FEDERAL ENERGY REGULATORY COMMISSION

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Commission Acts to Assure Independence of PJM Market Monitoring

The Federal Energy Regulatory Commission today acted to assure independence of market monitoring in the PJM Interconnection and preserve the integrity of PJM market operations by directing all parties to enter into a settlement process.

In an order issued today, the Commission agreed with the parties that settlement is preferable to litigation and gave them 14 days to select a facilitator to help resolve their disputes. These disputes arose after PJM's market monitor raised allegations during an April technical conference that PJM management had interfered with his work.

The Commission invited the parties to use the traditional settlement options available in Commission proceedings, such as selecting a settlement judge or using the Dispute Resolution Service. As a third option, given the unique nature of the case, the Commission offered to appoint its General Counsel John Moot as facilitator if that would help make possible a negotiated resolution.

If they cannot meet that deadline, the Commission said it will make a selection for them.

In sending the matter to a settlement conference, the Commission also made a preliminary finding that the market monitor should report to the PJM Board of Managers or to an independent committee of the board, rather than to both the board and PJM management.

The Commission took up the matter after complaints were filed charging PJM's interference had violated its tariff. In today's order, the Commission found that PJM had not violated its tariff, but that the tariff might need to be modified to reform the relationship between PJM and its market monitor.

"The Commission takes very seriously any allegations of interference with the market," Chairman Joseph T. Kelliher said. "In reviewing this case, we found there to be significant tension between PJM management and the market monitor that could compromise the monitor's ability to perform his tariff-related duties. To preserve the integrity of the PJM market, we must resolve these problems quickly."

Whichever facilitator the parties choose, the Commission will require an interim report on progress within 45 days and a final report within 90 days. If there is no settlement at that time, the Commission will issue an order resolving those structural and functional issues that bear on the monitor's ability to perform his duties.

In its order, the Commission commended both PJM for submitting proposed tariff amendments in a settlement offer in August, and the parties for their willingness to enter into negotiations. But the Commission did not accept PJM's amendments and instead set the matter for settlement.

The Commission refused to make several key policy findings to facilitate the settlement, as requested by

PJM. The Commission said that, with one exception, the parties should be given the opportunity to negotiate these matters during the settlement process. That exception concerns the reporting relationship between the market monitor and PJM management, and requires that any negotiated settlement include a provision that the market monitor report solely to PJM's Board of Managers or to an independent committee of that board.

The Commission also found that the evidence in the case did not support allegations of tariff violations but did raise serious questions as to whether the tension between PJM management and the market monitor prevents a workable relationship between the two and therefore may compromise the ability of the market monitor to perform its tariff-defined functions.

The matter also raised concerns that market participants may lose confidence in the integrity of PJM's market operations, the Commission said. In Order No. 2000, which set the framework for development of regional transmission organizations (RTOs), the Commission stated that efficient and competitive markets are possible only if market participants have confidence in the institutions and rules that govern those markets.

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