

proposed language provides the flexibility for Market Sellers to continue to discuss issues and reach agreement if possible. Power Providers are using PJM's process related filing as a pretext for preventing the review of market power issues based on an invented "coercion" that does not exist. Power Providers' proposed revisions should be rejected.

I. ANSWER

A. Power Providers Invent an Issue and Propose a Solution Inconsistent with Tariff

The PJM proposed revisions state that: "the Market Monitoring Unit and the relevant Capacity Market Seller *may* mutually agree on the value of such Market Seller Offer Cap" [emphasis added].⁴ Capacity Market Sellers ("Sellers") and the Market Monitor are required to participate in the process in good faith.

The purpose of the PJM filing is to make explicit the flexibility that has always existed in this process while correcting deficiencies in the provision that PJM's compliance filing replaces. The PJM filing also avoids the burdens that the prior process placed on sellers. There would no need for the filings made by multiple generators in November 2021 that PJM required under the replaced provision.⁵ The instant PJM filing increases flexibility and makes the process substantially less administratively burdensome for Sellers.

⁴ PJM Compliance Filing, Docket No. ER22-2886-000 (September 20, 2022) at 3.

⁵ See Talen Energy Marketing, LLC Letter Agreement, Docket No. ER22-474-000 (November 24, 2021); EF Kenilworth, LLC, LLC Letter Agreement, Docket No. ER22-539-000 (November 24, 2021); Chambersburg Energy, LLC, LLC Letter Agreement, Docket No. ER22-550-000 (December 6, 2021); Rockford Power, LLC, LLC Letter Agreement, Docket No. ER22-551-000 (December 6, 2021); Rockford Power II, LLC, LLC Letter Agreement, Docket No. ER22-552-000 (December 6, 2021); Troy Energy, LLC, LLC Letter Agreement, Docket No. ER22-553-000 (December 6, 2021); LSP University Park, LLC, LLC Letter Agreement, Docket No. ER22-554-000 (December 6, 2021); University Park Energy, LLC, Docket No. ER22-555-000 (December 6, 2021); and Energy Center Dover, LLC, LLC Letter Agreement, Docket No. ER22-704-000 (November 29, 2021).

Under PJM's proposed revisions, all the current options continue to exist for Sellers, for the Market Monitor and for PJM. If the Market Monitor and the Capacity Market Seller do not reach agreement on an MSOC by 80 days prior to the auction, PJM could either accept or reject the Seller's proposed MSOC. If PJM rejects the Seller's proposed MSOC, the Seller may use either the default ACR based MSOC, the MSOC proposed by the MMU if approved by PJM, or seek a determination from the Commission. If PJM accepts a Seller's Market Seller Offer Cap as compliant with the market rules but the Market Monitor objects, the Market Monitor's may seek a determination from the Commission. Under the PJM market rules, PJM's acceptance is a finding that the MSOC "complies with the PJM Market Rules," but does not constitute a determination about "whether the level or value of inputs ... involves the potential exercise of market power."⁶ The Commission would decide any market power issue submitted by a Seller or the Market Monitor on the merits.

B. The Language Proposed by Power Providers Would Interfere with the Market Monitoring Function as Defined in the Tariff

Power Providers proposed (at 2) to add: "Failure of the IMM and Capacity Seller to mutually agree on a revised offer cap within 80 days of the auction shall not be considered a Market Violation under Attachment M of the OATT and shall not be grounds for a referral to the Commission under Section I, Attachment M."

Accepting the Power Providers' proposed language would interfere with the market monitoring function and is not consistent with the tariff definition of the market monitoring function under Attachment M of the OATT. The language would bar the Market Monitor from raising an issue about market power with the Commission. The Commission evaluates referrals on their merits and decides whether to investigate an offer level for the potential exercise of market power. The Market Monitor's decisions on referrals should not be subject to arbitrary limits.

⁶ See OATT § 12A.

The language proposed by Power Providers would interfere with the tariff defined obligations of the Market Monitor. Power Providers proposed revisions should be rejected.

C. Gratuitous Misstatement About Market Power Mitigation

As if to make it very clear what the intent of the filing is, Power Providers add (at 2) a gratuitous and demonstrably incorrect statement about market power mitigation. Power Providers assert that the Commission has taken the “extreme view” that “every decision related to future costs and risks of capacity resources is effectively set by the Market Monitor and not the asset owners.” This assertion is incorrect, unsupported, and unsupportable.

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.⁷ 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.

⁷ 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 this proceeding.

Respectfully submitted,



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Dated: October 26, 2022

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 26th day of October, 2022.



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