

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

PJM Interconnection, L.L.C.	)	
	)	Docket No. ER17-1433-004
	)	

**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 (“PJM Interconnection, L.L.C.”),<sup>2</sup> submits this answer to the request for rehearing submitted on March 1, 2022, by XO Energy, LLC, and XO Energy MA, LP (“XO Energy”). XO Energy seeks rehearing of the order issued January 31, 2022, in this proceeding (“January 31<sup>st</sup> Order”).<sup>3</sup> This answer responds to XO Energy’s argument (at 10–15) that the FTR Forfeiture rule approved in the January 31<sup>st</sup> Order was approved in error. The January 31<sup>st</sup> Order is consistent with prior Commission orders, supported by the record and reflects reasoned decision making. Rehearing should be denied.

**I. ANSWER**

On request for rehearing, XO Energy argues (at 10–13) that the FTR Forfeiture rule burdens legitimate hedging activity because it examines the effects of the participant’s virtual

---

<sup>1</sup> 18 CFR §§ 385.212 & 385.213 (2021).

<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> *PJM Interconnection, L.L.C.*, 175 FERC ¶ 61,079 (“January 31<sup>st</sup> Order”).

bids on individual FTRs, rather than net effect on the entire portfolio of FTRs, and because it can affect non-leveraged positions. XO Energy asserts (11–13) that leverage is required to benefit from the manipulation of the value of an FTR and absent such benefit the manipulative activity must be considered legitimate. XO Energy’s position is that their activities should not be subject to any FTR Forfeiture rule, regardless of their impact on the market. XO Energy’s effective position is that there should be no FTR Forfeiture rule.

The Commission properly considered and rejected these arguments in the January 31<sup>st</sup> Order.<sup>4</sup>

The stated purpose of the virtual and FTR activity is not relevant. The purpose of the FTR Forfeiture rule is to detect virtual activity that benefits a participant’s FTR positions at the expense of other market participants’ positions and to ensure that such activity is not profitable. Such activity is prohibited market manipulation.

The FTR Forfeiture test is designed to determine whether a participant’s virtual bidding activity in the day-ahead market benefits the participant’s FTR positions by contributing to greater nodal price differences in the day-ahead market than in the real-time market. The relative size of the virtual portfolio relative to an individual FTR is not relevant. The FTR Forfeiture rule only triggers a forfeiture when the value of the day-ahead market price spread is greater than the realized real-time market price spread for the FTR for the affected hour and the net flow across a constraint attributable to a participant’s portfolio of virtual transactions meets two criteria: the net flow must be in the direction to increase the value of an FTR; and the net flow must exceed a defined percentage of the physical limit of a binding constraint.

XO Energy claims (at 12–13) to have provided data that an earlier version of the FTR Forfeiture rule (in effect in 2019) caused them to forfeit more revenue than they earned, in

---

<sup>4</sup> *PJM Interconnection, L.L.C.*, 175 FERC ¶ 61,137 *passim* (2021) (“May 20<sup>th</sup> Order”) and *PJM Interconnection, L.L.C.*, 158 FERC ¶ 61,038 *passim* (2017) (“2017 Order”). See January 31<sup>st</sup> Order *passim*.

gross from FTRs. The current FTR Forfeiture rule and every prior version of the rule requires forfeitures only of hourly profits when it is violated. XO's claim is not supportable.

XO Energy asserts (at 14–15) that a constraint by constraint based FTR Forfeiture rule applied to individual FTR positions will cause forfeiture of legitimate profits. XO Energy asserts that FTRs should be treated on a portfolio basis, rather than an individual FTR basis, because the participant's virtual position may positively affect the value of one FTR in a portfolio while simultaneously decreasing the value of another FTR position. XO's argument was addressed in the January 31<sup>st</sup> Order (at P 43).<sup>5</sup> XO Energy's approach would create opportunities to mask the manipulation of individual FTRs and would result in the discriminatory treatment of specific FTRs paths based on whether or not they were part of a portfolio. Under XO Energy's approach an FTR in a portfolio could be shielded from forfeiture despite manipulative behavior although the same FTR held without a portfolio by a different participant engaging in the same virtual behavior would be subject to forfeiture. The January 31<sup>st</sup> Order is correct to require that FTR forfeitures continue to be calculated on an individual FTR basis.

## 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 a request for rehearing 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>6</sup> In this answer, the Market Monitor provides

---

<sup>5</sup> See Answer and Motion for Leave to Answer of the Independent Market Monitor for PJM, Docket No. EL14-37-001, et al. (May 31, 2017) at 7; Answer and Motion for Leave to Answer of the Independent Market Monitor for PJM, Docket No. EL14-37-001, et al. (July 10, 2017).

<sup>6</sup> See, e.g., *Calif. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,004 at P 13 (2011) (accepting answer to rehearing request that provided information that assisted Commission's decision-making); *Aquila Merchant Servs., Inc.*, 127 FERC ¶ 61,218 at P 28 (2009) (accepting answers to requests for rehearing "because they have provided information that assisted us in our decision-making process"); see also

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.

### 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,



---

Jeffrey W. Mayes

Joseph E. Bowring  
Independent Market Monitor for PJM  
President  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8051  
*joseph.bowring@monitoringanalytics.com*

General Counsel  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8053  
*jeffrey.mayes@monitoringanalytics.com*

Howard J. Haas  
Chief Economist  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8054  
*howard.haas@monitoringanalytics.com*

Dated: March 18, 2022

---

*N. Natural Gas Co.*, 137 FERC ¶ 61,202 at P 10 (2011) (accepting answer to rehearing request because it clarifies the record, and will expedite resolution of issues).

## 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 18<sup>th</sup> day of March, 2022.



---

Jeffrey W. Mayes

General Counsel

Monitoring Analytics, LLC

2621 Van Buren Avenue, Suite 160

Eagleville, Pennsylvania 19403

(610) 271-8053

*jeffrey.mayes@monitoringanalytics.com*