

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

Grays Harbor Energy LLC	)	EC26-67-000
Hardee Power Partners Limited	)	
Invenergy Cannon Falls LLC	)	
Invenergy Nelson LLC	)	
Invenergy Nelson Expansion LLC	)	
Lackawanna Energy Center LLC	)	
Spindle Hill Energy LLC	)	
Switched On, LLC	)	

**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 Interconnection, L.L.C. (“PJM”),<sup>2</sup> submits this answer to the answer filed April 3, 2026 (“April 3<sup>rd</sup> Answer”) to the Market Monitor’s comments filed March 20, 2026 (“IMM Comments”). The IMM Comments were filed in response to the application filed on February 27, 2026 (“February 27th Filing”) relating to SoftBank Group Corp.’s (“SoftBank”) acquisition of DigitalBridge Group, Inc. (“DigitalBridge”) (together

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<sup>1</sup> 18 CFR §§ 385.212 & 385.213 (2025).

<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”).

“Applicants”).<sup>3</sup> The April 3<sup>rd</sup> Answer was filed by the Applicants in this proceeding,<sup>4</sup> opposing the condition set forth in the IMM Comments.

The Market Monitor stated that SoftBank and DigitalBridge should be required to state that they will not remove the capacity owned by DigitalBridge Public Utilities from the PJM Capacity Market to serve data center load. The Market Monitor requests that the Commission make this a condition of approval of the Transaction.

SoftBank and DigitalBridge argue that they should not be required to commit to not remove capacity from the PJM Capacity Market to serve data center load because the issue is not properly raised in this proceeding. Applicants would apparently deny that the Transaction would transfer ownership of existing capacity resources to owners that develop data centers and that data center developers would prefer to use existing capacity to serve data centers rather than building new capacity. Applicants would apparently deny that these issues are front and center in PJM. Applicants would apparently ignore the fact that the Market Monitor’s proposal is fully consistent with the Principles<sup>5</sup> and the Pledge.<sup>6</sup> Applicants’ attempt to pretend that the issue is not relevant does not show that the

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<sup>3</sup> See Grays Harbor Energy LLC, et al., Section 203 Application, Docket No. EC26-67-000 (February 27, 2026).

<sup>4</sup> The February 27<sup>th</sup> Filing identifies the Applicants (at 4) as Grays Harbor Energy LLC, Hardee Power Partners Limited, Invenergy Cannon Falls LLC, Invenergy Nelson LLC, Invenergy Nelson Expansion LLC, Lackawanna Energy Center LLC, Spindle Hill Energy LLC, and Switched On, LLC. Softbank is an upstream owner, but the Applicants do not fully explain Softbank’s ownership in the February 27<sup>th</sup> Filing or the implication of the February 27<sup>th</sup> Filing does not address the recently announced plan by ArcLight to buy InfraBridge’s share of IA Thermal Power, a partial owner of the Applicants. The transaction results in an upstream ownership change for Nelson, Nelson Expansion, and Lackawanna’s 2,524.8 MW of generation assets in the PJM market, along with generation assets in other balancing areas.

<sup>5</sup> See National Energy Dominance Council, Statement of Principles Regarding PJM (January 16, 2026), <<https://www.energy.gov/documents/statement-principles-regarding-pjm>> (“Principles”).

<sup>6</sup> See White House, “Ratepayer Protection Pledge Proclamation,” (March 4, 2026), <<https://www.whitehouse.gov/presidential-actions/2026/03/ratepayer-protection-pledge-proclamation/>> accessed March 20, 2026 (“Pledge”).

Transaction, without the condition, is consistent with the public interest or with the Commission's criteria for approving Section 203 filings.

Removing capacity from the market is a potential exercise of market power in the form of physical withholding. The fact that data center load did not exist when the Commission developed its market power review process under Section 203 does not mean that removing capacity from the market to serve a data center is not a form of market power. The fact that data center load and its role in PJM markets is a new phenomenon does not make it irrelevant to the market power implications of this Transaction or to the public interest. Physical withholding through uneconomic retirement or to serve data center load are among possible mechanisms to exercise market power. The market power rules are not about the specific mechanism but about the market impacts, whatever the mechanism of choice. The acquisition of generation assets by SoftBank in the Transaction creates a clear potential for this form of withholding and therefore affects competition and rates in PJM. The Transaction, without the condition, is inconsistent with the growing consensus that data center load should be served by new generation and not by existing generation. If Applicants do not intend to remove the capacity from the PJM market to serve data center load, it is not clear why the Applicants so strongly object to consideration of this issue and to agreeing to the defined condition. The Transaction has not been shown to be consistent with the public interest without the reasonable condition to protect the public interest proposed by the Market Monitor.

## **I. ANSWER**

### **A. The Removal of PJM Capacity from the Market to Serve Data Center Load is Contrary to the Public Interest.**

Applicants argue (at 13) that the Market Monitor does not show that the potential removal of existing capacity from the PJM Capacity Market to serve large load customers like data centers is within the scope of the "public interest" standard under Section 203, or consistent with precedent. Citing Hill Top Energy Center, LLC, Applicants state (at 17) that "the Commission recently rejected the Market Monitor's proposal that applicants provide

'assurances' or for the Commission to otherwise impose a notification requirement on Applicants with respect to matters governed by the PJM Tariff that are not related to Section 203 proceedings, including the Market Monitor's concern of generation potentially being removed from the PJM market to serve a data center."<sup>7</sup>

Applicants point to precedent (at 14–15) where the Commission stated that a Section 203 proceeding is “not the appropriate venue for raising or addressing general concerns regarding market design.”<sup>8</sup> Applicants also cite to cases (at 15) where the Commission did not require the applicants to address environmental issues or state energy efficiency and clean energy controls.<sup>9</sup>

Applicants allege (at 16):

The Protest raises general concerns the Market Monitor has with PJM and its market rules. These concerns are not unique to this particular transaction and not relevant to the Commission's analysis of the public interest that requires demonstrations of certain effects of the specific proposed transaction (i.e., impacts on competition, rates, regulation, and cross-subsidization).

Applicants' arguments are misplaced. The Market Monitor is not requesting assurances or a notification requirement. The Market Monitor's arguments are not about general market design concerns. Applicants mischaracterize the purpose of the condition requested. The proposed condition is about impacts on competition and rates and potential cross subsidization. Absent an agreement by Applicants to the condition, the Market Monitor seeks a condition to any Commission order approving the Transaction because the Transaction will result in the Applicants' incentive and ability to remove capacity from the market that was built to serve existing customers, which is detrimental to the public interest

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<sup>7</sup> *Hill Top Energy Center, LLC*, 188 FERC ¶ 61,003 at PP 1–5 (2024).

<sup>8</sup> *See, e.g., Hunterstown Gen Holdings, LLC*, 188 FERC ¶ 61,003 at PP 1–5 (2024).

<sup>9</sup> *See Constellation Energy Corp.*, 192 FERC ¶ 61,074 at PP 1–10 (2025); *PPL Corporation*, 176 FERC ¶ 61,175 at PP 1–4 (2021).

in affordable electric power and regulation through competition. The definition of the public interest with specific respect to serving data center load with existing capacity has recently been clarified. The Principles state the fundamental principle that data centers should be served by new capacity and that the associated costs should be borne by data centers.<sup>10</sup> The Market Monitor's condition is clearly consistent with the Principles and with the Pledge signed by seven of the largest hyperscalers. Applicants cannot and do not make any contrary showing.

Applicants offer no substantive reason why the "consistent with the public interest" standard in the Federal Power Act and the Commission's conditioning authority should not be applied in order to address the most pressing issue currently facing PJM markets, a shortage of generation to serve data center load. Harm to the public interest should not be ignored based on vague and speculative arguments that the problem may somehow be addressed in another proceeding.

**B. Capacity Withholding is a Market Power Concern that is Not Explicitly Addressed Under the PJM Tariff in the Case of Removal to Serve Data Centers.**

The Transaction, without the condition, would result in the Applicants having an increased incentive and ability to exercise market power. The removal of an economic resource from the market constitutes physical withholding and is a possible mechanism to exercise market power. The PJM tariff includes a market power review of generator retirements and removing generators from capacity resource status for this reason.<sup>11</sup> PJM staff have publicly stated that, in their opinion, the deactivation rules do not apply to the removal

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<sup>10</sup> See Principles ("Allocate Cost to Data Centers: Their size and the risks they pose to resources adequacy make today's data centers unique. For this reason, PJM should allocate the cost of any *new* capacity procured through the aforementioned Reliability Backstop Action to load serving entities (LSEs) with new data centers that have not self-procured new capacity or agreed to be curtailable.").

<sup>11</sup> See OATT § 113.1; OATT Attachment DD § 6.6(g); OATT Attachment M–Appendix §§ IV.1 & II.C.2.

of capacity resources from the capacity market to serve data center load rather than just retiring.<sup>12</sup>

Neither the Commission's merger policy orders nor the PJM tariff explicitly address the removal of capacity resources to serve data centers because data centers did not exist at the time they were written.<sup>13</sup>

Applicants must address the current reality, and they have not done so. Applicants have not addressed the adverse impacts that the Transaction poses to one of the most significant issues facing regulators today.<sup>14</sup> Applying the condition recommended by the Market Monitor directly addresses a critical concern.<sup>15</sup> Contrary to Applicants' arguments, and distinct from the precedent Applicants rely upon, the Market Monitor does not seek any general policy solution in this proceeding. The recommended condition would apply only to the Applicants and the Transaction. However, the condition is fully consistent with the growing consensus in PJM that data center load should be served by new generation, the bring your own new generation (BYONG) approach.

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<sup>12</sup> See PJM, Co-Located Load Order Workshop (March 18, 2026) <<https://www.pjm.com/committees-and-groups/workshops/cllsco>>.

<sup>13</sup> See *Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act: Policy Statement*, Order No. 592, 61 Fed. Reg. 68,595, 77 FERC ¶ 61,263 (*mimeo*), FERC Stats. & Regs. ¶ 31,044 (1996), *reconsideration denied*, Order No. 592-A, 79 FERC ¶ 61,321 (1997) ("Merger Policy Statement"); see also *FPA Section 203 Supplemental Policy Statement*, FERC Stats. & Regs. ¶ 31,253 (2007).

<sup>14</sup> See Merger Policy Statement at P ("The Commission's interpretation of the public interest standard has never been static. In the El Paso case,[footnote omitted] we explained that our view of what it takes to mitigate market power sufficiently to allow approval of a merger had evolved over time. We pointed out that as the industry had become more competitive, we began examining market power in transmission more closely, and that comparable access was now required. Moreover, we explained in *El Paso* that while in the past we had focused only on increases in market power, we no longer believed that we could find any merger to be consistent with the public interest, whether or not the merger created increased market power, unless the merging utilities provided open access. We adopted this revised view of the public interest in light of EPA's goal of encouraging greater wholesale competition and the significant increase in actual competition.").

<sup>15</sup> See, e.g., *Ensuring the Timely and Orderly Interconnection of Large Loads*, Advance Notice of Proposed Rulemaking, Docket No. RM26-4-000 (October 23, 2025).

Applicants also object (at 13–14) to the alleged “attempt to push commitments that go beyond PJM’s existing rules.” The Market Monitor agrees with Applicants that it seeks a condition that is not explicitly in the existing PJM rules. The inadequacy of PJM’s existing rules is a reason to address real potential harm to the public interest that could result from the Transaction. The Commission’s rules do include that public interest standard.

Applicants also allege (at 17–18) that PJM’s “prior notice process for a generator seeking to withdraw from the PJM capacity market, in which the Market Monitor would have an opportunity to review the withdrawal request,” should be sufficient to address the Market Monitor’s concerns. Applicants do not attempt to reconcile the contradiction between this argument and the argument that the Market Monitor seeks “commitments that go beyond PJM’s existing rules.” Applicants’ appeal to the current rules implies recognition that the PJM rules should prevent exercises of market power through the removal of capacity and also implies recognition that the removal of economic capacity from service to existing customers harms competition. This argument makes it clear that Applicants do recognize the need for clear rules, and the PJM rules regarding potential exercises of market power do not explicitly address the removal of economic capacity to serve data centers.

The Market Monitor recognizes that Section 203 matters do not present an opportunity to correct flaws with the existing market rules. Any market power issues resulting from the Transaction that are not addressed by the existing market rules can only be resolved in Section 203 proceedings.

## **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.<sup>16</sup> 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.

Respectfully submitted,



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<sup>16</sup> 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 20<sup>th</sup> day of April, 2026.



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