

I. COMMENTS

A. The Request for Waiver of OATT § 311(B)(4) Fails to Satisfy the FERC Four Prong Test

A request to waive OATT § 311(B)(4) to permit modification of an interconnection request at Decision Point II, specifically to change the source of Capacity Interconnection Rights (“CIRs”), fails to satisfy the Commission’s standard for granting tariff waivers.

OATT § 311(B)(4)(a) provides that a Project Developer may not request a modification that is not expressly allowed at Decision Point II. To the extent the Project Developer desires a modification that is not expressly allowed, the Project Developer must withdraw its New Service Request and resubmit the New Service Request with the proposed modification in a subsequent Cycle. Constellation seeks waiver of this provision to allow, specifically, the ability to modify the source of their project’s CIRs.

The Commission evaluates waiver requests under a standard requiring that: (1) the error was made 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 harm to third parties. Constellation’s requested waiver fails each prong.

Constellation has not demonstrated good faith. Although there is no allegation of intentional misconduct, the Commission’s good faith inquiry also considers whether the circumstances necessitating the waiver were within the applicant’s control. Here, the desire to revise CIR sourcing arises from decisions that could, and should, have been made prior to Decision Point II in accordance with the tariff. Constellation’s failure to adhere to clearly established deadlines and procedures precludes a finding of good faith sufficient to justify extraordinary relief.

The requested waiver is not limited in scope. Section 311(B)(4) establishes a critical inflection point in the interconnection process, Decision Point II, after which key project parameters, including CIR elections, are fixed. This finality is essential to preserving queue discipline, ensuring the integrity of cluster studies, and enabling coordinated transmission planning. Allowing a developer to alter the source of CIRs at this stage would not constitute

a narrow, case specific deviation; rather, it would effectively rewrite a core tariff requirement and invite similarly situated interconnection customers to seek comparable relief. The Commission rejects waiver requests that would undermine tariff provisions of general applicability or create precedent for broader circumvention.

The requested waiver does not solve a concrete problem. A waiver is not justified where a party merely seeks relief from the consequences of its own business decisions or strategic preferences. Here, the desire to change the source of CIRs at Decision Point II reflects a change in commercial strategy, not an unforeseen or unavoidable circumstance. The OATT provides multiple earlier opportunities for interconnection customers to evaluate and select CIR options. Constellation's failure to avail itself of those opportunities does not constitute the type of concrete, external problem that the Commission's waiver standard is designed to address.

Granting the waiver would harm third parties. The PJM queue operates on a cluster study basis, where each project's technical assumptions, including CIR sourcing, affect system impact analyses, network upgrade identification, and cost allocation. A post Decision Point II modification could invalidate prior studies, shift upgrade costs to other interconnection customers, and generally introduce uncertainty into the queue. The Commission denies waivers where the requested relief would disrupt settled expectations or adversely affect other market participants.

The requested waiver of Section 311(B)(4) should be denied.

B. The Request for Waiver of OATT § 306(E)(5) Fails to Satisfy the FERC Four Prong Test

A request to waive Section 306(E)(5) of the PJM Open Access Transmission Tariff, to permit modification of an RRI project's maximum facility output or Capacity Interconnection Rights ("CIRs") prior to execution of a Generation Interconnection Agreement ("GIA") or Wholesale Market Participation Agreement ("WMPA"), in order to transfer CIRs from a resource exiting Capacity Resource status to a queued project, fails to satisfy the Commission's standard for tariff waivers.

OATT § 306(E)(5) stipulates that no changes to an RRI Project's Maximum Facility Output or Capacity Interconnection Rights shall be allowed at any point prior to the time the Project Developer enters into a Generation Interconnection Agreement or Wholesale Market Participation Agreement. An RRI Project's Generation Interconnection Agreement or Wholesale Market Participation Agreement must reflect the same Maximum Facility Output and Capacity Interconnection Rights as contained in the Generation Project Developer's Application for consideration of its RRI Project. Constellation seeks waiver of this provision to allow, specifically, the ability to modify the source of their project's CIRs.

The Commission evaluates waiver requests under a standard requiring that: (1) the error was made 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 harm to third parties. Constellation's requested waiver fails each prong.

Constellation has not demonstrated good faith. The Commission denies waivers where a party seeks to alter substantive rights or timing rules embedded in the tariff, rather than correct an error. The requested waiver does not stem from any "error" at all. Instead, it seeks to affirmatively restructure interconnection rights, by reallocating CIRs from one resource to another outside the tariff-prescribed interconnection process. This is a knowing deviation from the Tariff's sequencing and study requirements, not an inadvertent failure to comply. The Commission rejects attempts to use waiver as a vehicle for process changes, recognizing that waiver is not a substitute for a Federal Power Act Section 205 filing to revise tariff terms. Because the request reflects a deliberate commercial strategy, to accelerate or reassign interconnection rights, it fails the first prong.

The waiver is not limited in scope. The requested relief is anything but limited. It would allow pre-GIA reconfiguration of CIRs, contrary to the tariff's defined study process. It would effectively create a new mechanism for CIR reallocation outside PJM's cluster study and queue regime. Such relief would not be confined to a discrete procedural misstep. Rather, it would alter core interconnection principles, including queue priority, study assumptions, and deliverability determinations. The Commission rejects waiver

requests that are not limited in scope where they would create precedent broadly affecting tariff administration. Here, granting the waiver would invite copycat requests from other developers seeking to reassign CIRs or bypass queue procedures, thereby transforming a purportedly case-specific waiver into a de facto policy change

The waiver does not solve a concrete problem. To satisfy the third prong, a waiver must remedy a specific, discrete problem, not a generalized business objective or market preference. The proffered justification, facilitating the transfer of CIRs from a facility exiting Capacity Resource status to a queued project, does not reflect a “problem” under the Tariff. Rather, it reflects a desire to optimize asset value and accelerate interconnection outcomes. The Tariff already provides a comprehensive framework for determining CIRs through system impact and facility studies, assigning queue priority, evaluating modifications to interconnection requests and addressing resource retirements and new service requests. Circumventing that framework is not solving a tariff deficiency, it is seeking preferential treatment outside established rules. The Commission has repeatedly held that waiver is inappropriate where the request does not address a concrete problem but instead seeks to avoid the consequences of the tariff as written. Because the request merely advances a commercial objective of CIR transfer and timing advantage, rather than remedying a tariff malfunction, the third prong is not met.

Granting the waiver would harm third parties The fourth prong is plainly unsatisfied here. Granting the waiver could undermine the integrity of PJM’s interconnection queue, causing multiple forms of harm. Queue jumping and priority disruption allowing a project to reconfigure CIRs outside the normal study process could effectively permit it to leapfrog other queued projects, violating the principle of queue priority. The Commission has consistently found such outcomes to be impermissible. The waiver could impact ongoing interconnection studies. Reconfiguring CIRs could invalidate or distort existing system impact analyses, potentially requiring re-studies and delaying other projects. The Commission should deny waivers where they could delay or disrupt interconnection studies.

The requested of Section 306(e)(5) should be denied.

C. The Request for Waiver of the Market Monitor's Obligation under Tariff Attachment DD § 6.6(g) to Evaluate Potential Market Power Implications Fails to Satisfy the FERC Four Prong Test

The requested waiver fails to satisfy FERC's four prong test because the Market Monitor's prior review, conducted under different factual circumstances, cannot substitute for the required evaluation under the OATT Attachment DD § 6.6(g).

The Commission evaluates waiver requests under a standard requiring that: (1) the error was made 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 harm to third parties. Constellation's requested waiver fails each prong.

The requested waiver is not limited in scope. The waiver would effectively nullify an explicit Tariff requirement designed to protect market integrity. Attachment DD § 6.6(g) of the Tariff requires the Market Monitor to evaluate the potential market power implications of a generator's removal from Capacity Resource status.⁵ This provision reflects a deliberate safeguard to prevent the exercise of market power through strategic capacity withdrawals and transfers. Constellation seeks to bypass this requirement entirely based on a prior evaluation in which no intent to transfer CIRs was disclosed. Such a waiver would not merely excuse a minor procedural requirement, it would eliminate a substantive protection tailored to a specific and materially different transaction. The Commission has consistently rejected waivers that would undermine core tariff protections.

The waiver would not solve a concrete problem because the alleged burden arises solely from its own change in transactional intent. A waiver must remedy a concrete, unavoidable problem, not one of the applicant's own making. Here, Constellation argues

⁵ OATT, Attachment DD § 6.6(g).

(at 9) that a prior Market Monitor review should suffice.⁶ However, that review was conducted under materially different facts, specifically, without any representation of intent to transfer CIRs. The “problem” identified by Constellation is therefore self-created: it arises from Constellation’s subsequent decision to alter the nature of its transaction. Self-inflicted circumstances do not justify waiver. Constellation cannot retroactively bootstrap a prior evaluation to cover a fundamentally different transaction that triggers distinct market power concerns.

Granting the waiver would harm third parties. The requirement in Attachment DD § 6.6(g) exists precisely to protect market participants from the adverse effects of potential market power abuse associated with capacity withdrawals and associated CIR disposition. Allowing Constellation to rely on a prior evaluation, one that explicitly did not consider CIR transfers removes a critical review tailored to the actual transaction. This creates a significant risk that anticompetitive behavior could go undetected or unmitigated.

Constellation has not demonstrated good faith. Constellation’s attempt to reuse an outdated and incomplete review would avoid the very scrutiny the tariff requires. Constellation’s argument rests on the flawed premise that a prior Market Monitor evaluation, conducted without consideration of CIR transfers, can satisfy the requirements of Attachment DD § 6.6(g). This position is inconsistent with both the plain language of the tariff and Commission precedent. The obligation to evaluate market power implications is transaction specific. Where the facts change, particularly where a generator now intends to transfer CIRs, the analysis must also change. Allowing reliance on a prior evaluation would render § 6.6(g) meaningless and invite strategic behavior designed to evade regulatory oversight.

The request to waive Section 6.6(g) review by the Market Monitor should be denied.

⁶ Waiver Request at 9.

II. CONCLUSION

The Market Monitor respectfully requests that the Commission afford due consideration to these comments as it resolves the issues raised in this proceeding.

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

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

Paul G. Scheidecker
Senior Analyst
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8050
paul.scheidecker@monitoringanalytics.com

Alexandra Salaneck
Senior Analyst
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8050
alexandra.salaneck@monitoringanalytics.com

Dated: April 21, 2026

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 21st day of April, 2026.



Jeffrey W. Mayes

General Counsel

Monitoring Analytics, LLC

2621 Van Buren Avenue, Suite 160

Eagleville, Pennsylvania 19403

(610) 271-8053

jeffrey.mayes@monitoringanalytics.com