

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

Affirmed Energy LLC)	
)	
v.)	Docket No. EL24-124-001
)	
PJM Interconnection, L.L.C.)	

**MOTION FOR LEAVE TO ANSWER AND LIMITED ANSWER OF
PJM INTERCONNECTION, L.L.C. TO REQUEST FOR REHEARING**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission,¹ PJM Interconnection, L.L.C. (PJM) submits this Motion for Leave to Answer and Limited Answer to the Request for Rehearing filed by Affirmed Energy LLC (Affirmed Energy).² Affirmed Energy objects to PJM’s continued retention of approximately \$130 million of collateral Affirmed Energy was required to post to ensure its performance as a capacity supplier.³ The Commission should deny Affirmed Energy’s Request for Rehearing because PJM has appropriately withheld Affirmed Energy’s collateral in light of the Commission’s determination that Affirmed Energy, as a subsidiary of American Efficient, LLC, fraudulently operated within PJM.⁴

PJM will not release any of the collateral to Affirmed Energy until so ordered by the Commission or a court of competent jurisdiction. The Commission determined that Affirmed Energy sold PJM “fake capacity” of almost 2 GW per year and “provided nothing of value” in

¹ 18 C.F.R. §§ 385.212 & .213 (2026).

² Request for Rehearing of Affirmed Energy LLC, Docket No. EL24-124-001 (May 15, 2026).

³ *Id.* at 12-13.

⁴ *See, e.g., Am. Efficient, LLC*, 195 FERC ¶ 61,043, at P 399 (2026) (“[W]e find that American Efficient engaged in two fraudulent schemes. The first was fraudulently holding itself out as a legitimate EER provider, and the second was collecting capacity payments for so-called ‘historicals.’”) (Enforcement Order).

exchange for roughly \$500 million in capacity payments.⁵ The Commission similarly determined that Affirmed Energy misrepresented, and made multiple false statements regarding, its operations over the course of several years.⁶ If the Commission’s conclusions in its Enforcement Order are affirmed by the federal courts, then all of the collateral that Affirmed Energy posted is forfeit because the Commission ordered Affirmed Energy to pay PJM \$407,732,930 plus applicable interest—more than three times the amount of collateral currently held by PJM. Because the amount of Affirmed Energy’s disgorgement greatly exceeds the \$130 million in collateral that PJM is currently holding, PJM must retain all of that collateral as a portion of what Affirmed Energy owes to ratepayers it defrauded. The Commission’s conclusions validate PJM’s determination that Affirmed Energy presented an “unreasonable credit risk”⁷ under the tariff and require that Affirmed Energy receive none of the withheld collateral.

It also does not make sense for PJM to complete its audits of Affirmed Energy’s energy efficiency program until the courts have completed the *de novo* review that Affirmed Energy itself requested. The standard to be applied during PJM’s audits will remain in question until the courts address the Commission’s determination that Affirmed Energy’s “capacity” was valueless.⁸ If the courts affirm the Enforcement Order, PJM will have no choice but to retain 100% of the collateral it has held for the ratepayers Affirmed Energy injured.

⁵ *See id.* P 6.

⁶ *See id.* PP 121-130 (“American Efficient did not alert PJM that it had revised this language in 2017 or tell PJM that its past statements were false because American Efficient did not actually provide discounts or reduce prices to consumers.”).

⁷ *See, e.g.,* Answer of PJM Interconnection, L.L.C., Docket No. ER24-124 at 2 (Nov. 12, 2024). Affirmed Energy makes a stray remark that it does not develop that PJM required excessive collateral. *See* Request for Rehearing at 14. But as PJM previously explained, the amount of collateral is directly connected to PJM’s determination that Affirmed Energy posed an “unreasonable credit risk” in the 2023/2024 Delivery Year.

⁸ *See* Enforcement Order at P 6.

Affirmed Energy claims that the Commission’s April 15 order approving PJM’s withholding of collateral “ignores the intent of the tariff and the context here.”⁹ That is false. The intent of the tariff now and always has been to ensure that customers pay a just and reasonable price for capacity and to deny payments for capacity that does not perform as promised. That principle applies to both collateral and capacity payments. If, as the Commission found, Affirmed Energy’s participation in PJM’s markets was fraudulent, then Affirmed Energy is due neither any capacity payments nor any collateral for the capacity that it failed to provide.

MOTION FOR LEAVE TO ANSWER

The Commission has discretion to accept answers to requests for rehearing for good cause shown, *i.e.*, where accepting the response would lead to a more complete or accurate record, improve the Commission’s understanding of the issues, clarify disputed or erroneous matters, or help the Commission in its decision-making.¹⁰ The Commission has good cause to accept this answer because it clarifies and gives context to statements in the Request for Rehearing and will assist the Commission in its decision-making.

CONCLUSION

For these reasons, PJM respectfully requests the Commission accept this answer and deny Affirmed’s Request for Rehearing.

⁹ Request for Rehearing at 13.

¹⁰ 18 C.F.R. § 385.213(a)(2) (“An answer may not be made to . . . a request for rehearing, unless otherwise ordered by the decisional authority.”); *see, e.g., Alamito Co.*, 41 FERC ¶ 61,312, at *3 (1987) (“Although the Commission’s Rules of Practice and Procedure in general do not support the filing of responses to requests for rehearing, the decisional authority may permit answers.”) (citations omitted); *c.f., e.g., PJM Interconnection, L.L.C.*, 158 FERC ¶ 61,133, at P 12 (2017) (accepting answers to protests); *KO Transmission Co.*, 156 FERC ¶ 61,147, at n.5 (2016) (same); *TransColorado Gas Transmission Co.*, 111 FERC ¶ 61,208, at P 4 (2005) (same).

Respectfully submitted,

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June 1, 2026

CERTIFICATE OF SERVICE

I hereby certify that I have on this day caused to be served a copy of this motion for leave to answer and answer upon all parties on the service list in these proceedings in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2024).

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June 1, 2026