

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

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ILLINOIS COMMERCE)	
COMMISSION,)	
)	
	Petitioner,)	
)	
v.)	No. 19-3495
)	
FEDERAL ENERGY)	
REGULATORY COMMISSION,)	
)	
	Respondent.)	
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**MOTION TO INTERVENE OF
THE ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to Rule 15(d) of the Federal Rules of Appellate Procedure, the Electric Power Supply Association (“EPSA”) respectfully moves to intervene in this case in support of respondent the Federal Energy Regulatory Commission (the “Commission”).

BACKGROUND

On June 6, 2018, the Commission issued an order in the consolidated proceedings below, finding PJM Interconnection, L.L.C.’s (“PJM”) Open Access Transmission Tariff to be unjust and unreasonable, in that it allowed state subsidies to distort pricing in the capacity market administered by PJM. On December 19,

2019, the Commission issued a further order establishing a just and reasonable replacement rate with specific features intended to remedy the price distortions.

On December 23, 2019, the Illinois Commerce Commission, an agency of the State of Illinois, petitioned this Court for review of those orders.

STATEMENT OF INTEREST

EPSA seeks to intervene in this case because it has a direct and substantial interest that cannot be adequately represented by any other party. EPSA is the national trade association representing competitive power suppliers, including generators and marketers. Many of EPSA's members both own and operate assets located within the market administered by PJM and are active participants in that market, and EPSA therefore has an interest in the tariff that governs pricing in that market. Moreover, EPSA and its members have been and continue to be active in many of the Commission's ongoing proceedings on PJM regulatory matters.

Because of its interests in these issues, EPSA successfully intervened in the proceedings before the Commission below and the Commission cannot adequately represent EPSA's interests.

Allowing EPSA to participate as an intervenor would not inconvenience the Court or any other party, as the Court has not yet ordered a briefing schedule. This motion is filed within 30 days of the petition for review. *See* Fed. R. App. P. 15(d).

CONCLUSION

EPSA respectfully requests that it be permitted to intervene in this case with full rights attendant thereto.

Respectfully submitted,

/s/ Paul W. Hughes

David G. Tewksbury

Paul W. Hughes

Counsel of Record

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Counsel for the Electric Power Supply Association

Dated: January 22, 2020

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Rule 26.1 of the Rules of this Court, the Electric Power Supply Association (“EPSA”) states as follows:

EPSA is not a public company, has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

EPSA is represented in these proceedings by attorneys from McDermott Will & Emery LLP. It was additionally represented before the Commission by attorneys from King & Spalding LLP.

Respectfully submitted,

/s/ Paul W. Hughes

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Counsel for the Electric Power Supply Association

Dated: January 22, 2020

CERTIFICATE OF SERVICE

I certify that on January 22, 2020, the foregoing document was served on all parties or their counsel of record through the CM/ECF system. All parties or their counsel are registered users.

/s/ Paul W. Hughes

Paul W. Hughes