

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Darby Power LLC  
Gavin Power LLC  
Lawrenceburg Power LLC  
Waterford Power LLC  
Lightstone Marketing LLC  
ECP ControlCo LLC

Docket No. EC24-125

**Joint Protest of Public Citizen, Private Equity Stakeholder Project, and  
Sierra Club**

On September 27, the private equity firm Energy Capital Partners and Javelin Global Commodities filed a joint application to acquire a fleet of power plants and marketing entities from Blackstone and ArcLight, including the acquisition of several large electric generation units within PJM:

- Darby, a six-unit, 480MW natural-gas-fired generating station located near Mount Sterling, Ohio.
- Gavin, a two-unit, 2,722MW coal-fired power plant in Cheshire, Ohio.
- A 1,190MW natural gas-fueled facility in Lawrenceburg, Indiana.
- A 875MW natural-gas power plant in Waterford, Ohio.

The application's description of Javelin Global Commodities is sparse, only noting that it is based in the United Kingdom; that Javelin is controlled by three individuals (Peter Bradley, Spencer Sloan and Peter Pritchard); and it does not own or control any inputs to electric power production in the United States.<sup>1</sup>

The application's description of Javelin's upstream ownership appears to be incomplete. In August 2024, ITOCHU Corporation announced it had made an equity investment in Javelin Global Commodities.<sup>2</sup> ITOCHU appears to control public utilities with market-based authorization subject to Commission jurisdiction.<sup>3</sup>

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<sup>1</sup> *Application*, at pages 16-17.

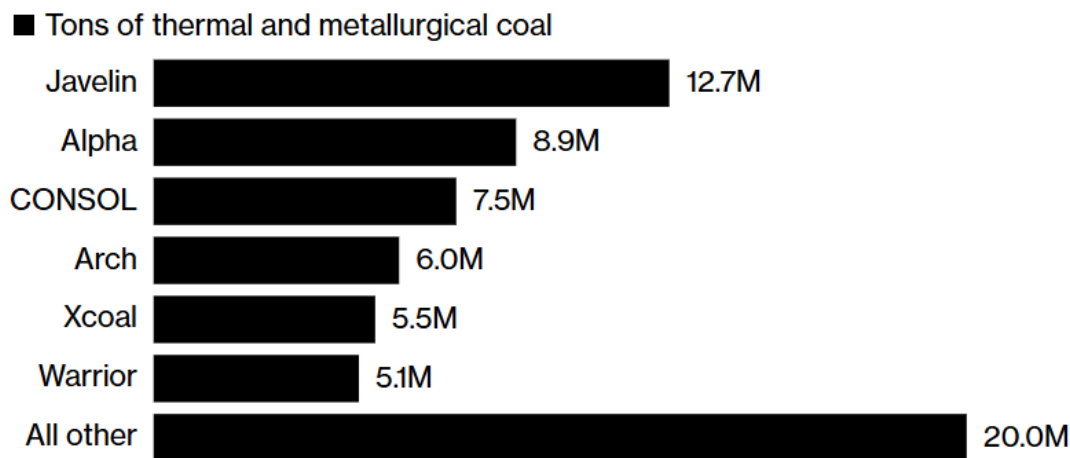
<sup>2</sup> [www.prnewswire.com/news-releases/itochu-takes-equity-stake-in-javelin-global-commodities-302216859.html](https://www.prnewswire.com/news-releases/itochu-takes-equity-stake-in-javelin-global-commodities-302216859.html)

<sup>3</sup> Application for authorization under Section 203 of the Federal Power Act of Hickory Run Energy, LLC under EC24-97, at page 8. [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_number=20240701-5440](https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20240701-5440)

The application is deficient, as it fails to provide necessary detail on Javelin Global Commodities’ status as one of America’s largest coal suppliers, with Javelin controlling the movement and sales of millions of tons of coal in the United States each year, and accounts for one-fifth of all U.S. coal exports.<sup>4</sup> Javelin has numerous financial arraignments with both U.S. coal producers *and* coal fired power plants that provide it with control over significant volumes of U.S. coal. The Application reveals in a footnote that “Javelin may obtain contractual rights to the economics and management of Gavin”,<sup>5</sup> which appears to indicate that Javelin intends, among other things, to direct fuel supply decisions for the Gavin facility. Javelin’s role as one of the largest physical coal traders in the United States should raise vertical competition concerns. These facts appear to contradict the application’s claim that Javelin lacks ownership or control of “inputs to electric power production in the United States.”

### Top US Coal Exporters in 2022

Javelin handled nearly 20% of total coal exports from the biggest US hubs



Source: Riverside Shipping  
Includes shipments from ports in Virginia, Maryland, Alabama, Louisiana and Texas

<sup>4</sup> Alastair Marsh, Archie Hunter, Todd Gillespie and Jack Farchy, “Ex-Goldman Bankers Make a Fortune With Controversial Bet on Coal,” September 20, 2023, [www.bloomberg.com/news/articles/2023-09-20/how-2-ex-goldman-bankers-built-a-1-billion-coal-business](http://www.bloomberg.com/news/articles/2023-09-20/how-2-ex-goldman-bankers-built-a-1-billion-coal-business)

<sup>5</sup> Footnote 63, at page 18.

The Application’s *Affidavit of Julie R. Solomon and Jeffrey J. Opgrand* states that in the first half of 2024, Javelin reported a *de minimis* volume of coal sales in PJM, transacting with only one power plant (Clover) in Virginia.<sup>6</sup> The Affidavit should be viewed as incomplete, as it omits Javelin’s sales of coal for export from ports located within or adjacent to PJM. Javelin’s significant role as a coal exporter within the PJM footprint impacts fuel markets as much as direct coal sales to power plants, yet those transactions are omitted from the application. Furthermore, the Affidavit appears to assume that Javelin’s coal sales are static, when in reality Javelin’s coal trading can ramp up or down depending upon contractual arraignments and market opportunities. For example, while the Affidavit was eager to highlight Javelin’s limited 2024 sales, it omits that in 2023 Javelin reported sales to three different coal power plants in PJM: Homer City, John Amos and Clover.<sup>7</sup>

The *Affidavit of Julie R. Solomon and Jeffrey J. Opgrand* claims at page 20 that “Javelin’s affiliate, Bluegrass Natural Resources, produces, stores and sells coal, but makes no coal sales to any electric generation facilities.” This is categorically false. An affiliate of Bluegrass Natural Resources, Bluegrass Commodities, has been an active seller of coal to power facilities in the United States.<sup>8</sup>

### **The Proposed Transaction May Result In Unjust And Unreasonable Capacity Auction Prices**

The proposed acquisition of additional generation capacity in PJM doubles Energy Capital Partners’ total capacity within PJM. The PJM independent market monitor has concluded that the PJM capacity market is structurally uncompetitive.<sup>9</sup> Allowing Energy Capital Partners to double its existing capacity within the PJM capacity risks creating increased opportunities for the exercise of market power and leaves customers more vulnerable to unjust and unreasonable rates.

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<sup>6</sup> At pages 19-20.

<sup>7</sup> *Fuel Receipts and Costs*, [www.eia.gov/electricity/data/eia923/](http://www.eia.gov/electricity/data/eia923/)

<sup>8</sup> *Fuel Receipts and Costs*, [www.eia.gov/electricity/data/eia923/](http://www.eia.gov/electricity/data/eia923/)

<sup>9</sup> Analysis of the 2025/2026 RPM Base Residual Auction, September 20, 2024 [www.monitoringanalytics.com/reports/Reports/2024/IMM\\_Analysis\\_of\\_the\\_20252026\\_RPM\\_Base\\_Residual\\_Auction\\_Part\\_A\\_20240920.pdf](http://www.monitoringanalytics.com/reports/Reports/2024/IMM_Analysis_of_the_20252026_RPM_Base_Residual_Auction_Part_A_20240920.pdf)

## **Application is Silent On Relationship To ECP's AI Data Center Deal**

Last month, Energy Capital Partners announced a \$50 *billion* partnership with the private equity firm KKR to invest and own power and transmission infrastructure to support artificial intelligence data centers.<sup>10</sup> The Commission should require applicants to detail what relationship, if any, exists between the acquisition of power assets in this transaction with its announced AI deal with KKR and whether there is a possibility Energy Capital Partners is contemplating affiliate agreements for behind-the-meter generation that might reduce the availability of capacity from these resources into the PJM market.

## **ECP and Javelin Should Clarify Plans to Retire Gavin**

Since the announcement of ECP's plans to acquire Gavin, it has been reported that the coal plant is slated for retirement in the coming years.<sup>11</sup> Additionally, PESP and Sierra Club sent letters to Blackstone and ECP urging that the planned retirement of Gavin, one of the US's largest and dirtiest coal plants, be included in the conditions of the sale and have not received clarification on the matter.<sup>12</sup> <sup>13</sup> Given the above deficiencies of the application and potential for conflict if Javelin is slated to supply coal to Gavin, plans for retirement of the coal plant should be addressed by the applicants. It remains our position that the plant should be retired.

## **Motion to Intervene of Private Equity Stakeholder Project and Sierra Club**

Public Citizen intervened in this proceeding on October 2.<sup>14</sup>

The Private Equity Stakeholder Project moves to intervene in this proceeding. PESP supports stakeholders impacted by private equity firms and similar private asset

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<sup>10</sup> Allison McNeely, *KKR and Energy Capital Partners Form \$50 Billion AI Partnership*, October 30, 2024, [www.bloomberg.com/news/articles/2024-10-30/kkr-and-energy-capital-partners-form-50-billion-ai-partnership](https://www.bloomberg.com/news/articles/2024-10-30/kkr-and-energy-capital-partners-form-50-billion-ai-partnership)

<sup>11</sup> Dan Gearino, *Five (and Soon, Maybe Six) of the Country's 10 Largest Coal Plants Have Retirement Dates*, October 10, 2024, <https://insideclimatenews.org/news/10102024/inside-clean-energy-largest-coal-plants-retirement-dates/>

<sup>12</sup> *PESP sends letters to Blackstone, ECP urging Gavin coal plant retirement* <https://pestakeholder.org/news/peps-sends-letters-to-blackstone-ecp-urging-gavin-plant-retirement/>

<sup>13</sup> EPA, *Greenhouse Gas (GHG) Emissions Data from Large Facilities* <https://ghgdata.epa.gov/ghgp/main.do#/listFacility/>

<sup>14</sup> [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_number=20241002-5029](https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20241002-5029)

managers. The proposed transaction between two large private equity firms would add significantly more generation capacity to the largest private equity owner of power plants in the US, impacting consumers, communities, and the planet. More information is available on our website.<sup>15</sup>

Sierra Club moves to intervene in this proceeding. Founded in 1892, the Sierra Club is a national organization with more than 60 chapters and over a million members and supporters. The Sierra Club's purpose is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environments. To promote affordable and clean energy, Sierra Club frequently advocates before FERC on issues of market design, fair participation, and just and reasonable rates. This proceeding raises issues which are important to the environmental, public health, and affordability interests that Sierra Club, particularly its Ohio Chapter, seeks to advance.

Respectfully submitted,

Tyson Slocum, Energy Program Director  
Public Citizen, Inc.  
215 Pennsylvania Ave SE  
Washington, DC 20003  
(202) 454-5191  
tslocum@citizen.org

Alissa Jean Schafer, Climate Director  
Private Equity Stakeholder Project  
2513 N Central Park Ave  
Chicago, IL 60647  
alissa.jean.schafer@pestakeholder.org

Megan Wachspress  
Tony Mendoza  
Sierra Club Environmental Law Program  
2101 Webster St., Suite 1300  
Oakland, CA 94612  
(415) 977-5635  
megan.wachspress@sierraclub.org  
tony.mendoza@sierraclub.org

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<sup>15</sup> <https://pestakeholder.org/>