



**Federal Energy Regulatory Commission**  
**September 20, 2007**  
**Open Commission Meeting**  
**Statement of**  
**Chairman Joseph T. Kelliher**

**Item E-3: Allegheny Electric Cooperative, Inc. *et al.* V. PJM Interconnection L.L.C., *et al.* and Organization of PJM States, Inc. *et al.* v. PJM Interconnection, L.L.C. *et al.* (Docket Nos. EL07-56-000 and EL07-58-000)**

"Today the Commission acts to assure adequate independence in market monitoring in the PJM Interconnection and safeguard the integrity of PJM market operations. We make a preliminary finding that the PJM tariff, under the particular circumstances brought to light in this case, may be unjust and unreasonable as it relates to the reporting requirements of its market monitor. We require a change in those reporting requirements to assure adequate independence in market monitoring, providing that the market monitor will report solely to the PJM Board of Managers or to an independent committee of the Board.

This action was taken in response to complaints filed last April by a group of states, municipalities and cooperatives, and by the Organization of PJM States, Inc. These complaints alleged certain tariff violations, and also charged PJM with interfering with the independence of its market Monitor. We disagree with the first argument, finding there were no tariff violations. However, we agree that the significant tension between PJM management and the market monitor could compromise the market monitor's ability to perform his tariff-defined functions and that, as a result, tariff modifications may be necessary..

Our order also provides for a process to facilitate settlement – we give the parties 14 days to inform the Commission whether they prefer a settlement judge, the Commission's Dispute Resolution office, or the General Counsel to resolve the issues among the parties. It is important that we implement this remedy in the near future in order to assure independence of market monitoring and safeguard the integrity of PJM market operations. For that reason, I urge the parties to commit themselves to the settlement process, and try to reach consensus as quickly as possible.

The Commission took these complaints very seriously. The complaints urged us to act quickly to determine whether tariff violations had occurred. They also encouraged us to take remedial action in a timely manner to assure the independence of market monitoring. We fast tracked the complaints, the first time we have done so. We issued data requests to develop a complete record.

We deny the tariff allegations because that is the only course supported by the record. However, we do make a preliminary finding that the current reporting relationship specified in PJM's tariff is, under the circumstances, unjust and unreasonable, and requires change to assure independence. We agree there is a problem, one that requires Commission action. And we order appropriate action.

The Commission's interest in the role and structure of market monitoring is not limited to PJM. Last April, the Commission held a technical conference to consider the role and structure of market monitoring units at regional transmission organizations and independent system operators. That conference was held at the initiative of the Commission, not at the request of any outside party. We took this initiative out of concern that the May 2005 Policy Statement on Market Monitoring Units was no longer adequate, and the Commission needed to take further steps to clarify the role and structure of market monitoring units.

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There was a very helpful exchange of views at the technical conference on this subject, and the record of the April technical conference informed the Wholesale Competition Advanced Notice of Proposed Rulemaking (Competition ANOPR) we issued in June. The Competition ANOPR proposed to clarify the role and structure of market monitoring units, not just in PJM but all the organized markets.

A number of parties urged us to refrain from ordering changes to the structure of the PJM market monitoring unit until a final rule is issued in the Competition ANOPR proceeding. We do not refrain. It will be a number of months before a final competition rule is issued, and the need to assure adequate independence in PJM market monitoring and preserve the integrity of PJM market operation is too urgent to wait any longer."