

I. ANSWER

Elwood states (at 2–3) that it did not notify PJM and the Market Monitor of its decision to deactivate the Elwood Energy Center prior to the January 29, 2024, deadline for the 2025/2026 Base Residual Auction deadline. Elwood indicates that it did not make the decision to deactivate prior to the deadline.⁶ Elwood does not indicate any specific or extraordinary reason why it did not make its decision to deactivate prior to the deadline.

PJM explains the reasons why the market rules include a deadline for requesting an exception to the RPM must offer rule, citing the Commission’s finding approving the deadline because it would “help ensure reliability, make the auction process function more efficiently, and provide greater notice to potential new entrants.”⁷ PJM correctly concludes (at 6):

Elwood’s last minute waiver request seeks permission from the Commission to effectively disregard the Commission’s previously approved deadlines simply because it decided to submit a notice of deactivation after the must-offer exception deadline. Granting such a waiver request effectively nullifies the Tariff deadlines, undermines the rationale for establishing such deadlines in the first instance, and renders the Tariff meaningless.

The Commission may grant a waiver where (i) the applicant acted in good faith; (ii) the waiver is of limited scope; (iii) the waiver addresses a concrete problem; and (iv) the waiver does not have undesirable consequences.⁸ Elwood fails to show that its requested waiver meets these standards.

⁶ *Id.*

⁷ PJM at 5, citing *PJM Interconnection, L.L.C.*, 145 FERC ¶ 61,035, at P 34 (2013).

⁸ *See, e.g., Empire Dist. Elec. Co.*, 166 FERC ¶ 61,164 (2019) (“The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.”).

Elwood has not provided a specific reason for failing to meet the deadline in the rules. A waiver granted based on the stated reason, that the decision to deactivate was made after the deadline, while apparently directly limited to this specific case, would effectively be unlimited because there is no meaningful standard or rule based distinguishing reason for this waiver that would not apply equally to any generation owner that wanted to retire a unit without providing adequate notice. The waiver does not correct an unanticipated consequence of implementing the rule; rather, it contradicts the stated purpose of the rule. Granting the waiver would have undesirable consequences, including rendering the rule identified by the Commission meaningless.⁹ Granting the waiver is contrary to protecting reliability, making the auction process function efficiently, and providing reliable notice to potential new entrants. Further, PJM explains (at 6), “Given the limited time remaining before the commencement of the upcoming Base Residual Auction, PJM will not be able to update the posted planning parameters in the event the Commission grants the requested waiver.” Accurate planning parameters are essential to running competitive auctions that reflect actual supply and demand conditions. If this or similar waivers were to be granted, it would effectively eliminate the PJM tariff deadline for requesting RPM must offer exceptions based on retirement.

The waiver should be denied and Elwood should offer the Elwood Energy Center in the 2025/2026 Base Residual Auction scheduled to open on July 17, 2024. If the offer clears, Elwood has the option to defer deactivation of the facility. If the offer clears and Elwood deactivates the facility, the options and consequences specified in the OATT should apply.¹⁰

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.

⁹ 145 FERC ¶ 61,035, at P 34.

¹⁰ See OATT Attachment DD § 8.

The Commission has made exceptions, however, where an answer clarifies the issues or assists in creating a complete record.¹¹ 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 pleading as it resolves the issues raised in this proceeding.

Respectfully submitted,



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Dated: June 25, 2024

¹¹ 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).

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 25th day of June, 2024.



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