

This proceeding concerns an amended nonconforming Interconnection Service Agreement (“ISA”) by and among PJM, Susquehanna Nuclear, LLC, and PPL Electric Utilities Corporation filed on June 3, 2024 (“June 3rd Filing”). The applicants attempt to frame the issue narrowly, but there are significant policy decisions embedded in the ISA. PJM has made policy decisions that were incorporated in the ISA that have not been reviewed in the stakeholder process or by the Commission.

In the June 24th Protest, Exelon and AEP argue (at 1–2): “Too many questions of fact remain unresolved in what is, by the filing’s own admission, an ISA that establishes a novel configuration,” and that “[a]bsent further factual development, the Commission will be unable to make an informed decision, and parties will be denied due process.” Exelon and AEP recommend (*id.*) that the ISA filing be dismissed or set for hearing.

The Market Monitor agrees and files this answer in support of the June 24th Protest and in opposition to the Talen Answer and the PJM Answer. The issues raised by the proposed ISA are not narrow contractual issues limited to the proposed ISA. The contractual issues for the proposed ISA are not narrow even if this were the only such ISA. It is well understood that this ISA will be precedential and will lead to similar arrangements at many other PJM nuclear plant sites and potentially other generator sites. PJM needs to provide a comprehensive analysis of the impact of removing significant levels of generation from the market. PJM has made a series of critical policy decisions that are embedded in this ISA involving, among other things, how backup power is handled, that are very different from positions that PJM has previously taken on related matters in the stakeholder process. These issues require stakeholder discussion and tariff changes. How will load be met if multiple base load generators are effectively removed from the market? What will the impact be on power flows given that the grid is built in significant part to deliver nuclear energy to load? What will be the impact on energy prices and capacity prices? The PJM states need the opportunity to make decisions about jurisdiction based, at least in part, on much more complete information from PJM about the long term reliability impacts of such agreements.

The Market Monitor joins Exelon and AEP in recommending that the ISA be dismissed or set for hearing.

I. ANSWER

The June 3rd Filing is not a simple matter of increasing the MW associated with a nonconforming ISA. The other elements of the ISA highlight the fact that the ISA would provide unique and special treatment for a specific type of load and a specific type of power plant and would set a precedent for significant changes to the PJM markets that will impose costs on other market participants. These changes should be recognized, highlighted, comprehensively reviewed and decided by the Commission.

It is undisputed that the applicable standard in this proceeding, which is about a request for approval for deviations from the pro forma ISA, is a showing that “the changes are ‘consistent with or superior to’ the pro forma and ‘necessary.’”⁵ Talen’s and PJM’s narrow framing of the issues would interpret this standard as nothing more than requiring support for the proposed change in the MW level. The proposed changes are not limited to the proposed increase in the MW level (to 480 MW) or the contemplated doubling of that proposed higher MW level (to 960 MW), as the transmittal letter and redline ISA make clear. The applicable standard requires a comparison of the terms of the nonconforming ISA to the terms of the pro forma ISA.

Talen fails to show that its nonconforming ISA is consistent with or superior to the pro forma ISA. The pro forma ISA does not raise the policy concerns identified in the June 24th Protest and the policy concerns identified by the Market Monitor here. Talen’s nonconforming ISA is not consistent with or superior to the pro forma ISA. Talen also fails to show that the nonconforming ISA is necessary because Talen has not shown that the nonconforming provisions are necessary in order to effectuate a bilateral sales agreement.

⁵ See Talen at 3.

As general background, there have been two broad approaches offered in the PJM stakeholder process for behind the generator load, termed co-located load. The first option was implemented by Talen at its Susquehanna nuclear station. This option was presented as co-located load fully isolated from the PJM grid and market and recognized that the nuclear capacity sold to the co-located load must be removed from the PJM Capacity Market and the associated CIRs given up. This option was not reviewed in the stakeholder process. The second option was eventually presented to stakeholders as co-located load fully isolated from the PJM grid but able to sell the nuclear capacity both to the co-located load and to the PJM Capacity Market and the CIRs retained by the generation owner.⁶ PJM supported the second option.⁷ The second option was rejected by stakeholders. Neither Constellation nor PJM continues to support the first option, to the best of the Market Monitor’s knowledge.

The Talen model was superior to the Constellation/Brookfield model on one key dimension because the Talen model did not pretend that the same capacity could be sold twice. But other issues raised during the stakeholder discussion included what it means to be fully isolated from the grid and how backup power is provided. The modifications to the nonconforming ISA that attempted to address these and related issues have made it clear that Talen’s proposed amendments to the ISA raise significant issues about the operation of the PJM grid and markets when the model of the nonconforming ISA is adopted on a wider scale.

Talen’s response to the June 24th Protest that raises many of these issues is to assert that the protest is anti-competitive interference with a private bilateral arrangement that is an innovative solution that does not impose costs on other customers, that is a logical response to delays in interconnection queues, and that is supported by the transmission

⁶ Brookfield/Constellation presentation to the MIC, “Co-Location Configurations (Behind the Meter Load),” February 9, 2022 <<https://www.pjm.com/-/media/committees-groups/committees/mic/2022/20220209/20220209-item-09b-capacity-co-located-load-co-location-configuration.ashx>> .

⁷ PJM. PJM Guidance on Co-Located Load – Posted March 22, 2024, Updated April 17, 2024. <<https://www.pjm.com/-/media/markets-ops/rpm/rpm-auction-info/pjm-guidance-on-co-located-load.ashx>>

owner, the generator and PJM. Talen defines (at 11) the transmission owner, the generation owner and PJM as the only relevant parties. Talen is wrong about the definition of all relevant parties. Talen would ignore the impacts on all other market participants, including the direct impact of the proposed nonconforming ISA and the broad impact of the expanded use of this model.

Talen has not explained why a comparable bilateral arrangement, but without the pretense of being isolated from the grid, is not an option. Under such a bilateral arrangement, a generator could sell power from a specific power plant to a customer using the grid for delivery. The physical arrangements could be nearly identical to what is proposed in the ISA. The timing could be comparable. Such an alternative would minimize the risk to the grid and other customers while meeting the goal of the arrangement, including faster interconnection and enhanced revenues to the generator. The fact that this is not the approach highlights the fact that the core benefit to the co-located load is avoiding the costs associated with both state and federal regulation. Under Talen's proposed ISA, the co-located load would avoid paying distribution charges and transmission charges and would not be directly subject to the rate regulation of the state public utility commission or the FERC.

The core assertion of the nonconforming ISA, that a co-located load at a nuclear plant can be fully isolated from the grid, is an illusion. The full Talen model, made more explicit in the proposed amended ISA, actually incorporates key elements of the original Constellation/Brookfield model. The proposed approach to backup power is most explicit but the same is true for the range of ancillary services provided by the grid. Talen is correct that the proposed ISA does address reliability issues that were present but unaddressed in the original nonconforming ISA. However, by addressing these reliability issues more explicitly, the amended nonconforming ISA makes it clear that the co-located load cannot and will not actually be isolated from the grid.

Under the amended ISA, the nuclear units would provide backup power from the capacity of the units that remains committed to the PJM markets as a capacity resource. This capacity that is not designated for the co-located load is a PJM capacity resource with CIRs

that ensure deliverability to the grid and that are based on the very specific characteristics of these units and their electrical location on the grid. While Talen discusses the need to continue to serve as a capacity resource, Talen and PJM nowhere address the impact on PJM’s overall ELCC analysis of removing significant levels of baseload power from the market or on the ELCC value of the Susquehanna nuclear plants that would result from the possibility that backup power would be needed at a time of high PJM load.

While Talen decreases the CIRs equal to the identified co-located load, Talen’s proposed approach is similar to the original Constellation/Brookfield model in which the generator sells the same capacity to the co-located load and to PJM customers via the capacity market with respect to the backup provisions of the amended ISA. The amended ISA would also sell the capacity of Susquehanna that is not explicitly dedicated to the co-located load to PJM customers as capacity, and to the co-located load as backup. The suggestion that if Unit 1 trips and Unit 2 is needed for backup, there can be a capacity modification (cap mod) down and replacement capacity can be obtained does nothing to change that fact.

The June 24th Protest raises issues related to ancillary services that the Market Monitor and others had raised in the stakeholder discussion of the Constellation/Brookfield proposal.⁸ The co-located load will continue to rely on the grid for a range of ancillary services including frequency control, reactive, spinning reserves, reserves in general, black start, and PJM administrative functions.

While the proposed amendment to the ISA is creative, its benefits to the co-located load come at the expense of other customers in the PJM markets. If this approach were

⁸ Presentations to the MIC: “Behind the Generator Load: Issues,” (March 9, 2022) <https://www.monitoringanalytics.com/reports/Presentations/2022/IMM_MIC_Behind_the_Generator_Load_Issues_20220309.pdf>; “Market Approach to Behind the Generator Load (BGL), (September 7, 2022) <https://www.monitoringanalytics.com/reports/Presentations/2022/IMM_MIC_Market_Approach_to_BGL_20220907.pdf>; and “Market Approach to Behind the Generator Load (BGL), (October 13, 2022) <https://www.monitoringanalytics.com/reports/Presentations/2022/IMM_MIC_Market_Approach_to_BGL_20221013.pdf>.

extended to all the nuclear plants in PJM, the impact on the PJM grid and markets would be extreme. Power flows on the grid that was built in significant part to deliver low cost nuclear energy to load would change significantly. Energy prices would increase significantly as low cost nuclear energy is displaced by higher cost energy on the overall supply curve.⁹ Capacity prices would increase as the supply of capacity to the market is reduced. Emissions would also be expected to increase as thermal resources that are next in the supply curve are dispatched to meet load to replace the nuclear energy. Establishing this precedent would undermine PJM reliability and PJM competitive markets.

The Commission's decision in this matter, while framed as a narrow issue by Talen, has extremely large significance for the future of PJM markets. PJM has not explained how it plans to meet expected increases in the demand for power, given ongoing generator retirements, even without removing multiple large base load units from the system. PJM's latest reliability report and PJM's RTEP do not address the potential significant changes that would result from reliance on the proposed ISA as a precedent.¹⁰ While it is understandable that the recent reports do not address these issues, the nonconforming ISA should not be approved without such analysis and a stakeholder review process and a consideration of the facts by the Commission.

PJM points out that the filing in this proceeding is the third filing to amend the original nonconforming ISA. Although similar issues arguably could have been raised concerning

⁹ The Market Monitor's preliminary estimate of the impact on energy market costs was in the billions of dollars. Market Approach to Behind the Generator Load (BGL), (October 13, 2022) <https://www.monitoringanalytics.com/reports/Presentations/2022/IMM_MIC_Market_Approach_to_BGL_20221013.pdf> at Slide 18.

¹⁰ See PJM. "Energy Transition in PJM: Flexibility for the Future," June 24, 2024 <<https://www.pjm.com/-/media/library/reports-notice/special-reports/2024/20240624-energy-transition-in-pjm-flexibility-for-the-future.ashx>> and PJM. Regional Transmission Expansion Plan ("RTEP") March 7, 2024 <<https://www.pjm.com/-/media/library/reports-notice/2023-rtep/2023-rtep-report.ashx>>.

prior versions, the concerns were not raised. The prior versions were approved by delegated letter orders that do not set precedent.¹¹ The June 24th Protest corrects this oversight, and the important issues about the ISA are now before the Commission.

PJM responds to the June 24th Protest that the Commission should simply adopt the proposed ISA as written and leave the complicated issues for later. That approach to problems has a demonstrated history of not working in the PJM markets. PJM would ignore the significant precedential effect of the proposed ISA and the fact that other nuclear plant owners are considering similar arrangements. By simply accepting this ISA without a comprehensive review of the impacts of the larger adoption of the approach, PJM would not be able to reject the next nonconforming ISA and the one after that.

Regardless of the final Commission determination, a comprehensive, fact-based review is needed now, before irreversible decisions are made and precedents established that will have a significant impact on PJM markets.

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.¹² In this answer, the Market Monitor provides the

¹¹ See PJM Answer at 2 & n.6, citing *PJM Interconnection, L.L.C.*, Letter Order, Amended Interconnection Service Agreement, Docket No. ER17-1591-000 (June 22, 2017). See also *PJM Interconnection, L.L.C.*, Letter Order, Amended Interconnection Service Agreement, Docket No. ER15-2100-000 (August 11, 2015)

¹² 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).

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,



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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 10th day of July.



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