

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

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| Doc Brown LLC |) | Docket No. ER23-9-000 |
| |) | |
| Forked River Power LLC |) | Docket No. ER10-3278-000 |
| |) | |
| Yellowbud Solar, LLC |) | Docket No. ER22-2963-000 |
| |) | |
| Talen Energy Marketing, LLC |) | Docket Nos. ER15-2013-000; ER12-2510; ER15-2014; ER10-2435; ER23-2512; ER19-481; ER18-2252; ER15-2026 |
| |) | |
| EDP Renewables North America LLC |) | Docket Nos.ER10-2398; ER10-2399; ER22-2116; ER14-1933; ER20-2714; ER10-2406; ER10-2409; ER10-2410; ER10-2411; ER10-2412; ER18-1189; ER11-2935; ER16-1724; ER19-1282; ER23-1585; ER22-2115 |
| |) | |
| Calpine Corporation |) | Docket Nos. ER10-2051; ER10-2043; ER10-2041; ER18-1321; ER10-2040; ER10-2036; ER10-2044 |
| |) | |
| Long Ridge Energy Generation LLC |) | Docket Nos. ER21-1225 |
| |) | |
| Macquarie Energy LLC |) | Docket No. ER13-1485; ER14-1777; ER10-3230; |
| |) | |
| Arclight Capital Partners, LLC |) | Docket Nos. ER10-1838; ER10-1967; ER10-1968; ER22-1402; ER22-1404; ER22-2713; ER10-1990; ER18-1821; ER10-1993 |
| |) | |
| Foxhound Solar, LLC, |) | Docket No. ER23-666 |
| |) | |
| Enel Green Power North America, Inc. |) | Docket Nos. ER19-2644; ER19-430; ER22-2483 |
| |) | |
| Battery Utility of Ohio, LLC, |) | Docket No. ER13-1667 |
| |) | |
| J-POWER North America Holdings Co., Ltd. |) | Docket Nos. ER10-2309; ER22-296 |

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| BP Energy Company |) | Docket Nos. ER22-2519; ER23-1470; |
| |) | ER23-1476; ER10-2468; ER10-2597; |
| |) | ER10-2481; ER10-3196; ER10-2273 |
| |) | |
| Northwest Ohio |) | Docket Nos. ER18-1150; ER22-2187; |
| |) | ER22-2188 |
| |) | |
| Kestrel Acquisition, LLC |) | Docket No. ER18-1106 |
| |) | |
| Carroll County Energy LLC |) | Docket Nos. ER17-1609; ER20-2667 |
| |) | |
| CPV Maple Hill Solar, LLC |) | Docket No. ER22-784 |
| |) | |
| Leeward Renewable Energy, LLC |) | Docket Nos. ER10-2527; ER23-842; |
| |) | ER10-2532; ER23-1497; ER20-1610; |
| |) | ER10-2535; ER23-843 |
| |) | |
| Tenaska Energy Inc. |) | Docket Nos. ER18-1960; ER12-60; |
| |) | ER10-1632; ER10-1626 |
| |) | |
| Shell Energy North America (US), L.P. |) | Docket Nos. ER22-1777; ER22-1779; |
| |) | ER21-2001 |
| |) | |
| Longview Power, LLC |) | Docket No. ER10-1556 |
| |) | |
| AES Clean Energy Development, LLC |) | Docket Nos. ER11-2036; ER20-1593; |
| |) | ER20-1594; ER20-1596; ER20-1597; |
| |) | ER20-1599; ER21-2767; ER22-1518; |
| |) | ER19-2395; ER20-1620; ER22-414; |
| |) | ER23-495; ER20-902; |
| |) | |
| NRG Power Marketing LLC |) | Docket Nos. ER10-2265; ER10-3223; |
| |) | ER10-2355; ER16-10; ER10-2947 |
| |) | |
| GenOn Energy Management, LLC |) | Docket Nos. ER19-1865; ER19-2142; |
| |) | ER21-573; ER20-1887; ER21-574; |
| |) | ER19-2143; ER19-1866; ER19-1867; |
| |) | ER21-568; ER19-2147; ER19-2141; |
| |) | ER19-1868; ER19-1869; ER19-2145; |
| |) | ER19-2144; ER19-1870; ER19-2140; |
| |) | ER19-1871; ER19-1872; ER19-2146 |
| |) | |
| ENGIE S.A. |) | Docket Nos. ER20-1385; ER22-1929; |
| |) | ER21-1498; ER22-1945; ER22-1928; |
| |) | ER22-1927; ER20-1853 |

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| RWE Clean Energy, LLC |) | Docket Nos. ER10-2834; ER23-139; |
| |) | ER17-1438; ER10-2821; ER20-2671; |
| |) | ER23-138; ER12-1329 |
| |) | |
| Beech Ridge Energy LLC |) | Docket Nos. ER10-2137; ER14-2799; |
| |) | ER10-2138; ER10-2139; ER10-2140; |
| |) | ER10-2141; ER14-2187; ER21-258 |
| |) | |
| |) | (not consolidated) |

REPLY COMMENTS OF PJM INTERCONNECTION, L.L.C.

PJM Interconnection, L.L.C. (“PJM”) respectfully submits these reply comments in response to the Comments of the Independent Market Monitor for PJM (“Market Monitor”) in the above-captioned proceedings.¹ The Market Monitor commented on the June 2023 triennial market-power update filings of certain market-based rate (“MBR”) sellers to repeat its view that the current approach for market power mitigation in the PJM energy markets is insufficient to support reliance on the presumption of effective market power mitigation by PJM.² The Market Monitor filed protests raising the same concerns in numerous prior MBR proceedings over the past several years to which PJM has already responded.³ As the Commission has already found, an individual MBR compliance

¹ The Market Monitor cited to Rule 211, 18 C.F.R. § 385.211, in the first sentence of its submission, despite styling the submission as comments. Accordingly, to the extent the Commission construes the Market Monitor’s submission as a protest, PJM respectfully moves for leave pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure for leave to answer the Market Monitor’s submission. 18 C.F.R. §§ 385.212, 385.213.

² *Doc Brown LLC*, Comments of the Independent Market Monitor for PJM, Docket Nos. ER23-9-000, et al., at 3-6 (Aug. 28, 2023) (“IMM Comments”). Because the Market Monitor’s comments in the above-captioned proceedings are substantially similar to each other, for convenience, PJM uses the IMM Comments as a representative example throughout these reply comments.

³ *See, e.g., Chalk Point Power, LLC*, Protest of the Independent Market Monitor for PJM, Docket Nos. ER21-573-000, et al., at 4-5 (Dec. 28, 2020); *Wheelabrator Frackville Energy Co.*, Comments of PJM Interconnection, L.L.C. in Response to the Independent Market Monitor for PJM, Docket Nos. ER10-3237-011, et al. (Oct. 16, 2020) (commenting on protests filed in eight proceedings); *Longview Power, LLC*,

proceeding is not the appropriate forum to address general concerns about PJM’s market power mitigation rules.⁴ The Market Monitor therefore does not request any specific action with respect to the individual MBR seller, but instead recommends that the Commission institute a separate Federal Power Act (“FPA”) section 206⁵ investigation to address its general concerns.⁶ However, the Market Monitor has not made the requisite showing to warrant such action.

PJM does not normally participate in these types of proceedings, which are essentially a compliance filing for individual Market Sellers. PJM does so here solely to address the Market Monitor’s general assertions of insufficiencies in the market rules in PJM’s Open Access Transmission Tariff (“Tariff”) and the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”).⁷ PJM generally supports the efforts of the Market Monitor to ensure that the PJM markets are

Comments of PJM Interconnection, L.L.C. in Response to the Independent Market Monitor for PJM, Docket Nos. ER10-1556-009, et al. (Sept. 29, 2020) (commenting on protests filed in 43 proceedings).

⁴ The Commission previously rejected similar protests from the Market Monitor and suggested the proper forum for such claims would be a complaint proceeding under an FPA section 206 investigation. *See, e.g., Hill Top Energy Ctr. LLC*, 175 FERC ¶ 61,073, at P 46 (2021) (rejecting the Market Monitor’s protest because “as with [the Market Monitor]’s previous protests in numerous proceedings, [the Market Monitor]’s protest remains directed at the effectiveness of PJM’s mitigation as a general matter and fails to demonstrate why PJM’s mitigation is insufficient to mitigate Applicant’s alleged ability to exercise such market power.”); *Albemarle Beach Solar, LLC*, 173 FERC ¶ 61,215, at PP 26-32 (2020) (rejecting the Market Monitor’s protest, noting that the Market Monitor’s concerns are “generic in nature” and “not properly addressed in the market-based rate authority proceedings of individual [companies,]” and suggesting that the Market Monitor’s long-term underlying concerns would best be addressed in the currently pending complaint proceeding before the Commission); *Harts Mill Solar, LLC*, 173 FERC ¶ 61,216, at PP 26-32 (2020) (same); *Toms River Merchant Solar, LLC*, 174 FERC ¶ 61,087, PP 19, 21-26 (2021) (noting that the Market Monitor filed a motion for clarification in the aforementioned *Albemarle Beach Solar, LLC* and *Harts Mill Solar, LLC* proceedings, and rejecting the Market Monitor’s protest in the same manner).

⁵ 16 U.S.C. § 824e.

⁶ IMM Comments at 6 (“The Market Monitor recommends, in accordance with the applicable policies on market based rate authorizations, that ‘a separate section 206 proceeding to investigate whether the existing RTO/ISO mitigation continues to be just and reasonable’ be instituted.”).

⁷ For the purpose of this filing, capitalized terms not defined herein shall have the meaning as contained in the Tariff and Operating Agreement.

competitive and free from the improper exercise of market power. As the market administrator and Regional Transmission Organization (“RTO”), PJM briefly addresses the Market Monitor’s assertions that PJM’s energy market rules are inadequate.

I. COMMENTS

A. PJM’s Current Market Rules Provide Appropriate Horizontal Energy Market Power Mitigation.

PJM’s existing market power mitigation rules, which were previously reviewed and approved by the Commission, provide for appropriate market power mitigation. The Market Monitor asserts that “[t]he current PJM Market Rules for market power mitigation are insufficient to support” the presumption of a lack of horizontal market power.⁸ However, the Market Monitor fails to support this assertion.

Instead, the Market Monitor provides a few sentences to suggest that Market Sellers are able to exert market power because, when they fail the Operating Agreement’s Three-Pivotal Supplier (“TPS”) test: (1) their mitigated offers can include “a substantial markup” over their cost-based offer; and (2) the sellers are “able to operate, set prices, and collect uplift payments with operating parameters that are less flexible than their defined parameter limits.”⁹ Thus, the Market Monitor does not appear to challenge the TPS test as a market power screen,¹⁰ but rather objects to the interaction of price and operating parameters in the mitigated offers of a resource that fails the screen.

To the extent the Market Monitor is arguing that the existing market power mitigation rules in the energy market are not working, such assertion is belied by the

⁸ IMM Comments at 4.

⁹ IMM Comments at 6.

¹⁰ See Operating Agreement, Schedule 1, section 6.4.

Market Monitor’s own recent determination that “results of the energy market were competitive in the first six months of 2023.”¹¹ Because “[i]t is not appropriate to mitigate in workably competitive markets,”¹² there is no evidence that any modification to the energy market power mitigation rules is necessary at this time.¹³

Although not entirely clear, PJM believes the Market Monitor’s primary criticism to be that PJM should use the lower of cost-based and price-based offers for resources that fail the TPS test, while *also* utilizing the most flexible operating parameters—even if the lowest offer price is not linked with the most flexible parameters in the energy offer schedule submitted by the Market Seller. PJM has previously explained that this approach would be unreasonable.¹⁴

Under the existing energy offer capping rules, resources that fail the TPS test are dispatched out of economic merit order on the price-based offer or cost-based offer that

¹¹ *Quarterly State of the Market Report for PJM: January through June*, Monitoring Analytics, LLC, 1 (Aug. 10, 2023), https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2023/2023q2-som-pjm.pdf. The Market Monitor has stated this same conclusion every year since at least 2005, when the Commission accepted the TPS test in 2005 to mitigate market power in PJM’s energy markets. The Market Monitor’s State of the Market Reports for the years 1999 through the first six months of 2023 are available on its website. *Reports*, Monitoring Analytics, LLC, https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2023.shtml (last visited Sept. 11, 2023). In each report, the Market Monitor affirmed the competitive nature of the energy markets in the first few paragraphs of the section on PJM’s energy markets.

¹² *PJM Interconnection, L.L.C.*, 110 FERC ¶ 61,053, at P 86 (2005).

¹³ Notably, the Market Monitor has not attempted to seek its desired market mitigation changes through a dedicated PJM stakeholder process. Instead, the Market Monitor inappropriately attempts to use individual MBR proceedings as a platform to circumvent the PJM stakeholder process, as well as FPA section 206.

¹⁴ See *PJM Interconnection, L.L.C.*, Motion for Leave to Answer and Answer of PJM Interconnection, L.L.C., Docket No. ER20-955-000, at 8-9 (Mar. 9, 2020).

results in the lowest cost to the market.¹⁵ The resource then runs on the selected offer and its associated operating parameters.¹⁶

The Commission reaffirmed that PJM’s existing offer capping rules are just and reasonable, including selecting the offer resulting in the least cost.¹⁷ Commission precedent requires the “the Market Monitor [to] show[] changed circumstances to warrant revisiting [market power mitigation] practices.”¹⁸ The Commission correctly rejected the Market Monitor’s previous attempt to effectuate this same change to energy market mitigation rules.¹⁹ Given that the Market Monitor has not alleged any change in circumstance to warrant revising the energy market mitigation rules or met its burden pursuant to FPA section 206, PJM’s energy markets remain just and reasonable, sufficiently protected from the exercise of market power.²⁰

¹⁵ See Operating Agreement, Schedule 1, section 6.4.1(a). This means mitigated resources committed in the Day-ahead Energy Market are committed at the market-based offer or cost-based offer that PJM’s security constrained unit commitment engine determines “results in the lowest overall system production cost,” while mitigated resources in the Real-time Energy Market are dispatched on the offer that yields the “lowest dispatch cost” and not lowest production cost. *Id.* The difference is the result of the fact that, in the Day-ahead Energy Market, PJM uses its security constrained unit commitment engine to determine the least cost solution, whereas in the Real-time Energy Market, PJM employs a static formula to determine the offer that yields the “lowest dispatch cost.”

¹⁶ Market Sellers may submit a market-based parameter limited schedule that contains different operational parameters than those tied to its cost-based offer. For example, a Market Seller may submit a market-based offer that provides for a lower cost than its cost-based offer (e.g., by extending the resource’s run time beyond its minimum run time and thus determining its operational schedule in the most efficient manner).

¹⁷ See, e.g., *PJM Interconnection, L.L.C.*, 158 FERC ¶ 61,133, at P 24 (2017) (approving, over the Market Monitor’s objection, PJM’s “Dispatch Cost” formula for determining “the ‘cheapest schedule’ for selecting the ‘lowest overall dispatch cost’” when mitigating resources that fail the TPS test); see also *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,153, at P 71 (2017) (finding just and reasonable PJM’s proposal for verifying cost-based offers greater than \$1,000/MWh).

¹⁸ *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,153, at P 58.

¹⁹ *PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,010, at P 26 (2020).

²⁰ Moreover, the Market Monitor failed to present sufficient evidence to rebut the presumption that PJM’s market rules are just and reasonable and effectively mitigate market power. Mere references to the Market Monitor’s State of the Market Reports, without context or explanation, falls well short of the demonstration required. The reports and the Market Monitor’s terse, ambiguous statements do not sufficiently demonstrate that aggregate market power is a systemic issue in PJM’s markets.

B. Triennial Review Proceedings Are Not the Appropriate Forum for Generic Market Reforms.

The appropriate forum for general reforms to PJM’s market power mitigation rules is a properly initiated FPA section 206 proceeding—not individual sellers’ MBR-related filings.²¹ Indeed, the Commission has rejected the Market Monitor’s prior attempts to raise these generic issues in the context of individual MBR proceedings.²² The only lawful route to change the existing filed provisions of PJM’s Tariff and Operating Agreement is through the appropriate showings under FPA section 206 in a properly initiated proceeding. The Market Monitor’s comments in the above-captioned dockets do not make the necessary showings.

²¹ See *Albemarle Beach Solar, LLC*, 173 FERC ¶ 61,215, at P 31 (“The Commission has made clear that intervenor-proposed changes to PJM’s existing tariff must be made through a complaint under section 206 of the FPA and not through protests to a section 205 filing.” (quotation omitted)); *Harts Mill Solar, LLC*, 173 FERC ¶ 61,216 at P 31 (same); *Toms River Merchant Solar, LLC*, 174 FERC ¶ 61,087, at P 25 (same).

²² See *Albemarle Beach Solar, LLC*, 173 FERC ¶ 61,215, at PP 26-32 (rejecting the Market Monitor’s protest, noting that the Market Monitor’s concerns are “generic in nature” and “not properly addressed in the market-based rate authority proceedings of individual [companies,]” and suggesting that the Market Monitor’s long-term underlying concerns would best be addressed in the currently pending complaint proceeding before the Commission); *Harts Mill Solar, LLC*, 173 FERC ¶ 61,216, at PP 26-32 (same); *Toms River Merchant Solar, LLC*, 174 FERC ¶ 61,087, PP 19, 21-26 (noting that the Market Monitor filed a motion for clarification in the aforementioned *Albemarle Beach Solar, LLC* and *Harts Mill Solar, LLC* proceedings, and rejecting the Market Monitor’s protest in the same manner).

II. CONCLUSION

PJM respectfully requests that the Commission recognize the procedural improprieties and substantive deficiencies of the Market Monitor's comments in each of the above-captioned proceedings.

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Respectfully submitted,

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September 15, 2023

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 Washington, D.C., this 15th day of September 2023.

/s/ Ruth M. Porter
Ruth M. Porter