

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

New York Independent System Operator, Inc.	) ) ) )	Docket No. ER08-1281-000
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**MOTION TO INTERVENE OUT-OF-TIME  
OF THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rules 212 and 214 of the Commission’s Rules and Regulations, 18 CFR § 385.212 & 385.214 (2008), Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (“Market Monitor”),<sup>1</sup> submits this motion to intervene out-of-time in the above captioned proceeding.

**I. MOTION TO INTERVENE**

The PJM Tariff requires that the Market Monitor, among other things, monitor “actual or potential design flaws in the PJM Market Rules,” “structural problems in the PJM Markets that may inhibit a robust and competitive market” and “the potential for a Market Participant to ... violate ... FERC Market Rules,” including specifically “market behavior rules and the prohibition against energy market manipulation codified by the

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<sup>1</sup> PJM Interconnection, L.L.C. is a FERC-approved Regional Transmission Organization

Commission in its Rules and Regulations at 18 CFR §§ 1c.2 and 35.37, respectively.”<sup>2</sup>

Issues raised in this proceeding implicate these responsibilities.

In its order of July 16, 2009, the Commission indicates its intent “take action in response to protests ... calling for long term solutions to the loop flow problem and require the New York Independent System Operator, Inc. (“NYISO”) to develop with its neighboring RTOs a long-term comprehensive solution to the loop flow problem, including addressing interface pricing and congestion management,” and ordered that the NYISO file a report “detailing such solutions” within 180 days.<sup>3</sup> Loop flows raise a fundamental issue regarding the market design at the seams between PJM and each of its neighboring control areas, and, as the July 16<sup>th</sup> Order indicates (at P 3), RTO policies designed to address loop flows could create inefficient behavioral incentives. There is the risk that approaches to seams management could create incentives and opportunities for anticompetitive behavior. Consequently, this matter implicates matters within the Market Monitor’s purview, and it is in the public interest that the Commission grant this motion.<sup>4</sup> Rule 214 provides that the Commission may grant interventions where “[t]he movant’s participation is in the public interest.”<sup>5</sup> The Market

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<sup>2</sup> OATT Attachment M §§ II & IV.B.2–4.

<sup>3</sup> *New York Independent System Operator, Inc.*, 128 FERC ¶61,049 at P 1 (2009) (“July 16<sup>th</sup> Order”).

<sup>4</sup> See NYISO Transmittal letter at 3; NYISO July 21<sup>st</sup> Transmittal Letter at 5; *New York Independent System Operation, Inc.*, 124FERC ¶61,174 at PP 29–32 (2008).

<sup>5</sup> 18 CFR § 214(b)(2)(iii).

Monitor has the exclusive duty to perform the market monitoring function for PJM, and no other party can adequately represent it in this proceeding.

Good cause exists to permit this intervention out-of-time. The Market Monitor was not a fully separate entity when this matter commenced. More recently, the Market Monitor has indicated its concerns in comments submitted in the closely related proceeding in Docket No. ER08-198-000.<sup>6</sup> Participation by the Market Monitor will not prejudice the interests of any party. The Market Monitor accepts the record in this proceeding as it stands, and seeks to intervene in order to participate in the additional process required by the Commission that necessarily implicates PJM and its market design. Accordingly, the Market Monitor moves that the Commission grant it leave to intervene out-of-time and afford to it full rights as a party to this proceeding.

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<sup>6</sup> Motion to Intervene and Comments of the Independent Market Monitor for PJM, filed November 10, 2009.

## II. COMMUNICATIONS

Pursuant to 18 CFR § 385.203(b)(3), the Market Monitor designates the following persons as those to receive all notices and communications with respect to this proceeding:

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### III. CONCLUSION

The Market Monitor respectfully requests that the Commission grant this motion to intervene out-of-time in this proceeding.

Respectfully submitted,



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Dated: September 2, 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 2<sup>nd</sup> day of September, 2009.



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