

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

PJM Interconnection, L.L.C.)	
)	Docket No. EL08-44-000
Complainant)	
v.)	
Accord Energy LLC)	
BJ Energy LLC)	
Franklin Power LLC)	
GLE Trading LLC)	
Ocean Power LLC)	
Pillar Edge LLC)	
Power Edge LLC)	
Tower Research Capital LLC)	
Tower Research Capital)	
Investments, LLC)	
)	
Respondents)	
)	

**MOTION FOR CLARIFICATION
OF THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rule 212 of the Commission’s Rules and Regulations, 18 CFR 385.211 & 385.212 (2009), Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (“Market Monitor”),¹ submits this motion for clarification of

¹ PJM Interconnection, L.L.C. is a FERC-approved Regional Transmission Organization. Capitalized terms used herein but not otherwise defined have the meaning specified in the PJM Open Access Transmission Tariff (“OATT”).

the Commission's Order Denying Company in Part, issued in this proceeding on April 2, 2009 ("April 2nd Order").

In the April 2nd Order, the Commission indicates that the investigation by its Office of Enforcement ("OE") "is ongoing," but determined that it would take "no further action" regarding two of PJM's allegations raised in this proceeding. The Commission specifically found (at P 2):

The first complaint allegation addressed in the report is that certain Tower Company affiliates perpetrated a fraud upon PJM by entering into coordinated, offsetting positions in the market for FTRs, concentrating high-risk or losing positions in one affiliate, Power Edge, and *deliberately causing Power Edge to default on its obligations* by saddling it with these positions, and hedging its risk in its more profitable affiliates rather than Power Edge. The second complaint allegation addressed in the report is that Power Edge was *deliberately under- or de-capitalized in order to trigger its collapse*" (emphasis added).

The Market Monitor understands that the Commission's finding here is limited to the proposition that Respondents did not, from the outset, plan for Power Edge to go bankrupt and did not undercapitalize Power Edge in furtherance of that plan.

The Market Monitor is concerned, especially upon review of a number of requests for rehearing filed by parties to this proceeding, that the above quoted language could be construed more aggressively. The Market Monitor, therefore, requests that the Commission clarify the following:

- The Commission has made no final determination about whether the Respondents have manipulated PJM credit rules in a manner constituting

inappropriate conduct and behavior in the electricity markets subject to the Commission's regulation, but only that any such manipulative scheme(s) did not include, from the outset, a plan to intentionally bankrupt Power Edge.

- The various determinations in the OE's report that were the basis for the Commission's decision may be revisited to the extent that they relate to a manipulative scheme that did not necessitate from the outset, but may have required as a contingency, a bankruptcy to execute. For example, the question of whether Power Edge was appropriately capitalized is limited to whether it was intentionally undercapitalized in order to drive it into bankruptcy.

This case involves complex and interrelated actions by highly sophisticated enterprises. It raises matters of first impression that may take considerable time to analyze and investigate, particularly when the Market Monitor has thus far performed its analysis based entirely upon market data. This poses special challenges when the criteria of proof include a showing of intent.

The Market Monitor respectfully asks that the Commission afford sufficient time for it to thoroughly review all of the allegations raised in this proceeding, and to afford it access to the complete record,² before going further than the very limited and reasonable finding in the April 2nd Order. The additional time will be well spent if it helps to ensure the integrity of and continued confidence in PJM markets, and it helps to protect PJM and its Members from unjust and unreasonable exposure to possible

² See Comments and Motion to Intervene Out-Of-Time of the Independent Market Monitor for PJM filed in the above captioned proceeding on April, 22, 2009.

abuse of PJM's credit policies from participants unwilling to act with the self restraint required by law.

The Market Monitor respectfully requests that the Commission grant this motion to clarify in accordance with the foregoing its April 2nd Order in this proceeding.

Respectfully submitted,



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Dated: May 5, 2009

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 Eagleville, Pennsylvania,
this 5th day of May, 2009.



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