

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

LS Power Development, LLC)	Docket No. EL24-91-000
)	
v.)	
)	
PJM Interconnection, L.L.C. and Monitoring)	
Analytics, LLC, as the Independent Market)	
Monitor for PJM)	
)	
)	

ANSWER OF THE INDEPENDENT MARKET MONITOR FOR PJM

Pursuant to Rules 212 and 213 of the Commission’s Rules and Regulations,¹ Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (“Market Monitor”) for PJM Interconnection, L.L.C. (“PJM”),² submits this answer to (i) the answer filed by LS Power Development, LLC (“LS Power”) on May 6, 2024, in response to the answers filed by PJM and by the Market Monitor on April 19, 2024 (“May 6th LS Answer”), (ii) the answer filed by PJM on June 3, 2024 (“June 3rd PJM Answer”), and (iii) the answer filed by LS Power to the June 3rd PJM Answer on June 13, 2024 (“June 13th LS Answer”).

This proceeding was initiated by a complaint filed by LS Power on March 20, 2024 (“Complaint”). The Complaint requests that the Commission “find that PJM and the IMM

¹ 18 CFR §§ 385.212 & 385.213 (2023).

² 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”).

have violated provisions in the Operating Agreement relating to the determination of opportunity cost adders (“OCAs”) and have otherwise determined OCAs in an unjust and unreasonable manner, and require, prospectively, that PJM and the IMM make necessary improvements in their procedures.”³

LS Power failed completely in its Complaint to support its allegations. LS Power failed to demonstrate that PJM and the Market Monitor have violated the provisions of the Operating Agreement related to the calculation of opportunity cost adders. LS Power failed to demonstrate that PJM and the Market Monitor have otherwise determined opportunity cost adders in an unjust and unreasonable manner. All of the broad conclusions drawn by LS Power depend on a small set of examples which fail to support LS Power’s claims. For example, the Rockford issue that is repeatedly cited by LS Power was a direct and documented result of mistakes made by LS Power including the provision of inaccurate and incomplete emissions data to the Market Monitor for use in the opportunity cost calculator (“OCC”). The Market Monitor addressed all of the asserted factual issues in detail in prior filings in this matter.

The June 3rd PJM Answer states correctly that PJM has complied with the requirements of the PJM Operating Agreement and Order No. 719.⁴ PJM also supports rejection of the Complaint.

The Complaint should be rejected for failure to support any of its assertions. As a result, all of LS Power’s proposals should be rejected as unsupported.

This answer should be permitted because it helps to ensure a complete and accurate record, eliminate potential confusion, and thereby facilitate the Commission’s decision making process.

³ Complaint at 39.

⁴ *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008) (“Order No. 719”), *order on reh’g*, Order No. 719-A, FERC Stats. & Regs. ¶ 31,292 (2009), *reh’g denied*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

I. ANSWER

A. LS Power Did Not Identify Any Rate or Practice That Is Unjust and Unreasonable.

A prerequisite for consideration of relief requested on complaint is a finding that any rate or practice is “unjust, unreasonable, unduly discriminatory or preferential.”⁵ LS Power has not, after three pleadings filed in this proceeding, raised any claim that can be granted within the scope of Section 206.⁶ The factual issues at the core of the Complaint are anecdotal and are, in the cited Rockford case, a documented result of faulty information submitted by LS Power. LS Power has attempted to blame the Market Monitor for its own errors. The Market Monitor made some mistakes in the implementation of the OCC which are identified in prior filings in this matter. The Market Monitor’s errors had no adverse impact on LS Power or the markets, and were promptly corrected. LS Power did not demonstrate any such impact. LS Power failed to show that the Market Monitor has not correctly calculated OCAs and has failed to show that PJM is not complying with the OA. Having failed to provide the showing required to sustain a complaint, the Complaint should be rejected.

LS Power asserts that PJM is not performing its role in administering the opportunity cost rules, improperly delegating that role to the Market Monitor. LS Power does not correctly

⁵ 16 U.S.C. § 824e.

⁶ See *American Electric Power Service Corp. v. Southwest Power Pool, Inc.*, 183 FERC ¶ 61,068 at P 36 (2023) (“We first dismiss the Complaint for failure to state a claim upon which relief can be granted. Under FPA section 206, “the burden of proof to show that any rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential shall be upon . . . the complainant.”[footnote omitted] Additionally, Rule 206 of the Commission’s Rules of Practice and Procedure requires complainants to “[c]learly identify the action or inaction which is alleged to violate applicable statutory standards or regulatory requirements [and] [e]xplain how the action or inaction violates the applicable statutory standards or regulatory requirements.”), citing *FirstEnergy Service Co. v. FERC*, 758 F.3d 346, 353 (D.C. Cir. 2014); *Maryland Public Service Commission v. FERC*, 632 F.3d 1283, 1285 n.1 (D.C. Cir. 2011); *Californians for Renewable Energy, Inc. v. California Public Utilities. Commission*, 131 FERC ¶ 61,102 at 61,493 (2010).

represent the roles explained and defined in Order No. 719 and set forth in the market monitoring provisions in the OATT.⁷ PJM correctly explains that the Market Monitor is properly authorized to provide inputs to prospective mitigation.⁸ LS Power argues, citing the order approving the opportunity cost calculation rules (“OCC Order”), that PJM must “retain[] the ultimate decision making authority.”⁹ The OCC Order does not support LS Power’s position that PJM is required to take over the Market Monitor’s role in the OCC process. The OCC Order relies on and does not purport to change or expand the rules established in Order No. 719. Order No. 719 provides:

- “[T]he MMU should not become involved in implementing rule and tariff changes (unless a tariff provision specifically concerns actions to be undertaken by the MMU itself).”¹⁰
- “The Commission regulates public utilities, and it is the public utilities that we hold accountable for tariff implementation.”¹¹
- “[T]he MMU may provide the inputs required by the RTO or ISO to conduct prospective mitigation, including determining reference levels, identifying system constraints, cost calculations and the like. This will enable the RTO or ISO to utilize the considerable expertise and software capabilities developed by their MMUs, and reduce wasteful duplication.”¹²

Order No. 719 defines the roles of PJM and the Market Monitor, and those role definitions are not consistent with LS Power’s assertions about PJM’s role. There is no dispute

⁷ See OATT Attachment M & Attachment M–Appendix.

⁸ See June 3rd PJM Answer at 2, citing 18 CFR § 35.28(g)(3)(iii)(B).

⁹ See June 13th LS Power Answer at 3, citing *PJM Interconnection, L.L.C.*, 133 FERC ¶ 61,081 at P 22 (2010).

¹⁰ Order No. 719 at P 357.

¹¹ Order No. 719 at P 361.

¹² Order No. 719 at P 375.

that PJM is accountable for the implementation of the rules subject to review by the Commission.

LS Power's view that PJM violates the rules unless it attempts to duplicate the market monitoring function at the behest of participants has no support in Order No. 719 and contradicts the stated intent to protect the independence of the market monitoring function. In fact, LS Power is not concerned about whether PJM has final authority, but rather how PJM determined to exercise its authority. Order No. 719 explicitly states the Commission's intent that, upon assigning the development of inputs to prospective mitigation to the market monitoring function, the RTO must avoid "subordination" of the market monitoring function.¹³ Order No. 719 seeks to protect the independence of the market monitoring function and to strengthen it.¹⁴

LS Power points to an example (Rockford) where LS Power asserts that the Market Monitor made a mistake that should have been corrected by PJM.¹⁵ LS Power argues that because PJM relied on the Market Monitor to calculate the OCA rather than displace the Market Monitor from its proper role, PJM "effectively" ceded "final authority to the Market Monitor to determine OCAs."¹⁶ LS Power implies that for PJM to "retain[] the ultimate decision making authority" means that PJM must duplicate the Market Monitor's work or take it over entirely. This assertion is especially ironic given that the Rockford example cited by LS Power in the June 13th LS Answer is a case where LS Power provided incorrect and incomplete input data, including misstating emissions levels and misidentifying the

¹³ See Order No. 719 at P 378 ("We also direct that the tariffs of RTOs and ISOs clearly state which functions are to be performed by MMUs, and which by the RTO or ISO. This separation of functions will serve to eliminate RTO or ISO influence over the MMUs, and remove the concern that MMU assistance in mitigation makes it subordinate to the RTO or ISO.").

¹⁴ See *id.* at P 316.

¹⁵ *Id.*

¹⁶ *Id.*

pollutant that LS Power wanted modeled as the limiting pollutant, to the Market Monitor. The calculated OCA results were fully consistent with the information and data provided to the Market Monitor by LS Power.

B. PJM's Authority to Implement the Market Rules Is Not an Invitation for Forum Shopping.

LS Power's filings reveal that the actual purpose of the complaint is forum shopping. LS Power repeats (May 6th LS Answer at 21) its request: "that the Operating Agreement be modified to expressly provide that market participants may request that PJM review and make the ultimate determination with respect to permissible OCAs." LS Power makes a series of unsupported hyperbolic claims based on selective anecdotal assertions that all lead to LS Power's request that the Commission direct PJM to take over the OCC role from the Market Monitor. LS Power apparently would prefer that PJM rather than the Market Monitor review their opportunity costs.

The agreement between the Market Monitor and PJM states that the Market Monitor will provide to "PJM, upon request, margins and run hours for specific calculations of opportunity costs for specific units" and "all input data used in the calculation."¹⁷ To date, PJM has made 27 such requests and each time the Market Monitor supplied the requested data and had follow up meetings to answer any questions about the data. This process has worked well and additional rules governing the PJM review process are not needed. There is no restriction in the agreement that limits PJM data requests to a single annual review. In 2022, PJM requested six unit specific calculations over a four month period. The annual review language in Manual 15 was included in 2020 at PJM's request. The Market Monitor's position in 2020, and today, is that the annual review language is not necessary because the

¹⁷ See Attachment C to Answer of the Independent Market Monitor for PJM, Docket No. EL24-91-000 (April 19, 2024). For convenience, the agreement is also included as an attachment to this pleading.

agreement states unconditionally that PJM may request, and the Market Monitor will provide, unit specific calculation data.

While taking the position that the Complaint should be rejected and that therefore there are no required solutions to nonexistent issues, PJM nonetheless provides (June 3rd PJM Answer at 5) a list of things that PJM would like if PJM's position were rejected and the Complaint were granted. PJM includes in its list several types of statistical analysis that PJM could do in addition to its current review. However, PJM already has the information required to do the various statistical analyses that PJM includes in its list (June 3rd PJM Answer at 5). PJM has not previously requested access to all input data for all OCC calculations for all units. PJM has requested, received and reviewed the input data for specific cases. Based on the PJM request in the June 3rd PJM Answer (at 5), the Market Monitor will coordinate with PJM to provide such access to all OCC input data. The Market Monitor agrees with PJM that none of the items on the list are required by the Complaint and that PJM is currently following the requirements of Order No. 719.

Contrary to PJM's assertion (June 3rd PJM Answer at 5), providing the additional information listed by PJM does not require that PJM have a copy of the Market Monitor opportunity cost calculator (IMM OCC). PJM's defined role in this process is not to duplicate the work of the Market Monitor. The details of the IMM OCC were thoroughly reviewed in the stakeholder meetings in 2017 through 2019.¹⁸ Affidavits by two LS Power witnesses demonstrate that LS Power has a working understanding of the IMM OCC. The unit specific reports that the Market Monitor provides to PJM upon request have sufficient detail to fully understand the calculation. The report includes parameter inputs, hourly commitment and dispatch data, hourly margins, binding constraint data and a revenue summary that can be

¹⁸ Answer of the Independent Market Monitor for PJM, Docket No. EL24-91-000 (April 19, 2024) at 13–16.

used to calculate the opportunity cost adder. The Market Monitor has also volunteered to do additional stakeholder education.¹⁹

In short, LS Power has failed to support its Complaint. PJM agrees. LS Power's proposals are therefore irrelevant as are PJM's. The Market Monitor will continue to coordinate with PJM to ensure that PJM has access to the input data and will continue to provide stakeholder education on the OCC. The Complaint should be rejected.

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 protests, answers, or requests 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.²⁰ 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.

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.

¹⁹ *Id.* at 10.

²⁰ *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).

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Dated: June 20, 2024

Respectfully submitted,



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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 20th day of June, 2024.



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Attachment



Monitoring Analytics

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DATE: September 26, 2018
TO: PJM
FROM: IMM
SUBJECT: Opportunity Cost Operating Procedure and Agreement

MA agrees to explain the inputs and logic of MA's OCC to PJM in sufficient detail to demonstrate that it is compliant with Schedule 2 of the OA. MA agrees to explain the calculation of any unit specific opportunity cost to PJM, at PJM's request, in sufficient detail to demonstrate compliance with Schedule 2 of the OA.

MA will:

- Develop a MIRA application to permit participants to provide opportunity cost related information.
- Make the MIRA data available to PJM. The MIRA opportunity cost application will include the same access details as the MIRA fuel cost policy application.
- Inform PJM of all input data used in the calculation of opportunity costs for any specific unit.
- Provide the calculated opportunity cost to PJM.
- Inform PJM of the constraints applied in the opportunity cost calculation, e.g. minimum run times, minimum down times, start times, remaining tons of emissions under the relevant permit.
- Provide to PJM, upon request, margins and run hours for specific calculations of opportunity costs for specific units.
- Notify PJM of any significant changes to the calculation method.

PJM Interconnection LLC ("PJM") agrees that Monitoring Analytics, LLC's ("MA") Opportunity Cost Calculator (OCC) is MA's intellectual property. This agreement is not a license and gives PJM no right to use MA's OCC. PJM agrees that it will not attempt to reverse engineer MA's OCC and will not engage others to attempt to reverse engineer MA's OCC.

Understood and agreed.

Joseph Bowring

Frederick S. Bresler