

Rule 206 is not only relevant, it is the determinative rule. Rule 206 implements Sections 206 and 306 of the Federal Power Act.³ Section 306 of the Federal Power Act confers a statutory right that “any person ... may apply to the Commission by petition which shall briefly state the facts, whereupon a statement of the complaint thus made shall be forwarded by the Commission to such ... public utility, who shall be called upon to satisfy the complaint or to answer the same.”⁴ The Commission has not changed its rule. The ability of persons to file complaints originates in the Federal Power Act.

Both Monitoring Analytics, LLC and the Market Monitor separately meet the definition of a person. The Market Monitor constitutes “an organized group of persons, whether incorporated or not.”⁵ The PJM tariff explicitly recognizes that the Market Monitor can file complaints.⁶ PJM’s argument fails as a matter of law.

B. Market Monitor Complaints Pose No Conflict for the PJM Board.

PJM claims (at 2) that Market Monitor complaints create a conflict for the PJM Board of Managers, noting that “market monitoring is a definitional element of any [RTO].”

PJM misunderstands the role of the PJM Board of Managers (“PJM Board”) as it relates to the Market Monitor. Market Monitor complaints do not create a conflict for the PJM Board.

The PJM Board manages the contract with the Market Monitor but has no supervisory authority over the independent market monitoring function, including the Market Monitor’s participation in stakeholder or regulatory processes. In fact, both the tariff

³ 16 U.S.C. §§ 824e & 825e.

⁴ 16 U.S.C. § 825e.

⁵ See 18 CFR § 385.102(d).

⁶ OATT Attachment M § IV.D-1.

and the contract with the Board require the Market Monitor to operate independently.⁷ Nothing requires or prevents the Board from taking any position on a dispute involving the Market Monitor and PJM. PJM's argument has no merit and should be rejected.

PJM apparently now misunderstands what it means to be independent. The narrowly and specifically defined reviews of the Market Monitor's budgets by the PJM Board and by the Finance Committee do not change that independence. This is so clear and unambiguous that it has not been challenged by PJM or any other party prior to this PJM filing. To paraphrase PJM, such constraints on independence cannot have been what the Commission had in mind when it created independent market monitors.

PJM does not explain why the ability of the Market Monitor to disagree with PJM in other public venues does not create the same conflicts for the PJM Board or the Finance Committee. The PJM argument attempts to prove too much. In no case does the ability of the Market Monitor to disagree with PJM create any conflicts for the PJM Board.

C. Market Monitor Complaints Pose No Conflict for the PJM Finance Committee.

PJM argues (at 2–3) that Market Monitor complaints against PJM somehow “limit[] the Finance Committee in providing real fiscal oversight (at least as regards resources earmarked to sue the RTO).” The defined role of the Finance Committee is not to provide fiscal oversight of the Market Monitor.⁸ No resources are “earmarked to sue the RTO” any

⁷ See OATT Attachment M § III.C; Market Monitoring Services Agreement By And Between PJM Interconnection, L.L.C. And Monitoring Analytics, LLC (“MMSA”) § 27 (“Maintaining independence. In order for the PJM Board to ensure IMM is adequately performing the functions and responsibilities under the Agreement, the PJM Board will review and evaluate whether IMM is providing the Services in an independent manner, without improper influence from PJM management, PJM staff, market participants, state commissions, or other stakeholders. The PJM Board expects IMM to keep it, the Commission, stakeholders and the public fully informed and that IMM will express its professional opinions, consistent with its independence, even where such positions differ from the positions of PJM management, PJM staff, market participants, state commissions, or other stakeholders.”).

⁸ See MMSA § 11.3 (“IMM shall provide a budget for 2014, including total labor compensation, non-employee labor expense, current full-time employee and contractor head count, depreciation

more than PJM earmarks funds to sue itself.⁹ The alleged conflict has no basis in fact and should be disregarded.

The Market Monitor provides budget information to the Finance Committee based on seven defined categories.¹⁰ The purpose of providing budget information to the Finance Committee of the PJM members is to ensure that PJM members can understand the Market Monitor budget, ask questions, identify issues and request changes. Any unresolved issues may be identified as disputed in PJM's filing with the Commission.¹¹

The ability to identify issues for the Commission's consideration does not mean that the Finance Committee has oversight authority or any authority over the Market Monitor budget. Such authority would contradict the independence of the Market Monitor. Any person may file comments on the Market Monitor's budget once it has been filed by PJM on the Market Monitor's behalf.¹²

D. An Independent Market Monitoring Role Contributes to the Independence of the RTO.

The Market Monitor agrees that "market monitoring is a definitional element of any RTO" if by that one means "RTO" in the larger sense, not limited to PJM management/staff. Market Monitor complaints are one means for the market monitoring function to contribute to RTO independence.

expense, interest expense, technology expense, other expense, and capital spending, including a level of supporting detail consistent with that provided by PJM in its annual budget review to the Finance Committee. In addition, not later than September 15, 2013, and each year thereafter, IMM shall inform the PJM Board of the key drivers of potential increases and decreases in the budget, and estimates of such increases and decreases, for the subsequent two years.").

⁹ *Id.*

¹⁰ *See* OATT Attachment M § III.E.2.

¹¹ *See* OATT Attachment M § III.3.

¹² *See id.*

Neither the PJM Board nor PJM staff have full control over the substance of most of PJM's regulatory filings.¹³ The rules included in PJM's corporate operating agreement (the "OA" without its attachments) provide PJM members with considerable if not decisive influence over PJM filings under Section 205 of the Federal Power Act in the regulatory proceedings that establish the PJM market rules. Section 205 filings receive significant deference, and, if such filings are sufficiently supported, put the burden of proof on protestors and future complainants, including PJM itself.

The Market Monitor is uniquely positioned to develop and advocate an independent position based solely on the public interest in competitive and efficient PJM markets. Rather than attempt to undermine Market Monitor independence and the independent ability of the Market Monitor to file complaints, PJM should protect them.

II. MOTION FOR LEAVE TO ANSWER

The Commission's Rules of Practice and Procedure, 18 CFR § 385.213(a)(2), do not permit answers to answers or protests unless otherwise ordered by the decisional authority. The Commission has made exceptions, however, where an answer clarifies the issues or assists in creating a complete record.¹⁴ In this answer, the Market Monitor provides the Commission with information useful to the Commission's decision-making process and which provides a more complete record. Accordingly, the Market Monitor respectfully requests that this answer be permitted.

¹³ PJM submits Section 205 filings "on behalf of the Members." See OA § 10.4(xiii).

¹⁴ See, e.g., *PJM Interconnection, L.L.C.*, 119 FERC ¶61,318 at P 36 (2007) (accepted answer to answer that "provided information that assisted ... decision-making process"); *California Independent System Operator Corporation*, 110 FERC ¶ 61,007 (2005) (answer to answer permitted to assist Commission in decision-making process); *New Power Company v. PJM Interconnection, L.L.C.*, 98 FERC ¶ 61,208 (2002) (answer accepted to provide new factual and legal material to assist the Commission in decision-making process); *N.Y. Independent System Operator, Inc.*, 121 FERC ¶61,112 at P 4 (2007) (answer to protest accepted because it provided information that assisted the Commission in its decision-making process).

III. CONCLUSION

The Market Monitor respectfully requests that the Commission afford due consideration to this answer as the Commission resolves the issues raised in this proceeding.

Respectfully submitted,



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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 26th day of April, 2017.



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