UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Longview Power, LLC ) Docket No. ER10-1556-009
Tenaska Virginia Partners, L.P. ) Docket No. ER10-1626-012
Tenaska Power Services Co. ) Docket No. ER10-1632-018
Calpine Vineyard Solar, LLC ) Docket No. ER10-2036-011
Calpine New Jersey Generation, LLC ) Docket No. ER10-2040-010
Calpine Mid Merit, LLC. ) Docket No. ER10-2041-010
Calpine Mid-Atlantic Generation, LLC ) Docket No. ER10-2043-010
Zion Energy LLC ) Docket No. ER10-2044-010
Calpine Bethlehem, LLC ) Docket No. ER10-2051-010
NRG Power Marketing LLC ) Docket No. ER10-2265-017
Midwest Generation, LLC ) Docket No. ER10-2355-010
Elmwood Park Power, LLC ) Docket No. ER10-2442-015
Newark Bay Cogeneration Partnership, L.L.P. ) Docket No. ER10-2444-017
Pedricktown Cogeneration Company LP ) Docket No. ER10-2446-013
York Generation Company LLC ) Docket No. ER10-2449-015
Stony Creek Wind Farm, LLC ) Docket No. ER10-2821-007
Vienna Power, LLC ) Docket No. ER10-2947-015
Commonwealth Chesapeake Company, LLC ) Docket No. ER10-3078-005
Indian River Power, LLC ) Docket No. ER10-3223-009
TAQA Gen X LLC ) Docket No. ER11-4393-008
Wildcat Wind Farm I, LLC ) Docket No. ER12-1329-007
Brandon Shores LLC ) Docket No. ER12-2510-010
H.A. Wagner LLC ) Docket No. ER12-2512-010
Battery Utility of Ohio, LLC ) Docket No. ER13-1667-005
Red Oak Power, LLC ) Docket No. ER14-477-002
TAQA Gen X LLC ) Docket No. ER15-289-000
Brunner Island, LLC ) Docket No. ER15-2014-007
Martins Creek LLC ) Docket No. ER15-2018-006
Susquehanna Nuclear, LLC ) Docket No. ER15-2026-006
NRG Chalk Point CT LLC ) Docket No. ER16-10-003
LQA, LLC ) Docket No. ER16-733-007
Red Oak Power, LLC ) Docket No. ER17-19-000
Radford's Run Wind Farm, LLC ) Docket No. ER17-1438-002
Carrol County Energy, LLC ) Docket No. ER17-1609-003
Kestrel Acquisition, LLC ) Docket No. ER18-1106-002
Calpine Mid Merit II, LLC. ) Docket No. ER18-1321-003
Tenaska Pennsylvania Partners, LLC ) Docket No. ER18-1960-003
COMMENTS OF PJM INTERCONNECTION, L.L.C.
IN RESPONSE TO THE INDEPENDENT MARKET MONITOR FOR PJM

PJM Interconnection, L.L.C. (“PJM”) respectfully submits these comments in response to the Protest of the Independent Market Monitor for PJM (“Market Monitor”) in the above-captioned proceedings (“Market Monitor Protest”). The Market Monitor has protested the triennial market power update filings of numerous Category 2 market-based rate (“MBR”) sellers, arguing that the “current PJM Market Rules for market power mitigation are insufficient to support” the “presumption of effective PJM market monitoring and market power mitigation.”\(^1\) Over a period of a few days, the Market Monitor filed essentially the same protest to over forty non-transmission-owning Category 2 Seller filings in the Northeast Region. The Market Monitor asks the Commission to limit these sellers’ PJM capacity market and energy market offers to levels set by the Market Monitor’s preferred methodologies. The Market Monitor further asks that the Commission initiate a Federal Power Act (“FPA”) section 206 investigation of PJM’s market rules arising from these proceedings, and “lift” the restrictions imposed (at the Market Monitor’s request) in these proceedings only after the Commission acts on the Market Monitor’s suggested new section 206 proceeding.\(^2\)

PJM does not normally participate in this type of proceeding, which is essentially a compliance filing for individual Market Sellers. PJM does so here solely to address the

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\(^1\) Market Monitor Protest at 1-2.

\(^2\) 16 U.S.C. § 824e.
Market Monitor’s generic assertions of alleged 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”). PJM generally supports the efforts of the Market Monitor to ensure that the PJM markets are competitive and free from the improper exercise of market power. However, the Market Monitor’s challenges to PJM’s market rules are misplaced here—the Commission cannot and should not establish separate PJM market rules different than those in the currently effective Tariff and Operating Agreement, on a subset of PJM Market Sellers that filed their triennial market power updates this summer. While changes to PJM market rules (via MBR authorization conditions or otherwise) are thus plainly outside the scope of these proceedings (and nothing in this pleading should be taken to suggest otherwise), as the market administrator and Regional Transmission Organization (“RTO”), PJM briefly addresses the Market Monitor’s assertions that PJM’s capacity and energy market rules are inadequate.

I. COMMENTS


It is noted at the outset that the mere existence of pending challenges to the current market rules does not mean there is a lack of effective market power mitigation in PJM’s markets. Rather, PJM’s existing market power mitigation rules, which were previously reviewed and approved by the Commission, provide for robust market power mitigation.

3 For the purpose of this filing, capitalized terms not defined herein shall have the meaning as contained in the Tariff and Operating Agreement.
Moreover, any outstanding complaints involving PJM’s market power mitigation rules are appropriately resolved pursuant to a properly initiated FPA section 206 proceeding — separate from these MBR-related filings.

The Market Monitor asserts that the PJM capacity market “is not competitive due to inadequate market power mitigation,” based on its pending complaint challenging the default Market Seller Offer Cap and its discussions of “noncompetitive behavior” in its reviews of the capacity market. This attack on the capacity market power mitigation rules is unsubstantiated, as PJM demonstrated in its answer to the Market Monitor’s complaint in Docket No. EL19-47. The Market Monitor Protest adds nothing new to support its existing challenge to PJM’s capacity market rules. Nor does the Market Monitor demonstrate any changed circumstances supporting the need for such extreme measures.

In its EL19-47 Answer, PJM demonstrated that the Market Monitor’s claim that the default Market Seller Offer Cap “permits the exercise of market power” is unsupported by the facts. In particular, PJM noted that the “market has consistently settled below the default [Market Seller Offer Cap],” and the market’s single clearing price design “creates an incentive for resources to submit offers that accurately reflect their risks, rather than inflating them, in order to increase the likelihood that they will clear.” Accordingly, the

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4 Market Monitor Protest at 3.
5 Market Monitor Protest at 3-4.
7 EL19-47 PJM Answer at 6.
8 EL19-47 PJM Answer at 7 (quoting ISO New England Inc., 147 FERC ¶ 61,172, at P 98 (2014)).
capacity market remains workably competitive based on mitigation rules that have been thoroughly litigated before this Commission.\textsuperscript{9}

Moreover, it is the very role of the Market Monitor to review capacity market offers that it suspects may be an exercise of market power and ultimately refer offending sellers to the Commission.\textsuperscript{10} The Commission’s own regulatory oversight program which relies, in part, on referrals from the Market Monitor as well as extensive review of any market rule changes proposed by PJM provide important checks on specific circumstances of market power and market manipulation. In addition, if the Market Monitor has concerns regarding specific activity by a Market Seller that contravenes existing market rules, then the Market Monitor should demonstrate those specific concerns. Use of periodic MBR authority reviews to upset previously litigated (or pending) changes is inconsistent with the purpose of these triennial MBR proceedings. Further, such use would effectively transform the triennial MBR proceedings into a new avenue to challenge market rules. The Commission should be reluctant to allow protestors to wrest the market based rate authority analyses from its foundational underpinnings and approach.

Likewise, the Market Monitor fails to support its assertion that the currently effective energy market power mitigation rules are unreasonable or insufficient. In four brief sentences, the Market Monitor appears to imply 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-

\textsuperscript{9} See PJM Interconnection, L.L.C., 110 FERC ¶ 61,053, at P 86 (“Mitigation should only be imposed in situations in which there is a reasonable prospect that a generator can exercise market power. It is not appropriate to mitigate in workably competitive markets”).

\textsuperscript{10} EL19-47 PJM Answer at 9.
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 operating parameter limits.”¹¹ Thus, the Market Monitor does not appear to challenge the TPS test as a market power screen,¹² 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 Market Monitor’s own recent “conclusion [sion] that the PJM energy market results were competitive in the first six months of 2020.”¹³ Because “[i]t is not appropriate to mitigate in workably competitive markets,”¹⁴ there is no evidence that any modification to the energy market power mitigation rules is necessary at this time.¹⁵

While 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

¹¹ Market Monitor Protest at 4-5.
¹² See Operating Agreement, Schedule 1, section 6.4.
¹⁴ PJM Interconnection, L.L.C., 110 FERC ¶ 61,053, at P 86.
¹⁵ 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 these triennial reviews as a platform to circumvent the PJM stakeholder process, as well as FPA section 206.
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 is unreasonable.16

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 results in the lowest cost to the market.17 The resource then runs on the selected offer and its associated operating parameters.18 The Market Monitor’s apparent alternative would require PJM to unilaterally reconstruct energy offer schedules submitted by Market Sellers.19

However, the Commission recently reaffirmed that PJM’s existing offer capping rules are just and reasonable, including selecting the offer resulting in the least cost.20

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

17 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.”

18 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).


20 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
Commission precedent requires the “the Market Monitor [to] show[] changed circumstances to warrant revisiting [market power mitigation] practices.”\textsuperscript{21} The Commission correctly rejected the Market Monitor’s previous attempt to effectuate this same change to energy market mitigation rules.\textsuperscript{22} 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.\textsuperscript{23}

**B. Market-Based Rate Triennial Review Proceedings Are Not the Appropriate Forum for Imposing Disparate Rules on a Subset of Market Sellers.**

As the RTO and tariff administrator, PJM simply notes that it would be unreasonable, and unduly discriminatory, to impose two substantively different market power mitigation regimes on the PJM energy and capacity markets solely based on the timing of a Market Seller’s submission of its triennial market power update filing. Such an outcome would be particularly unreasonable and unduly discriminatory when there has been no showing of an exercise of market power by any of the subject Market Sellers. However, that is precisely what the Market Monitor is requesting here in these seller-specific proceedings as a condition of the sellers’ continued MBR authority (i.e., seeking

\textsuperscript{21} PJM Interconnection, L.L.C., 161 FERC ¶ 61,153, at P 58.

\textsuperscript{22} PJM Interconnection, L.L.C., 171 FERC ¶ 61,010, at P 26 (2020).

\textsuperscript{23} Moreover, the Market Monitor has utterly 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.
new and different set of offer-capping rules to be imposed in the capacity market and requiring cost-based offers in the energy market). PJM should not be asked to oversee disparate rules and treatment of similarly situated market sellers, with some operating under the PJM market rules, and others operating under the Market Monitor’s proposed conditions.

Finally, the Market Monitor’s approach would undermine the statutory and procedural protections afforded to PJM, as the public utility under the FPA, against changes to its currently effective tariff and market rules. The only lawful route to changing those filed provisions is through the appropriate showings under FPA section 206 in a properly initiated proceeding.
II. CONCLUSION

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

Respectfully submitted,

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September 29, 2020
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 29th day of September 2020.

/s/ Ryan J. Collins
Ryan J. Collins