

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.

Docket No. EL21-91-003

ORDER DENYING REQUEST FOR SHORTENED ANSWER PERIOD  
AND ESTABLISHING ANSWER PERIOD

(Issued May 1, 2024)

1. On April 29, 2024, a group of participants labelled the Settling Parties<sup>1</sup> filed a Motion in Docket Nos. EL21-91-003 and ER21-1635-000.<sup>2</sup> The Settling Parties addressed their motion to the Chief Administrative Law Judge (Chief Judge) and to me as the Presiding Administrative Law Judge (Presiding Judge) in Docket Nos. EL21-91-003. The Settling Parties include three requests in their Motion: (1) reestablishment of settlement judge procedures, (2) my concurrence in the appointment of a settlement judge under Rule 603(e) (18 C.F.R. § 385.603(e) (2023)); and (3) a shortened five-business-day period by which participants may answer the Motion “in accordance with Rule 213(d)(1)” (18 C.F.R. §385.213(d)(1)). By this Order, I deny the third request and instead direct participants to file any answers to the Motion by May 14, 2024.

2. In the Motion, the Settling Parties explain that, in accordance with the Duty to Confer found in Section 3 of the Uniform Hearing Rules, the Settling Parties contacted all persons on the service list on April 26, 2024, and one party, Monitoring Analytics, LLC acting as the Independent Market Monitor for PJM (IMM) “indicated to the Settling Parties that it opposes this Motion, and that it also opposes the appointment of a

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<sup>1</sup> The Settling Parties include American Municipal Power, Inc., Dynegy Marketing and Trade, LLC, Hazleton Generation LLC, J-POWER USA Development Co., Ltd., LS Power Development, LLC, Old Dominion Electric Cooperative, PJM Interconnection, L.L.C. (“PJM”), PJM Industrial Customer Coalition, and Vistra Corp.

<sup>2</sup> Motion for Reestablishment of Settlement Judge Procedures and Shortened Time Period to Answer, and Request for Presiding Judge Concurrence, Docket Nos. ER21-1635-000 and EL21-91-003 (Apr. 29, 2024) (Motion).

settlement judge.”<sup>3</sup> Notwithstanding the IMM’s opposition, the Settling Parties request a shortened answer period “in order to expedite the Chief Judge’s ability to rule on this Motion so that the parties can promptly resume formal settlement judge procedures sufficiently in advance of looming hearing deadlines, the first of which calls for direct testimony submissions on June 5, 2024.”<sup>4</sup>

3. Rule 603(c)(3) provides that a “motion under paragraph (c)(1) of this section may be acted upon at any time, and the time limitations on answers in Rule 213(d) do not apply.”<sup>5</sup> Nevertheless, Rule 603(c) does not set a time limit by which the Chief Judge must appoint or decline to appoint a settlement judge nor a time limit by which a presiding judge must concur or decline to concur in a motion under Rule 603(c)(1). Speaking for myself, as the Presiding Judge in this case, in light of the IMM’s opposition to the appointment of a settlement judge, I would like to understand the reasons for the IMM’s opposition before formally deciding on whether I concur in the Motion. I therefore find that a longer period of time for the IMM (or any other participant) to prepare a response to the Motion would be more appropriate.

4. While the Settling Parties desire to resume “formal settlement judge procedures” “in advance of looming hearing deadlines,” I do not see that as a reason to limit the IMM’s time in preparing a response to the Motion. Nothing prohibits the participants from engaging in settlement discussions and preparing materials in support of a settlement even in the absence of the appointment of a settlement judge. Moreover, in discussing the possibility of seeking the appointment of a settlement judge, counsel for one of the Settling Parties made clear that parallel efforts to achieve a settlement could and would take place even with the “looming hearing deadlines”:

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<sup>3</sup> Motion at 2-3. I note here that the Motion does not indicate which of the three requests included in the motion the Settling Parties presented to the IMM. Because the Settling Parties specifically mention that the IMM opposes the appointment of a settlement judge, I will assume that their report that the IMM “opposes the Motion” refers to all three requests embedded in the Motion, although that is far from clear. I continue to admonish the participants to be clearer about their descriptions of their discharge of their Duty to Confer and the precise requests for which there may be opposition. *See* Tr. 180:20-181:12 (Presiding Judge); *see also PJM Interconnection, L.L.C.*, 186 FERC ¶ 63,019, at n.61 (2024) (discussing prior admonitions to participants to comply with the Uniform Hearing Rules).

<sup>4</sup> Motion at 3.

<sup>5</sup> 18 C.F.R. § 385.603(c)(3).

The parties who submitted that settlement are still very interested in seeking settlement. We would like to discuss those options with you further today. It can be at whatever point in time you think it makes sense, because we did also propose a procedural schedule that we circulated last night that as far as -- not everyone has had as much time with it as we have, but *we weren't planning to seek another abeyance at this point in time, so we think these two tracks can happen in parallel*. But we are prepared to talk about further settlement options with you as well today.<sup>6</sup>

5. Accordingly, I DENY the portion of the Motion seeking a five-business-day period for participants to answer the Motion, and instead, SET the deadline for filing answers to the Motion as May 14, 2024.

6. By this Order, I do not address any other portion of the Motion but will address any other requests in the Motion that are properly within my role as Presiding Judge as soon as practicable after May 14, 2024.

SO ORDERED.

Joel deJesus  
Presiding Administrative Law Judge

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<sup>6</sup> Tr. 176:11-21 (Mallen) (emphasis added).