

193 FERC ¶ 61,205  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Laura V. Swett, Chairman;  
David Rosner, Lindsay S. See,  
Judy W. Chang, and David LaCerte.

|                               |                          |
|-------------------------------|--------------------------|
| GenOn Energy Management, LLC  | Docket Nos.ER11-2508-028 |
| Blossburg Power, LLC          | ER19-1865-002            |
| Brunot Island Power, LLC      | ER19-2142-003            |
| Chalk Point Power, LLC        | ER21-573-003             |
| Chalk Point Steam, LLC        | ER20-1887-002            |
| Dickerson Power, LLC          | ER21-574-003             |
| GenOn Bowline, LLC            | ER19-1411-002            |
| GenOn California South, LP    | ER19-1415-004            |
| GenOn Power Midwest, LP       | ER19-1417-003            |
| GenOn REMA, LLC               | ER19-1414-004            |
| Gilbert Power, LLC            | ER19-2143-003            |
| Hamilton Power, LLC           | ER19-1866-002            |
| Heritage Power Marketing, LLC | ER19-2148-004            |
| Hunterstown Power, LLC        | ER19-1867-002            |
| Lanyard Power Holdings, LLC   | ER21-568-001             |
| Lanyard Power Marketing, LLC  | ER21-575-003             |
| Morgantown Power, LLC         | ER21-577-003             |
| Morgantown Station, LLC       | ER21-578-003             |
| Mountain Power, LLC           | ER19-2147-003            |
| New Castle Power, LLC         | ER19-2141-003            |
| Niles Power, LLC              | ER19-1868-002            |
| Orrtanna Power, LLC           | ER19-1869-002            |
| Portland Power, LLC           | ER19-2145-003            |
| Sayreville Power, LLC         | ER19-2144-003            |
| Shawnee Power, LLC            | ER19-1870-002            |
| Shawville Power, LLC          | ER19-2140-003            |
| Titus Power, LLC              | ER19-1871-002            |
| Tolna Power, LLC              | ER19-1872-002            |
| Warren Generation, LLC        | ER19-2146-003            |

ORDER ACCEPTING UPDATED MARKET POWER ANALYSIS

(Issued December 18, 2025)

1. On June 29, 2023, the above-captioned market-based rate sellers (collectively, the GenOn Northeast Sellers)<sup>1</sup> submitted their joint triennial updated market power analysis for the Northeast region (Triennial Filing), pursuant to the Commission's regional reporting schedule.<sup>2</sup>

2. In this order, we find that the GenOn Northeast Sellers satisfy the Commission's standards for market-based rate authority. Accordingly, we accept the GenOn Northeast Sellers' updated market power analysis.

## **I. Background**

### **A. GenOn Holdings, Inc.**

3. The GenOn Northeast Sellers state that they are each an indirect subsidiary of GenOn Holdings, Inc. (GenOn Holdings).<sup>3</sup> The GenOn Northeast Sellers state that GenOn Holdings has two classes of common stock – Class A common stock that provides holders with voting rights and economic interests in GenOn Holdings, and Class B common stock that provides holders with voting rights but no economic interest in GenOn Holdings.<sup>4</sup> The GenOn Northeast Sellers state that holders of shares of GenOn

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<sup>1</sup> GenOn California South, LP (California South), GenOn REMA, LLC (GenOn REMA), and Morgantown Station, LLC (Morgantown Station) cancelled their market-based rate tariffs effective December 14, 2023. *See GenOn REMA, LLC*, Docket No. ER24-653-000 (Feb. 2, 2024) (delegated order). In light of the notices of cancellation filed by California South, GenOn REMA, and Morgantown Station, the market power analyses for these entities are moot. *See EFS Parlin Holdings, LLC*, 188 FERC ¶ 61,041, at P 7 (2024); *Battery Util. of Ohio, LLC*, 187 FERC ¶ 61,001, at P 11 (2024); *Exelon Generation Co., LLC*, 115 FERC ¶ 61,004, at n.3 (2006).

<sup>2</sup> *See Refins. to Policies & Procs. for Mkt.-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 816, 153 FERC ¶ 61,065, at P 353 (2015), *order on reh'g and clarification*, Order No. 816-A, 155 FERC ¶ 61,188 (2016); *Mkt.-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 697, 119 FERC ¶ 61,295, at P 882 (2007), *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, 123 FERC ¶ 61,055 (2008), *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, 125 FERC ¶ 61,326 (2008), *order on reh'g*, Order No. 697-C, 127 FERC ¶ 61,284 (2009), *order on reh'g*, Order No. 697-D, 130 FERC ¶ 61,206 (2010), *aff'd sub nom. Mont. Consumer Couns. v. FERC*, 659 F.3d 910 (9th Cir. 2011).

<sup>3</sup> Triennial Filing at 2.

<sup>4</sup> *Id.* at 3.

Holdings' Class B common stock hold an equivalent number of membership units of GenOn Holdings, LLC (Holdings LLC),<sup>5</sup> an indirect, wholly controlled subsidiary of GenOn Holdings, through which such Class B holders receive their economic rights. The GenOn Northeast Sellers represent that two investors or investor groups hold 10% or more of GenOn Holdings' voting securities, funds managed by Strategic Value Partners (SVP) and MacKay Shields.<sup>6</sup> The GenOn Northeast Sellers trace the upstream ownership of SVP to Victor Khosla, noting that no other entity or individual owns, controls or holds with power to vote 10% or more of the outstanding voting securities of SVP. Similarly, the GenOn Northeast Sellers trace the upstream ownership of MacKay Shields to New York Life Insurance Company (New York Life), also noting that no entity or individual owns, controls, or holds with power to vote 10% or more of the outstanding voting securities of New York Life. The GenOn Northeast Sellers claim that neither Victor Khosla nor New York Life owns, controls, or holds with power to vote 10% or more of the voting interests, or sits on the board, of any energy company that is not controlled, directly or indirectly, by GenOn Holdings.

**B. The GenOn Northeast Sellers and Their Upstream Affiliates**

4. The GenOn Northeast Sellers represent that each of the GenOn Northeast Sellers, except for the power marketers identified below, is an exempt wholesale generator (EWG) under the Public Utility Holding Company Act of 2005<sup>7</sup> and that each has been granted market-based rate authority. The GenOn Northeast Sellers represent further that the following GenOn Northeast Sellers own or lease, and operate, generating facilities in the PJM Interconnection, L.L.C. (PJM) market:<sup>8</sup>

- Blossburg Power, LLC (Blossburg) owns and operates an approximately 19 megawatt (MW) natural gas-fired generating facility.
- Brunot Island Power, LLC (Brunot Island) owns and operates an approximately 259 MW natural gas-fired generating facility.

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<sup>5</sup> GenOn Holdings controls Holdings LLC, as its sole manager, and Holdings LLC's membership units convey no right to participate in the control of Holdings LLC's business or that of any of its subsidiaries. Triennial Filing at 3.

<sup>6</sup> *Id.* at 3-4.

<sup>7</sup> 42 U.S.C. § 16451 *et seq.*

<sup>8</sup> Triennial Filing at 4-15.

- Chalk Point Power, LLC (Chalk Point Power) owns and operates an approximately 1,613 MW natural gas- and oil-fired generating facility located within the 5004/5005 submarket of PJM.
- Chalk Point Steam, LLC (Chalk Point Steam) owns and operates an approximately 690 MW coal-, natural gas- and oil-fired generating facility located within the 5004/5005 submarket of PJM.
- Dickerson Power, LLC (Dickerson) owns and operates an approximately 294 MW two natural gas-fired generating facilities located within the 5004/5005 submarket of PJM.
- Gilbert Power, LLC (Gilbert) owns and operates an approximately 444 MW coal-fired generating facility within the PJM East submarket of PJM.
- Hamilton Power, LLC (Hamilton) owns and operates an approximately 18 MW natural gas- and oil-fired generating facility located within the 5004/5005 submarket of PJM.
- Hunterstown Power, LLC (Hunterstown) owns and operates an approximately 60 MW natural gas- and oil-fired generating facility located within the 5004/5005 submarket of PJM.
- Lanyard Power Holdings, LLC (Lanyard Power) owns and operates four oil-fired generating facilities with a total generating capacity of 192 MW located within the 5004/5005 submarket of PJM.
- Mountain Power, LLC (Mountain Power) owns and operates an approximately 36 MW natural gas- and oil-fired generating facility located within the 5004/5005 submarket of PJM.
- New Castle Power, LLC (New Castle) owns and operates an approximately 310 MW coal-fired generating facility.
- Niles Power, LLC (Niles) owns and operates an approximately 25 MW oil-fired generating facility.
- Orrtanna Power, LLC (Orrtanna) owns and operates an approximately 18 MW oil-fired generating facility located within the 5004/5005 submarket of PJM.
- Portland Power, LLC (Portland) owns and operates an approximately 169 MW coal, natural gas, and oil-fired generating facility located within the PJM East submarket of PJM.

- Sayreville Power, LLC (Sayreville) owns and operates an approximately 200 MW natural gas and oil-fired generating facility located within the PJM East submarket of PJM.
- Shawnee Power, LLC (Shawnee) owns and operates an approximately 17 MW oil-fired generating facility located within the 5004/5005 submarket of PJM.
- Shawville Power, LLC (Shawville) leases and operates an approximately 596 MW coal and oil-fired generating facility.
- Titus Power, LLC (Titus) owns and operates an approximately 27 MW natural gas- and oil-fired generating facility located within the PJM East submarket of PJM.
- Tolna Power, LLC (Tolna) owns and operates an approximately 36 MW oil-fired generating facility located within the 5004/5005 submarket of PJM.
- Warren Generation, LLC (Warren) owns and operates an approximately 50 MW natural gas and oil-fired generating facility.

5. The GenOn Northeast Sellers represent that Holdings LLC owns and operates GenOn Bowline, LLC, a 1,137 MW natural gas and oil-fired generation facility in the New York Independent System Operator, Inc. (NYISO) market.<sup>9</sup>

6. The GenOn Northeast Sellers represent that Holdings LLC indirectly owns the following power marketers: GenOn Energy Management, LLC (GEM); California South; GenOn Power Midwest, LP (GenOn Midwest); GenOn REMA; Heritage Power Marketing, LLC (Heritage Marketing); Lanyard Power Marketing, LLC (Lanyard Marketing); Morgantown Power, LLC (Morgantown Power); and Morgantown Station.<sup>10</sup>

7. The GenOn Northeast Sellers represent that the following indirect subsidiaries own, operate and/or control transmission facilities used to interconnect their generation facilities with the transmission grid: Blossburg, Brunot Island, Chalk Point Power, Chalk Point Stream, Dickerson, Bowline, Gilbert, Hamilton, Hunterstown, Lanyard Holdings,

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<sup>9</sup> *Id.* at 7. On September 29, 2023, authorization was granted for the acquisition of the membership interests in GenOn Bowline, LLC by Bowline Point Power, LLC. *See GenOn Bowline, LLC*, 184 FERC ¶ 62,167 (2023). GenOn Bowline, LLC subsequently changed its name to Bowline, LLC. *Bowline, LLC*, Request to Update Corporate Officials List, Docket No. RM99-9-000 (filed Feb. 8, 2024).

<sup>10</sup> Triennial Filing at 4-11.

Mountain Power, New Castle, Niles, Orrtanna, Portland, Sayreville, Shawnee, Shawville, Titus, Tolna, and Warren (collectively, Northeast Project Companies).<sup>11</sup>

**C. Affiliated Generation**

8. The GenOn Northeast Sellers state that, through Bowline, they are affiliated with Hudson Valley Gas, LLC (Hudson Valley), which owns and operates a 4.2-mile, 24-inch diameter intrastate natural gas pipeline in New York built for serving the Bowline Point Generating Station.<sup>12</sup>

**II. Notice of Filings and Responsive Pleadings**

9. Notice of the Triennial Filing was published in the *Federal Register*,<sup>13</sup> with interventions and comments due on or before August 28, 2023.

10. On August 28, 2023, Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (PJM IMM), filed a motion to intervene in certain of the above-captioned dockets.<sup>14</sup> On August 28, 2023, the PJM IMM filed comments in certain of the above-captioned dockets (PJM IMM Comments).<sup>15</sup> On September 15, 2023, PJM filed an answer in response to the PJM IMM Comments in those dockets (PJM Reply Comments).

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<sup>11</sup> *Id.* at 17.

<sup>12</sup> *Id.* at 18.

<sup>13</sup> 88 Fed. Reg. 44791 (July 13, 2023).

<sup>14</sup> See Docket Nos. ER19-1865-002, ER19-2142-003, ER20-1887-002, ER19-2143-003, ER19-1866-002, ER19-1867-002, ER21-568-001, ER19-2147-003, ER19-2141-003, ER19-1868-002, ER19-1869-002, ER19-2144-003, ER19-2140-003, ER19-1871-002, ER19-1872-002, and ER19-2146-003.

<sup>15</sup> See Docket Nos. ER19-1865-002, ER19-2142-003, ER21-573-003, ER20-1887-002, ER21-574-003, ER19-2143-003, ER19-1866-002, ER19-1867-002, ER21-568-001, ER19-2147-003, ER19-2141-003, ER19-1868-002, ER19-1869-002, ER19-2145-003, ER19-2144-003, ER19-1870-002, ER19-2140-003, ER19-1871-002, ER19-1872-002, and ER19-2146-003.

### **III. Discussion**

#### **A. Procedural Matters**

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2025), the PJM IMM's timely, unopposed motion to intervene serves to make it a party to the proceedings in which it was filed.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2025), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answer filed by PJM because it has provided information that assisted us in our decision-making process.

#### **B. Substantive Matters**

13. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, horizontal and vertical market power.<sup>16</sup> As discussed below, we conclude that the GenOn Northeast Sellers continue to satisfy the Commission's standards for market-based rate authority.

##### **1. Market-Based Rate Authorization**

###### **a. Horizontal Market Power**

14. The Commission has adopted two indicative screens for assessing horizontal market power: the pivotal supplier screen and the wholesale market share screen.<sup>17</sup> The Commission has stated that passing both screens establishes a rebuttable presumption that the applicant does not possess horizontal market power, while failure of either screen creates a rebuttable presumption that the applicant has horizontal market power.<sup>18</sup>

###### **b. The GenOn Northeast Sellers' Analysis**

15. The GenOn Northeast Sellers state that the relevant markets are the NYISO and PJM markets, including the 5004/5005, AP South,<sup>19</sup> and PJM East submarkets of the PJM

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<sup>16</sup> Order No. 697, 119 FERC ¶ 61,295 at PP 62, 399, 408, 440; Order No. 697-A, 123 FERC ¶ 61,055 at PP 409, 417, 419.

<sup>17</sup> Order No. 697, 119 FERC ¶ 61,295 at P 62.

<sup>18</sup> *Id.* PP 33, 62-63.

<sup>19</sup> The 5004/5005 submarket is located within the AP South submarket of the PJM market.

market.<sup>20</sup> The GenOn Northeast Sellers represent that these are the markets where the generation facilities that they and their affiliates own or control are located. The GenOn Northeast Sellers state that NYISO and PJM operate energy, ancillary services, and capacity markets. As such, the GenOn Northeast Sellers explain that, in accordance with Order No. 861 and section 35.37(c)(4) of the Commission's regulations, "[i]n lieu of submitting the indicative market power screens," they are "relying on Commission-approved market monitoring and mitigation to address potential horizontal market power" in the relevant markets, including the 5004/5005, AP South, and PJM East submarkets.<sup>21</sup>

**c. PJM IMM Comments**

16. In its comments, the PJM IMM acknowledges that sellers in PJM may rely on the PJM market power mitigation rules, rather than filing the results of indicative screens, in asserting that sellers' participation in the PJM markets at market-based rates does not raise horizontal market power concerns.<sup>22</sup> The PJM IMM asserts that, under Order No. 861, a challenge to a seller's market-based rate authority must include two demonstrations: (1) that sellers have market power in the relevant markets; and (2) that such market power is not adequately mitigated by the RTO market rules.<sup>23</sup> The PJM IMM claims that the first demonstration is difficult, and that the Commission has recognized that intervenors may not have indicative screen information that would establish a presumption of market power. The PJM IMM notes that the Commission has stated that it retains authority to require sellers to submit indicative screens or other

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<sup>20</sup> Triennial Filing at 16.

<sup>21</sup> *Id.* (citing 18 C.F.R. § 35.37(c)(4) (2025); *Refins. to Horizontal Mkt. Power Analysis for Sellers in Certain Reg'l Transmission Org. & Indep. Sys. Operator Mkts.*, Order No. 861, 168 FERC ¶ 61,040, at P 7 (2019), *order on reh'g*, Order No. 861-A, 170 FERC ¶ 61,106 (2020)).

<sup>22</sup> PJM IMM Comments at 4 (citing 18 C.F.R. § 35.37(c)(5)). We note that section 35.37(c)(5) addresses regional transmission organization (RTO)/independent system operator (ISO) markets that operate RTO/ISO-administered energy and ancillary services markets, but not capacity markets. We assume that the PJM IMM means to refer to section 35.57(c)(4), which addresses RTO/ISO markets that operate RTO/ISO-administered energy, ancillary services, and capacity markets. *See* 18 C.F.R. § 35.37(c)(4).

<sup>23</sup> PJM IMM Comments at 5 (citing Order No. 861, 168 FERC ¶ 61,040 at PP 25-27).

evidence to help evaluate whether the seller has market power.<sup>24</sup> According to the PJM IMM, however, there is no reason for the Commission to request indicative screen information for sellers in PJM because all sellers in PJM “have the potential to have and exercise local market power at any time based on transmission constraints that may arise in the PJM market for a variety of reasons.”<sup>25</sup> The PJM IMM concludes that, without adequate market power mitigation, passing indicative market power screens does not provide customers protection from the effects of market power on prices.

17. The PJM IMM also argues that, although it believes the PJM energy markets are generally competitive, the implementation of market power mitigation rules is inadequate. The PJM IMM claims that it has provided ample evidence of the inadequacies of the implementation of market power mitigation in the PJM energy markets in its State of the Market Reports.<sup>26</sup> The PJM IMM argues that sellers that are subject to mitigation because they fail the PJM IMM’s structural market power test, (the Three Pivotal Supplier test) are able to set prices with a substantial markup over their cost-based offers because of their unmitigated market power.<sup>27</sup> The PJM IMM also argues that some sellers that fail the Three Pivotal Supplier test are able to operate, set prices, and collect uplift payments by submitting operating parameters that are less flexible than their defined parameter limits included in cost-based offers. The PJM IMM contends that, based on the evidence provided, it has rebutted the presumption that market power mitigation is adequate to support the use of market-based rates in the PJM energy markets.

18. To address these issues, the PJM IMM recommends that a separate FPA section 206 proceeding be instituted to investigate whether the existing PJM mitigation continues to be just and reasonable. The PJM IMM states that the flaws in the PJM market rules for market power mitigation could be addressed in such a proceeding.<sup>28</sup> Finally, the PJM IMM notes that the show cause proceeding in Docket No. EL21-78 regarding parameter-limited offers

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<sup>24</sup> *Id.* (citing Order No. 861, 168 FERC ¶ 61,040 at P 27).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 5-6 (citing Monitoring Analytics, LLC, *2023 State of the Market Report for PJM: January through June* § 3 (Energy Market )(2023), [https://www.monitoringanalytics.com/reports/PJM\\_State\\_of\\_the\\_Market/2023.shtml](https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2023.shtml)).

<sup>27</sup> *Id.* at 6 (citing Monitoring Analytics, LLC, *2023 State of the Market Report for PJM: January through June* fig. 3-66 & tbl. 3-145 (2023), [https://www.monitoringanalytics.com/reports/PJM\\_State\\_of\\_the\\_Market/2023.shtml](https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2023.shtml)).

<sup>28</sup> *Id.* (citing Order No. 697-A, 123 FERC ¶ 61,055 at P 5).

remains pending and that, since issuance of the show cause order, PJM has not taken steps to address “the issues identified with [PJM’s] parameter mitigation process.”<sup>29</sup>

**d. PJM Reply Comments**

19. PJM argues that, contrary to the PJM IMM’s claims, PJM’s existing market power mitigation rules, which were previously reviewed and approved by the Commission, provide appropriate horizontal market power mitigation. PJM argues that the PJM IMM fails to support its assertions with evidence, and that, to the extent the PJM IMM is arguing that the existing market power mitigation rules in the energy market are not working, such arguments are belied by the PJM IMM’s own determination that the results of the energy market were competitive in the first six months of 2023.<sup>30</sup> PJM notes that the Commission has reaffirmed that PJM’s existing offer capping rules are just and reasonable, and that the Commission has rejected previous attempts by the PJM IMM to change energy market mitigation rules where the PJM IMM has not shown changed circumstances that would warrant such changes. PJM claims that the PJM IMM has not alleged any such changes here that would warrant revising PJM’s energy market power mitigation rules and that it has not met its burden pursuant to FPA section 206.

20. PJM also argues that the appropriate forum for general reforms to PJM’s market power mitigation rules is a properly initiated FPA section 206 proceeding, not individual market-based rate compliance proceedings.<sup>31</sup>

**e. Commission Determination**

21. The PJM IMM has not presented sufficient evidence for us to conclude that the GenOn Northeast Sellers should not continue to have market-based rate authority. In order to effectively challenge a seller’s market-based rate authority, a party must demonstrate both that the seller has market power and that the existing mitigation does

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<sup>29</sup> *Id.*

<sup>30</sup> PJM Reply Comments at 5-6 (citing Monitoring Analytics, LLC, *2023 State of the Market Report for PJM: January through June 1* (Aug. 10, 2023), [https://www.monitoringanalytics.com/reports/PJM\\_State\\_of\\_the\\_Market/2023/2023q2-som-pjm.pdf](https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2023/2023q2-som-pjm.pdf)).

<sup>31</sup> *Id.* at 3-4, 8 (citing *Albemarle Beach Solar, LLC*, 173 FERC ¶ 61,215, at P 31 (2020); *Harts Mill Solar, LLC*, 173 FERC ¶ 61,216, at P 31 (2020), *clarified*, 176 FERC ¶ 61,032 (2021) (*Harts Mill*); *Toms River Merch. Solar, LLC*, 174 FERC ¶ 61,087, at P 25 (2021)).

not adequately mitigate that market power.<sup>32</sup> In addition, in Order No. 697-A, the Commission adopted a rebuttable presumption that existing Commission-approved RTO/ISO monitoring and mitigation is sufficient to address market power concerns.<sup>33</sup> Stated another way, where a protestor identifies a flaw in the mitigation rules, that flaw can be used to rebut the presumption adopted in Order No. 697-A, but only if the protestor ties the flaw to the specific seller's ability to exercise market power in the market. Accordingly, to challenge the GenOn Northeast Sellers' market-based rate authority in this proceeding, the PJM IMM would need to show that the GenOn Northeast Sellers have market power that is not adequately mitigated by PJM's Commission-approved market power monitoring and mitigation.<sup>34</sup>

22. The PJM IMM has not made this showing. In particular, the PJM IMM has not submitted any specific evidence, as outlined in Order No. 861, demonstrating that the GenOn Northeast Sellers have market power. Rather, the PJM IMM points to concerns it has raised regarding the implementation of market power mitigation in PJM in its State of the Markets Report. These statements are not sufficient to make the required showing that an individual seller has the ability to exercise any potential market power it may have in PJM's electric energy market. Neither do they demonstrate that the implementation of PJM's mitigation is insufficient to mitigate such market power under Order No. 861.<sup>35</sup> Additionally, we decline to institute a separate FPA section 206 proceeding to investigate whether PJM's existing RTO/ISO mitigation measures continue to be just and reasonable.<sup>36</sup>

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<sup>32</sup> Order No. 861, 168 FERC ¶ 61,040 at PP 25-27. *See also Kestrel Acquisition, LLC*, 178 FERC ¶ 61,214, at P 32 (2022); *NRG Power Mktg. LLC*, 176 FERC ¶ 61,102, at P 44 (2021).

<sup>33</sup> Order No. 697-A, 123 FERC ¶ 61,055 at P 111.

<sup>34</sup> *See Harts Mill*, 173 FERC ¶ 61,216, at P 27.

<sup>35</sup> The Commission previously rejected similar arguments by the PJM IMM in market-based rate proceedings. *See, e.g., Calpine Energy Servs., L.P.*, 177 FERC ¶ 61,022 (2021) (accepting an updated market power analysis and rejecting the PJM IMM's protest); *Ala. Elec. Mktg, LLC*, 177 FERC ¶ 61,024 (2021) (same). We note that, in granting and reviewing market-based rate authority, the Commission does not certify markets as competitive; rather, it determines whether individual sellers have market power. Order No. 697, 119 FERC ¶ 61,295 at P 695.

<sup>36</sup> Regarding the PJM IMM's comments regarding Docket No. EL21-78-000, we note that the Commission issued an order in that proceeding on November 30, 2023. *PJM Interconnection, L.L.C.*, 185 FERC ¶ 61,158 (2023). We also note that the Commission accepted a proposal to modify PJM's energy market mitigation rules on October 25, 2024. *PJM Interconnection, L.L.C.*, 189 FERC ¶ 61,060 (2024).

The Commission has long held that intervenors may challenge the rebuttable presumption that Commission-approved market monitoring and mitigation is sufficient to address market power concerns.<sup>37</sup> The Commission has explained further, that, depending on the nature of the evidence submitted by an intervenor, the Commission will consider whether to institute a FPA section 206 proceeding to investigate whether the existing RTO/ISO mitigation continues to be just and reasonable. We have considered the evidence submitted by the PJM IMM in this proceeding and are not persuaded to institute a FPA section 206 proceeding because that evidence does not show that existing RTO/ISO mitigation may no longer be just and reasonable.

23. Based on the GenOn Northeast Sellers' representations, we find that the GenOn Northeast Sellers satisfy the Commission's requirements for market-based rates regarding horizontal market power.

**f. Vertical Market Power**

24. In cases where a public utility, or any of its affiliates, owns, operates, or controls transmission facilities, the Commission requires that there be a Commission-approved open access transmission tariff (OATT) on file; or that the seller has received waiver of the OATT requirement under 18 C.F.R. § 35.28(d)(1); or satisfies the requirements for blanket waiver under 18 C.F.R. § 35.28(d)(2).<sup>38</sup>

25. The GenOn Northeast Sellers explain that each of the Northeast Project Companies owns, operates, and/or controls operational transmission facilities that are interconnection facilities, and that the Northeast Project Companies qualify for the blanket waiver of the OATT, Open Access Same-Time Information System (OASIS), and Standards of Conduct requirements pursuant to section 35.28(d)(2) of the Commission's regulations.<sup>39</sup> The GenOn Northeast Sellers state that the other GenOn Northeast Sellers do not currently own, operate, or control operational transmission facilities of any kind, and are not subject to the OATT, OASIS, or Standards of Conduct requirements. The GenOn Northeast Sellers further

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<sup>37</sup> Order No. 861, 168 FERC ¶ 61,040 at P 26 (citing Order No. 697-A, 123 FERC ¶ 61,055 at P 5).

<sup>38</sup> See *Open Access & Priority Rts. on Interconnection Customer's Interconnection Facilities*, Order No. 807, 150 FERC ¶ 61,211 at P 57, *order on reh'g and clarification*, Order No. 807-A, 153 FERC ¶ 61,047 (2015) (waiving the OATT requirements of 18 C.F.R. § 35.28 (2015), the Open Access Same-Time Information System requirements of Part 37, and the Standards of Conduct requirements of Part 358, under certain conditions, for entities that own interconnection facilities); see also *Oildale Energy, LLC*, 153 FERC ¶ 61,013, at PP 12-14 (2015).

<sup>39</sup> Triennial Filing at 17-18 (citing 18 C.F.R. § 35.28(d)(2)).

represent that each of their affiliates that owns, operates, or controls Commission-jurisdictional transmission facilities: (1) has received waiver of the OATT requirement under section 35.28(d)(1) of the Commission's regulations, or (2) satisfies the requirements for a blanket waiver of the OATT requirement under Section 25.28(d)(2) of the Commission's regulations.

26. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.<sup>40</sup> The Commission requires a seller to provide a description of its ownership or control of, or affiliation with an entity that owns or controls, intrastate natural gas transportation, storage or distribution facilities, and physical coal supply sources and ownership of or control over who may access transportation of coal supplies (collectively, inputs to electric power production).<sup>41</sup> The Commission also requires sellers to make an affirmative statement that they have not erected barriers to entry into the relevant market and will not erect barriers to entry into the relevant market.<sup>42</sup> The Commission adopted a rebuttable presumption that the ownership or control of, or affiliation with any entity that owns or controls, inputs to electric power production does not allow a seller to raise entry barriers but will allow intervenors to demonstrate otherwise.<sup>43</sup>

27. The GenOn Northeast Sellers state that, with the exception of Hudson Valley, none of the GenOn Northeast Sellers or their affiliates own or control any intrastate natural gas transportation or intrastate natural gas storage or distribution facilities, any sources of physical coal supplies, or ownership or control over who may access transportation of coal supplies.<sup>44</sup>

28. The GenOn Northeast Sellers affirmatively state that they and their affiliates have not erected, and will not erect, barriers to entry into the relevant markets.<sup>45</sup>

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<sup>40</sup> Order No. 697, 119 FERC ¶ 61,295 at P 440.

<sup>41</sup> Order No. 697-A, 123 FERC ¶ 61,055 at P 176; *see also* Order No. 816, 153 FERC ¶ 61,065 at PP 207-212.

<sup>42</sup> Order No. 697, 119 FERC ¶ 61,295 at P 447; *see also* Order No. 816, 153 FERC ¶ 61,065 at PP 354, 356.

<sup>43</sup> Order No. 697, 119 FERC ¶ 61,295 at P 446.

<sup>44</sup> Triennial Filing at 18. *See Chalk Point Power, LLC*, 175 FERC ¶ 61,230, at PP 58-59 (2021) (finding that an affiliation with Hudson Valley did not create vertical market power issues for GenOn affiliates for purposes of market-based rates).

<sup>45</sup> Triennial Filing at 18.

29. Based on the GenOn Northeast Sellers' representations, we find that the GenOn Northeast Sellers satisfy the Commission's requirements for market-based rate authority regarding vertical market power.

## 2. Reporting Requirements

30. An entity with market-based rate authorization must file Electric Quarterly Reports (EQR) with the Commission, consistent with Orders Nos. 2001<sup>46</sup> and 768,<sup>47</sup> to fulfill its responsibility under FPA section 205(c)<sup>48</sup> to have rates on file in a convenient form and place.<sup>49</sup> The GenOn Northeast Sellers must file EQRs electronically with the Commission consistent with the procedures set forth in Order No. 770.<sup>50</sup> Failure to timely and accurately file an EQR is a violation of the Commission's regulations for which the GenOn Northeast Sellers may be subject to refund, civil penalties, and/or revocation of market-based rate authority.<sup>51</sup>

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<sup>46</sup> *Revised Pub. Util. Filing Requirements*, Order No. 2001, 99 FERC ¶ 61,107, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334, *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270, *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, 125 FERC ¶ 61,103 (2008). *See also Filing Requirements for Elec. Util. Serv. Agreements*, 155 FERC ¶ 61,280 (2016) (order clarifying reporting requirements and updating data dictionary).

<sup>47</sup> *Elec. Mkt. Transparency Provisions of Section 220 of the Fed. Power Act*, Order No. 768, 140 FERC ¶ 61,232 (2012), *order on reh'g*, Order No. 768-A, 143 FERC ¶ 61,054 (2013).

<sup>48</sup> 16 U.S.C. § 824d(c).

<sup>49</sup> *See Revisions to Elec. Q. Rep. Filing Process*, Order No. 770, 141 FERC ¶ 61,120, at P 3 (2012) (citing Order No. 2001, 99 FERC ¶ 61,107 at P 31).

<sup>50</sup> Order No. 770, 141 FERC ¶ 61,120.

<sup>51</sup> The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2025). Forfeiture of market-based rate authority may require a new application for market-based rate authority if the GenOn Northeast Sellers wish to resume making sales at market-based rates.

31. In Order No. 860,<sup>52</sup> the Commission revised its regulations governing market-based rates for public utilities to collect certain information through a market-based rate relational database in order to streamline and modernize the Commission's data collection processes. The GenOn Northeast Sellers must comply with the requirements of Order Nos. 860 and 860-A, as well as the regulations promulgated pursuant to those rules.

32. The GenOn Northeast Sellers must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.<sup>53</sup>

33. Additionally, the GenOn Northeast Sellers must file updated market power analyses for all regions in which they are designated as Category 2 sellers in compliance with the regional reporting schedule. The Commission also reserves the right to require such an analysis at any intervening time.<sup>54</sup>

The Commission orders:

(A) The GenOn Northeast Sellers' updated market power analysis is hereby accepted, as discussed in the body of this order.

(B) The GenOn Northeast Sellers are hereby directed to file updated market power analyses according to the regional reporting schedule, as discussed in the body of this order.

By the Commission.

( S E A L )

Carlos D. Clay,  
Deputy Secretary.

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<sup>52</sup> Order No. 860, 168 FERC ¶ 61,039; Order No. 860-A, 170 FERC ¶ 61,129.

<sup>53</sup> 18 C.F.R. § 35.42 (2025); *see also Reporting Requirement for Changes in Status for Pub. Utils. with Mkt.-Based Rate Auth.*, Order No. 652, 110 FERC ¶ 61,097, *order on reh'g*, 111 FERC ¶ 61,413 (2005).

<sup>54</sup> Order No. 697, 119 FERC ¶ 61,295 at P 853.