”). Hill Top’s second answer omits discussion of the unit specific market power issues raised in the Market Monitor’s confidential analysis. Hill Top’s second answer does not specifically object to the conditions requested by the Market Monitor to any grant of market based rate authority. Hill Top primarily argues against relief that it incorrectly asserts the Market Monitor seeks in this proceeding concerning the PJM market rules. The Market Monitor seeks no such relief in this proceeding, nor in any other market based rate proceeding.

**I. ANSWER**

Hilltop does not refute the Market Monitor’s core point, that PJM market sellers can exercise market power despite the market power mitigation process in PJM. Hill Top ignores the fact that there is a process for challenging the presumption that market power

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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”).

mitigation is sufficient to support market based rates, which is defined in Order No. 861. The Market Monitor has followed the process set forth in Order No. 861.

Hill Top provides no substantive response to the unit specific market power analysis provided by the Market Monitor.<sup>3</sup>

Hill Top primarily argues against relief that it incorrectly asserts the Market Monitor seeks in this proceeding concerning the PJM market rules. The Market Monitor seeks no such relief in this proceeding, nor in any other market based rate proceeding.

Hill Top notes (at 2) that the Market Monitor does not oppose granting Hill Top market based rate authority in this proceeding, but fails to note that the Market Monitor opposes granting market based rate authority without the inclusion of conditions that would mitigate Hill Top's potential exercise market power under PJM's existing mitigation rules. Hill Top does not object to such conditions. Hill Top's characterization of its application as "uncontested" is correct only to the extent that such conditions are included. There is no reason not to include the Market Monitor's conditions and grant market based rate authorization to Hill Top.

## 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>4</sup> In this answer, the Market Monitor provides the

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<sup>3</sup> See Protest of the Independent Market Monitor for PJM, Docket No. ER21-445-000 (January 19, 2021), Attachment E.

<sup>4</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

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 these proceedings.

Respectfully submitted,



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Dated: March 12, 2021

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at P 4 (2007) (answer to protest accepted because it provided information that assisted the Commission in its decision-making process).

## 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 12<sup>th</sup> day of March, 2021.



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