

project that purportedly relies on those rights with an 800 MW natural gas-fired generation facility.

Granting the requested waiver would improperly extend CIR rights beyond the termination date defined by the PJM Tariff, undermine and disrupt PJM’s recently reformed interconnection framework, and create precedent encouraging speculative queue behavior that effectively withholds the interconnection rights and the system capability those rights represent from competing generation projects. The Petition therefore should be denied.

I. BACKGROUND

Zimmer Bess states that the Zimmer coal facility retired on May 31, 2022, and that Zimmer Bess thereafter submitted a new interconnection request on May 8, 2023, for an 800 MW solar and battery storage project.³ Zimmer Bess further states that on May 11, 2023, it submitted notice to PJM seeking to transfer 692 MW of CIRs from the retired coal facility to the new hybrid project.⁴

Zimmer Bess extended its CIRs for two study phases, during which the system capability represented by those CIRs was withheld from potential use by other project developers. Zimmer Bess has decided not to proceed with the project to which its CIRs transferred.⁵ This means that under the rules the CIRs have terminated.

Zimmer Bess now seeks to instead develop an 800 MW natural gas-fired generating facility and use CIRs that terminated under the applicable rules.⁶

³ See Petition at 5–6.

⁴ See Petition at 6.

⁵ See Petition at 3 (“Even if the Commission denies waiver, Petitioner will not be pursuing development of the previously-planned Hybrid Facility”).

⁶ See Petition at 6–7.

II. ANSWER

The Commission applies a four factor test when evaluating waiver requests. A petitioner must demonstrate that: (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 will not have undesirable consequences, such as harming third parties.⁷ Zimmer Bess fails to satisfy each element of this standard.

A. Zimmer Bess Fails to Demonstrate Good Faith.

Zimmer Bess fails to show good faith.

The current request is not the result of Zimmer Bess attempting to pursue the hybrid project to which it transferred CIRs, or unforeseen compliance obstacles. Zimmer Bess has simply determined not to pursue its proposed replacement project. It now seeks to pursue a fundamentally different project, but after the deadlines that limit the ability to transfer CIRs from its deactivating coal unit.

Zimmer Bess attempts to frame the requested relief as a simple modification to an existing request.⁸ That characterization is inaccurate. A change from a solar plus storage facility to a natural gas-fired generation facility fundamentally alters the project's operational profile, dispatch characteristics, capacity accreditation, and transmission system impacts. Zimmer Bess's request therefore constitutes a complete substitution of the underlying project rather than a minor modification undertaken in good faith reliance on existing Tariff provisions.

The project specific nature of retained CIRs further demonstrates the absence of a good faith justification for the requested waiver. PJM Tariff, Part VI, Subpart C, section 230.3.3 provides that CIRs associated with a deactivated generating facility terminate one year after

⁷ 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.”).

⁸ See Petition at 9–10.

deactivation unless the holder “has submitted a new Generation Interconnection Request . . . which contemplates use of the same Capacity Interconnection Rights.”⁹ The Tariff therefore conditions CIR retention on submission of a specific replacement interconnection request identifying the generating resource intended to use those rights.

PJM Tariff section 230.4 requires identification of “any generation facilities that will use the Capacity Interconnection Rights after the transfer.”¹⁰ This language confirms that retained CIRs are linked to identified replacement generating facilities, not held as generalized development rights available for future discretionary use.

Moreover, Zimmer Bess’s asserted hardship is self created.¹¹ Zimmer Bess voluntarily chose to structure its CIR retention around a specific hybrid solar-storage project. Having secured CIRs based on that project configuration, Zimmer Bess now seeks to substitute an entirely different resource while preserving the benefits associated with its original request.

B. The Requested Waiver Is Not Limited in Scope

Zimmer Bess argues that the requested waiver is narrow because it applies only to a single project.¹² However, the relevant inquiry is not merely whether the waiver nominally applies

⁹ See PJM Comments at 1–2.

¹⁰ See PJM Comments at 1–2.

¹¹ See *Oxbow Solar, LLC*, 191 FERC ¶ 61,057 at P 27 (2025) (“Specifically, we find that Oxbow Solar has not demonstrated that it has acted in good faith. Oxbow Solar does not dispute that it failed to meet the Amended Oxbow Solar GIA’s September 1, 2022 milestone to issue an authorization to proceed to SWEPCO to begin construction, nor does it dispute that it issued the authorization to proceed almost two and half years late, and only shortly after SPP issued a notice of default. Although Oxbow Solar describes the circumstances that led to the original load-serving entity counterparty withdrawing from negotiations in 2022, Oxbow Solar provides only a vague explanation about ‘market conditions’ outside of its control that prevented it from securing financing and issuing an authorization to proceed to SWEPCO since that time. Based on the record, we find that Oxbow Solar has not shown that it acted in good faith to diligently advance the Facility, and it appears that Oxbow Solar’s need for the instant waiver may have been caused, in part, by its own inaction.”).

¹² See Petition at 12.

to one interconnection customer and one project, but whether granting the requested relief would establish precedent with broader implications for the administration of the Tariff.

Zimmer Bess has not shown that its circumstances materially differ from any other developer that wants to pursue a new project after its ability to transfer CIRs from a prior project expires.

Granting Zimmer Bess's request would create a significant precedent allowing developers to retain CIRs and queue priority while fundamentally altering project characteristics after securing interconnection rights. PJM's comments explain that its Cycle #1 process involved more than 800 applications and that PJM required developers using CIR transfers to resubmit applications through the NextGen platform without changes to the application.¹³ If Zimmer Bess receives a waiver simply because they changed their mind about their preferred project, there is nothing preventing others from doing the same and undermining the efficiency and effectiveness of PJM's new queue process.

That PJM guidance properly interpreted the Tariff that retained CIRs remain tied to the specific replacement project identified in the timely interconnection request. Zimmer now proposes a fundamentally different project and has not argued otherwise. PJM instructed developers using CIR transfers that "no changes to the application will be permitted" during the Cycle #1 resubmission process.¹⁴

If the Commission grants a waiver here, other developers will inevitably seek comparable preferences.¹⁵ Developers could submit placeholder projects solely to preserve CIRs and later substitute entirely different resources while retaining the benefits associated with their original queue position. Such an outcome would undermine the certainty and discipline

¹³ See PJM Comments at 4.

¹⁴ See Petition, Exhibit 1 at 15.

¹⁵ See *Erie Power, LLC*, 148 FERC ¶ 61,038 at P 19 (2014) ("Erie Power's circumstances do not appear to be unique and limited to just Erie Power; we do not know what facts or circumstances would distinguish Erie Power from any other generator with a deactivated plant.").

PJM's interconnection reforms were specifically designed to establish and disrupt the queue process that was recently revised in order to increase efficiency. Developers' changes to projects that then require restudy of other projects have been a key factor in the queue delays.

The requested waiver is therefore not limited. Granting the waiver would materially alter the rules governing CIR transfers and interconnection queue administration. The requested waiver would disrupt the recently revised interconnection queue process at a time when PJM needs that process to be clear and efficient. The studies for different unit technology types are very different even if using some of the same CIRs.

C. Zimmer Bess Has Not Identified a Concrete Problem Warranting Waiver

Zimmer Bess fails to demonstrate the existence of the type of concrete problem necessary to justify waiver relief.

Zimmer Bess principally argues that PJM queue delays and changes in market conditions justify the requested waiver.¹⁶ Queue delays and changes in market conditions are not unusual circumstances. Zimmer Bess has not shown that the rules do not operate as intended. Zimmer Bess has not shown that rules presume no delay or static market conditions.

Applying the filed rules does not prevent Zimmer Bess from pursuing a replacement project. Zimmer Bess remains free to pursue the project configuration originally submitted or to submit a new interconnection request for its proposed gas-fired facility, as do all project developers.

The alleged problem identified by Zimmer Bess is that the rules are operating as intended.¹⁷ The Commission has denied requests for waivers designed to extend a resource's

¹⁶ See Petition at 7, 13–14.

¹⁷ See 148 FERC ¶ 61,038 at P 20 (“Simply having to follow NYISO's Tariff requirements in order to reactivate the North East Plant and restore the North East Plant's interconnection is not a concrete problem that [**18] warrants waiver of the Tariff's requirements.”), quoted in *Midcontinent Independent System Operator, Inc., et al.*, 192 FERC ¶ 61,004 at P 21 (2025); *Brookfield Renewable Energy Trading & Mktg., LP*, 178 FERC ¶ 61,078 at P 13 n.27 (2022) (“The Commission has previously denied waiver where the waiver applicant merely sought to avoid following its tariff requirements.”).

interconnection rights beyond their date of termination under the applicable rules.¹⁸ Zimmer Bess has not shown a concrete problem that would justify this extraordinary request for a waiver of the rules.

PJM's guidance prohibiting changes to CIR transfer applications during Cycle #1 processing further demonstrates that the alleged hardship arises from Zimmer Bess's own attempt to exceed the permissible scope of CIR retention under the Tariff. As PJM explained, developers using CIR transfers were instructed that modifications to those applications would not be permitted during resubmission into the NextGen process.¹⁹

D. Granting the Requested Waiver Would Harm Third Parties

Zimmer Bess also fails the fourth prong of the waiver test because granting the requested relief would harm PJM's interconnection process and other market participants.

Zimmer Bess asserts that no party will be harmed because PJM has not yet conducted interconnection studies and because no customer currently expects to use the transferred CIRs.²⁰ Zimmer Bess does not know the expectations of its competitors. The expectations of other parties are not relevant. If Zimmer Bess is allowed to transfer its CIRs, that will affect the relative economics of every competing project in the queue. Granting a waiver would unjustly benefit Zimmer Bess relative to its competitors in violation of the filed rules and contrary to the expectations that the filed rules apply to all market participants without undue discrimination.

¹⁸ See 148 FERC ¶ 61,038 at P 22 (“[U]nlike Dunkirk, the CRIS rights associated with the Erie Power's North East Plant have already expired, and Erie Power seeks to reinstate them well beyond the termination of the facility's CRIS rights. Additionally, NYISO argues that the North East Plant has long been removed from the interconnection study base cases, and NYISO and the other market participants have not had the opportunity to evaluate the impacts of the addition of the North East Plant capability on the reliability and deliverability of other projects, and Erie Power proposes to obtain CRIS rights without undergoing the necessary interconnection studies.”).

¹⁹ See PJM Comments at 4; Petition, Exhibit 1 at 15.

²⁰ See Petition at 14–15.

The harm resulting from Zimmer Bess's requested waiver is systemic. Granting the waiver would undermine the integrity of PJM's interconnection reforms, which were specifically designed to reduce speculative queue activity and ensure developers commit to defined project characteristics early in the process. PJM explains that it required developers using CIR transfers to resubmit applications through the NextGen platform without modifying those requests.²¹

Allowing Zimmer Bess to fundamentally alter its project after obtaining queue position and transferred CIRs would create incentives for developers to reserve interconnection rights using one project configuration and later substitute a more favorable project after market conditions evolve. Such behavior would undermine queue discipline and disadvantage developers that complied with the Tariff and PJM's application requirements.

Granting waiver would also improperly expand CIR rights beyond the scope contemplated by the Tariff. As PJM explains, the Tariff permits CIR retention only where a new interconnection request "contemplates use of the same Capacity Interconnection Rights."²² The structure and language of that provision necessarily tie retained CIRs to the specific replacement project identified in the timely interconnection request.

Zimmer Bess's proposed gas-fired facility is not the same project that originally contemplated use of those CIRs. Rather, it is a materially different resource with distinct operational characteristics, capacity contributions, and transmission impacts. Those differences confirm that Zimmer Bess is not seeking to preserve the originally proposed project, but instead to substitute a fundamentally different resource while retaining the benefits associated with its original queue position and CIR transfer.

PJM's Cycle #1 guidance appropriately reflects this project specific limitation on retained CIRs. By prohibiting changes to CIR transfer applications during resubmission, PJM ensured

²¹ See PJM Comments at 4.

²² PJM Comments at 1 & n.3, quoting OATT § 230.3.3.

that developers could not use placeholder projects to reserve legacy interconnection rights and later redeploy those rights to materially different projects. Granting Zimmer Bess's waiver request would undermine that framework.

Finally, granting waiver would create substantial regulatory uncertainty concerning the distinction between permissible project modifications and entirely new interconnection requests. That uncertainty would complicate queue administration, encourage speculative behavior, and invite future disputes concerning the scope of CIR transfer rights.

E. The Request For Expedited Treatment Should Be Denied

Zimmer Bess requests a shortened comment period and expedited Commission action.²³ Those requests should be denied.

The issues presented have substantial implications for CIR policy, interconnection queue administration, and PJM's recently implemented interconnection reforms. These issues warrant careful consideration on a complete evidentiary and legal record. Expedited treatment would prejudice interested parties and increase the likelihood of an insufficiently developed Commission decision.

III. 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.²⁴ In this answer, the Market Monitor provides the

²³ See Petition at 15–16.

²⁴ 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

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.

IV. 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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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 11th day of May, 2026.



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