

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Citadel FNGE Ltd.,

Petitioners,

vs.

Federal Energy Regulatory Commission,

Respondent.

Case No. 22-1090

**MOTION OF
THE INDEPENDENT MARKET MONITOR FOR PJM
FOR LEAVE TO INTERVENE**

Pursuant to Rule 15(d) of the Federal Rules of the Appellate Procedure and Rule 15(b) of the Court’s Local Rules, Monitoring Analytics, LLC, acting in its role as the Independent Market Monitor for PJM (“Market Monitor”), moves for leave to intervene in this proceeding in support of Respondent Federal Energy Regulatory Commission (“Commission”).

PJM Interconnection, L.L.C. (“PJM”) is the Regional Transmission Organization (“RTO”) for all or portions of Delaware, the District of Columbia, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia. PJM is authorized by Respondent Federal Energy Regulatory Commission (“FERC”) to administer an Open Access Transmission Tariff (“Tariff”), operate a wholesale energy and other markets, including the PJM Capacity Market, and operate the bulk power system in its region. PJM was approved by FERC first as an independent system operator (“ISO”), *Pennsylvania-New Jersey-Maryland Interconnection*, 81 FERC ¶ 61,257 (1997), *reh’g denied*, 92 FERC ¶ 61,282 (2000),

modified sub nom. Atl. City Elec. Co. v. FERC, 295 F.3d 1 (D.C. Cir. 2002), and then as an RTO, *PJM Interconnection, L.L.C.*, 101 FERC ¶ 61,345 (2002).

As a condition for approval as an ISO and as an RTO, PJM was required to have an independent market monitoring function. 81 FERC ¶ 61,257, 62,282; 101 FERC ¶ 61,345, 62,444, citing *PJM Interconnection, L.L.C., et al.*, 96 FERC ¶ 61,061, 61,239 (2001). The Market Monitor is charged to “objectively monitor the competitiveness of PJM Markets, investigate violations of FERC or PJM Market Rules, recommend changes to PJM Market Rules, prepare reports for the Authorized Government Agencies and take such other actions as are specified in this Plan.” OATT Attachment M § IV.A. The Market Monitor is solely responsible for the market monitoring function for PJM and has been since the inception of PJM markets in 1999. In 2008, the Market Monitor became a fully separate organization, and the Market Monitor has continued since that time to perform the market monitoring function pursuant to a Market Monitoring Services Agreement with PJM. *Allegheny Elec. Coop., et al. v. PJM Interconnection, L.L.C.*, 122 FERC ¶ 61,257, 62,486–62,487 (2008). The Market Monitor is responsible for implementing the PJM Market Monitoring Plan, which is included in the Tariff as Attachment M and Attachment M–Appendix.

Petitioners seek review of orders finding certain PJM market rules concerning Transmission Constraint Penalty Factors unreasonable and accepting PJM’s proposed revisions as just and reasonable in order to protect consumers in the Northern Neck peninsula of Virginia in the Dominion Transmission Zone. The Market Monitor has the responsibility to monitor “Actual or potential design flaws in the PJM Market Rules.” OATT Attachment M § IV.B.2. The Market Monitor filed pleadings supporting the rule change, consistent with its duty to “evaluate and monitor existing and proposed PJM Market Rules, PJM Tariff provisions, and the design of the PJM Markets” and to “make filings with the Commission on market design issues.” *See* OATT Attachment M § IV.D.

In addition to correcting market design flaws, the revised rules for Transmission Constraint Penalty Factors reduced the potential exploitation of the market design flaw. The Market Monitor states in its comments filed February 2, 2022, in FERC Docket No.

EL22-26: “In this case, virtual traders have engaged in market manipulation by engaging in false arbitrage and taking advantage of a ‘money tree’ that has nothing to do with market fundamentals. Virtual traders have already profited significantly and there have been increasing levels of virtual activity in the area.” In addition to market design issues, the Market Monitor has the responsibility to monitor “[t]he potential for a Market Participant to exercise market power or violate any of the PJM or FERC Market Rules or the actual exercise of market power or violation of the PJM or FERC Market Rules.” OATT Attachment M § IV.B.4. FERC rules prohibit manipulation of the electricity markets. *See* 18 CFR § 1c.2.

The Market Monitor has the exclusive authority to perform the functions set forth in Attachment M and the Attachment M-Appendix.

The Market Monitor has a direct and substantial interest in this proceeding. Such interest cannot be adequately represented by any other party.

CONCLUSION

The Market Monitor respectfully requests that the court grant its motion for leave to intervene in this proceeding.

Respectfully submitted,



Jeffrey W. Mayes
General Counsel
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8053
jeffrey.mayes@monitoringanalytics.com

June 10, 2022

DISCLOSURE STATEMENT

Monitoring Analytics, LLC has no parent corporation. Because Monitoring Analytics, LLC does not issue stock, no corporation can own ten percent or more of its stock.

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Appellate procedure, I hereby certify that I have this 10th day of June, 2022, served the foregoing Motion of the Independent Market Monitor for PJM for Leave to Intervene and Corporate Disclosure Statement via the CM/ECF system.



Jeffrey W. Mayes
General Counsel
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, Pennsylvania 19403
(610) 271-8053
jeffrey.mayes@monitoringanalytics.com