

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY

Request for Emergency Order Pursuant :
To Federal Power Act Section 20(c) by : DOE Dkt. No. _____
FirstEnergy Solutions Corp. :

**MOTION OF THE ILLINOIS INDUSTRIAL
ENERGY CONSUMERS TO INTERVENE**

The Illinois Industrial Energy Consumers (“IIEC”), by and through their counsel, hereby move to intervene in the above-captioned proceeding and protest the March 29, 2018 Request for Emergency Order Pursuant to Federal Power Act Section 202(c) by FirstEnergy Solutions Corp. (“FES”), pursuant to Rules 211 and 214 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 and 385.214.

I. PROCEDURAL BACKGROUND

On March 29, 2018, FES issued a letter (“Request”) to the Honorable James Richard Perry, Secretary of Energy, requesting that the Secretary use emergency authority under Section 202(c) of the Federal Power Act to find that an emergency condition exists in the PJM Interconnection, L.L.C. (“PJM”) territory requiring immediate intervention. Specifically, FES requests that the Secretary (a) order “certain existing nuclear and coal-fired generators . . . to enter into contracts” with PJM to generate and transmit energy, capacity and ancillary services to “maintain the stability of the electric grid” and (b) order PJM to “promptly compensate at-risk merchant nuclear and coal-fired power plants for the full benefits they provide” to energy markets and the public. FES served the Request on over 100 owners of generation, transmission or distribution assets, state public utility commissions, and others.

II. MOTION TO INTERVENE

IIEC is an ad hoc association of large consumers of electricity that have facilities located in the Illinois portion of the PJM region. IIEC members are authorized under Illinois law to purchase electric energy and capacity from suppliers other than Illinois public utilities and are participants in the regional energy and capacity markets. IIEC members include large manufacturers in the steel, cement, paper, chemical, pharmaceutical, consumer products and other industries, and large institutional consumers of electricity. If the Request is granted, cost responsibility for payments made pursuant to the Emergency Order may be recovered from consumers and market participants throughout the PJM region, including IIEC member companies. IIEC strongly opposes the Request and reserves the right to supplement this preliminary pleading to explain, in detail, why the request is unjustified and unlawful, and should not be granted.

IIEC moves for intervention under Rule 214 of the Commission's Rules of Practice and Procedure.¹ Consistent with Rule 214(b)(2), IIEC has a significant and direct interest in the outcome of

¹ Federal Power Act Section 202(c) and the Department indicate that the Federal Power Act and the Commission's Rules of Practice and Procedure should be used for potential guidance in Emergency Order proceedings. Guidance published on the Department's website points to the Commission's Rules, where DOE regulations at 10 C.F.R. § 205.370, et seq., are silent. Additionally, the Department has taken the position that the procedure for the judicial review of emergency orders under Section 202(c) of the Federal Power Act must be secured through Section 313 of that Act, 16 U.S.C. § 8251. See, e.g., Order No. 202-05-03, *District of Columbia Public Service Commission*, Docket No. E0-05-01 (December 20, 2005) at 11-13. The plain language of Section 202(c)(5) of the Federal Power Act, enacted in 2016, reinforces this principle. Where, as here, a proceeding exists under Chapter 12 of the Federal Power Act, the Commission's Rules of Practice and Procedure apply. See 16 U.S. Code § 825g(b) (FPA § 308) ("All hearings, investigations, and proceedings, under this chapter shall be governed by rules of practice and procedure to be adopted by the Commission.").

this proceeding. Further, as an organization representing many of the largest electric consumers in the Illinois portion of PJM, IIEC's participation is in the public interest.

III. SERVICE OF DOCUMENTS

The following persons are designated by IIEC to receive service and communications on its behalf with regard to this proceeding:

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IV. STATEMENT OF OPPOSITION

Rule 214(b)(1) requires the movant to state its preliminary position. IIEC opposes the relief sought by FES. IIEC is participating with other parties to this proceeding, in developing a comprehensive rebuttal to FES' Request, and plans to submit that rebuttal to the Department.

IIEC supports the request that was filed Friday, March 30, 2018 by the Electric Power Supply Association and other organizations requesting a 60-day comment period.

V. CONCLUSION

For the reasons set forth above, IIEC respectfully requests that the Department permit IIEC to intervene in this proceeding and, if the Department does not reject the FES Request outright, provide all interested parties with 60 days to file comments on the Request.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, via first-class mail, electronic transmission, or hand-delivery, the foregoing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Granite City, Illinois, this 13th day of April, 2018.

BY: /s/ Eric Robertson

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