

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

Black Oak Energy, LLC)	
EPIC Merchant Energy, LP and)	Docket No. EL08-14-010
SESCO Enterprises, LLC)	
)	
v.)	
)	
PJM Interconnection, Inc.)	
)	
)	

**MOTION FOR LEAVE TO ANSWER AND ANSWER
OF THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rules 212 and 213 of the Commission’s Rules and Regulations, 18 CFR § 385.212 & 385.213 (2013), Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM¹ (“Market Monitor”), moves for leave to answer and answers the answer filed in this proceeding on June 3, 2014 by the Financial Marketers. The Market Monitor responds to new arguments raised by the Financial Marketers about the nature of the Market Monitor’s filing. Financial Marketers cite to administrative rules that are off point and cases which are consistent with the Market Monitor’s approach. Financial Marketers do not provide a reason not to fully consider the Market Monitor’s arguments in this proceeding in the form in which they have been presented.

The Market Monitor is an institution created by the Commission that advocates for the public interest in competitive markets, consistent with the objectives set forth in Order No. 2000.² Pleadings filed by the Market Monitor reflect the expertise of its staff, and its head, Dr. Joseph Bowring. The Market Monitor relies on internal counsel on questions of

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

² See Order No. 2000, 89 FERC ¶ 61,285, (December 20, 1999).

law and policy. Under these circumstances, the Market Monitor's filing is an efficient statement of its position as an institution, and is consistent with the goals of the cited regulations.³

Whether intended or not, the Financial Marketers cite cases that are consistent with the Market Monitor's approach. Both cases are consistent with an approach that avoids the submittal of duplicative documents.⁴ Both cases cited by the Financial Marketers are consistent with the Market Monitor's position that an affidavit would be duplicative when the expertise of the submitting party is established. The Commission held in both *Sea Robin Pipeline* and *Sierra Pacific* that lawyers should not file affidavits when their arguments could be contained in brief format.⁵ Likewise, the credentials of the Commission-approved Market Monitor should be considered well established when the Market Monitor's comments are filed in its official capacity and come within the scope of its chartering tariff provisions.

The Market Monitor respectfully requests that the Commission consider this answer as it resolves the issues raised in this proceeding.

³ 18 C.F.R. § 385.507(d); 18 C.F.R. § 385.509(a).

⁴ *See Sea Robin Pipeline Co.*, 47 FERC ¶ 63,011 at 65,031 (1989) ("In short, the striking of legal opinions and expert opinions relying on specialized knowledge which will not help the decisionmakers is an efficient way of proceeding and does not preclude any party from pursuing the matters in their briefs."); *see also Sierra Pac. Power Corp.*, Docket No. ER99-38-002, Order Denying in Part and Granting in Part Various Motions to Strike *mimeo* at 2 (Striking testimony offered by an attorney whose "pre-filed testimony totally consists of legal opinion" and nothing else, regarding a decision of a state public utilities commission.)

⁵ *Id.*

Respectfully submitted,

Maeve C. Tibbetts /s/

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Dated: June 19, 2014

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 19th day of June, 2013.

Maeve C. Tibbetts /s/

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