UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Skipjack Solar Center, LLC	)))	Docket Nos. ER22-2048-004

COMMENTS OF
THE INDEPENDENT MARKET MONITOR FOR PJM
IN OPPOSITION TO OFFER OF SETTLEMENT

Pursuant to Rule 602(f) 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.[2] ("PJM"), submits this reply in opposition to the offer of settlement ("Offer") filed in this proceeding on December 20, 2023, by Skipjack Solar Center, LLC ("Skipjack").

Skipjack proposes on a black box basis an annual total revenue requirement for reactive capability of $441,000.00, or $2,520 per MW-year, or $6.90 per MW-day for the 175 MW facility, on an ICAP basis. The proposed ARR for the Skipjack facility is significantly higher than the average rate paid for reactive power in PJM. The average revenue requirement for reactive capability in PJM was $1,914 per MW-year in 2022. No justification has been provided for why customers should pay 1.32 times the average PJM price of reactive for reactive from Skipjack. There is no reasonable basis for the proposed disparity in cost for the same service. Reactive is a homogeneous product which should have the same price for all sellers. This result has not been explained or supported by Skipjack in their filing or their black box Offer. This disparity is inconsistent with competitive markets.

The actual excess is larger than calculated based on the nameplate capacity of the resource. This type of resource can sell only a derated level of MW in the PJM capacity auction to reflect the fact that it is not directly comparable to a thermal resource with higher

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1 18 CFR § 385.602(f) (2023).

2 Capitalized terms used herein and not otherwise defined have the meaning used in the PJM Open Access Transmission Tariff ("OATT").

availability. Given that the current capacity value of the Skipjack Facility is not clear, based on the Facility's cleared capacity in recent capacity market auctions, capacity modifications, CIR values and the filing of the Skipjack Facility in this matter, it is not possible to calculate a correct derated capacity value for the Facility. The actual ELCC derating factor based on PJM's latest postings for the relevant delivery year and the actual CIR value are essential to an accurate evaluation of the actual cost per MW-day of capacity of the Skipjack proposal. The facts about the ELCC derating factor, the CIR value and the MW of capacity should be established at hearing.

The facts relevant to whether the level of the rate proposed by Skipjack are appropriate should be established at hearing. The first issue that should be examined at hearing is why PJM customers should pay any revenue requirement to Skipjack under Schedule 2. In the recent *Midcontinent Independent System Operator, Inc. (MISO)* case, the Commission approved MISO's FPA § 205 filing revising the MISO Tariff Schedule 2 to eliminate all charges under Schedule 2 for the provision of reactive power within the standard power factor range.[3] The decision found "the provision of reactive power within the standard power factor range is, in the first instance, an obligation of the interconnecting generator and good utility practice," and there is, thus, no obligation to provide separate compensation for reactive capability.[4] The Commission explained that its holding reaffirms its policies stated, e.g., in Order No. 2003.[5] It is also consistent with the approach long used in other RTOs, including CAISO and SPP.[6] The Commission rejected arguments that reactive payments should be continued "because generators have come to rely on the compensation for Reactive Service in order for the generators to remain financially viable."[7] The Market

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3 182 FERC ¶ 61,033 (2023).

4 *Id*. at P 53.

5 *Id*.

6 *Id*. at PP 56–57.

7 *Id*. at P 54.

Monitor has argued this position in the *Fern Solar* hearing, where its brief on exceptions to the initial decision is pending before the Commission.[8]

The Commission may approve a contested offer of settlement only based on its merits.[9] A contested settlement may be approved on its merits under one of the four approaches set forth in *Trailblazer Pipeline Company*.[10] None of the approaches under *Trailblazer Pipeline Company* can be relied on for approval of the Offer. The Offer does not resolve the issues raised in the order setting this matter for hearing.[11] There is no record supporting the revenue requirement as just and reasonable, including as a "package." The Market Monitor represents the public interest in efficient and competitive markets. The settlement cannot be analyzed under the fair and reasonable standard applicable to uncontested settlements because the public interest in efficient and competitive markets is a central issue in this proceeding. There is no possibility of severing the issues in the manner contemplated under the *Trailblazer Pipeline Company* approaches.

Although the Commission encourages settlements, that policy is not a license to resolve cases at all costs.[12] An offer of settlement, as in this case, that is unfair, unreasonable,

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8 *See Fern Solar LLC*, Docket No. ER20-2186, et al.

9 18 CFR § 385.602(h)(1) ("If the Commission determines that any offer of settlement is contested in whole or in part, by any party, the Commission may decide the merits of the contested settlement issues, if the record contains substantial evidence upon which to base a reasoned decision or the Commission determines there is no genuine issue of material fact.").

10 The four approaches for approving a settlement under *Trailblazer Pipeline Company* include: (i) addressing the contentions of the contesting party on the merits when there is any adequate record; (ii) approving a contested settlement as a package on the ground that the overall result of the settlement is just and reasonable; (iii) determining that the contesting party's interest is sufficiently attenuated such that the settlement can be analyzed under the fair and reasonable standard applicable to uncontested settlements when the settlement benefits the directly affected settling parties; or (iv) preserving the settlement for the consenting parties while allowing contesting parties to obtain a litigated result on the merits. *See Trailblazer Pipeline Company*, 85 FERC ¶ 61,345 (1998).

11 *Skipjack Solar Center, LLC*, 182 FERC ¶ 61,146 at PP 23–24 (2023).

12 *See, e.g.*, *Arkla Energy Resources*, 49 FERC ¶ 61,051, 61,217 (1989); *Transwestern Pipeline Co.*, 9 FERC ¶ 61,075, at 61,166 (1979).

or against the public interest must be rejected.[13] Instead, this case should proceed to hearing so that the record can be developed and issues of material fact and law can be resolved on the merits.

Article 6.3 of the Offer's proposed settlement provides: "The Commission's approval of this Settlement shall not constitute precedent nor be used to prejudice any otherwise available rights or arguments of any party in a future proceeding." If the Offer is approved, it will unavoidably establish a benchmark rate level for facilities like the Skipjack facility. The public interest is better served by resolution of the issues raised in this proceeding on the basis of a full evidentiary record and reasoned analysis.

In the attached affidavit of Dr. Joseph E. Bowring ("Affidavit"), included pursuant to Rule 602(f)(4), Dr. Bowring explains why the requested revenue requirements are excessive and unsupported.[14]

The issues raised in this proceeding have significant cost implications going forward. Failing to resolve these issues means that customers must make payments to the facilities and similar facilities at levels exceeding the competitive and reasonable level for the facilities. Resolution of these issues should not be deferred. There is significantly greater administrative efficiency if new issues are resolved now, rather than after years of baseless and arbitrary settlements.

In the Affidavit, Dr. Bowring explains why the level of the annual revenue requirement is excessive. The issue of an appropriate rate level under Schedule 2 needs resolution on the merits in this case and for future cases. The Market Monitor opposes the Offer. The Offer should be rejected. Further, settlement discussions in the proceeding should be terminated, and the issues raised in this proceeding should be decided on the merits.

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[13] 496 F.3d at 701.

[14] 18 CFR § 385.602(f)(4).

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

John Hyatt
Senior Economist
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8050
john.hyatt@monitoringanalytics.com

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

Dated: January 9, 2024

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 9th day of January, 2024.

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

Attachment
Exhibit Nos. IMM-0001–0004

Bowring Affidavit
and Supporting Exhibits