

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.)	
)	
<i>Petitioners,</i>)	
)	
v.)	Case No. 23-1282
)	and consolidated cases
Federal Energy Regulatory Commission,)	
)	
<i>Respondent.</i>)	
)	

**MOTION TO INTERVENE OF ENVIRONMENTAL DEFENSE FUND,
NATURAL RESOURCES DEFENSE COUNCIL, AND SIERRA CLUB**

Pursuant to Rule 15(d) and 27 of the Federal Rules of Appellate Procedure and D.C. Circuit Rule 15(b), Environmental Defense Fund, Natural Resources Defense Council, and Sierra Club (collectively, “Clean Energy Advocates”) respectfully move for leave to intervene in support of the Respondent Federal Energy Regulatory Commission (“Commission”) in the above-captioned proceedings.

In response to Clean Energy Advocates’ November 1, 2023 email asking parties to provide their position on this motion, the Commission and Petitioner Advanced Energy United et al. indicated that they did not oppose the motion. FirstEnergy Services Company indicated that it intended to oppose the motion.

BACKGROUND

Congress requires the Commission and states to regulate aspects of the provision of electricity services to customers.

Petitioners in this proceeding—PJM Interconnection, LLC (“PJM”), FirstEnergy Services Company, Florida Power & Light Company, Southwest Power Pool (“SPP”), Midcontinent Independent System Operator (“MISO”), PacifiCorp (collectively, “Industry Petitioners”), and Advanced Energy United et al.—have sought judicial review of Order No. 2023,¹ the Commission’s final rule implementing new procedures and agreements for the process by which electricity generation resources connect to the nation’s electrical grid.

The nation’s electrical grid is made up of a diverse array of generator resources that connect to larger transmission lines, which then carry energy from multiple resources to areas of demand, where the energy is then distributed locally to individual customers. Because energy supply must always be kept in balance with demand to prevent blackouts, grid operators work to coordinate the dispatch of energy resources to deliver electricity when and where it is needed and are

¹ *Improvements to Generator Interconnection Procedures and Agreements*, Order No. 2023, FERC Docket No. RM22-14-000, 184 FERC ¶ 61,054 (July 28, 2023) (“Order No. 2023”), *order on rehearing*, 184 FERC ¶ 61,163 (Sept. 28, 2023) (“Rehearing Notice”).

generally charged with managing the planning and interconnection of generation resources to the transmission system.

Grid operators can be regional entities, like MISO, SPP, and PJM, which do not own generators or transmission lines but are tasked with operating them, among other critical functions. In states without a regional grid operator, many entities that perform grid operations also own transmission lines and generators. In either case, generators and transmission lines are overseen by different authorities.

Pursuant to the Federal Power Act (“FPA”), states oversee generator resources on the system, and the Commission has jurisdiction over wholesale energy sales and transmission of electricity in interstate commerce.² Effectively, states decide the type of generators that will supply energy,³ and the Commission ensures that the rates, terms, and conditions for delivering that energy to the system (*i.e.*, generator interconnection regulations) and to customers are just, reasonable, and not unduly preferential and discriminatory.⁴

² 16 U.S.C. §824(b).

³ *Id.*

⁴ *Id.* §824d.

The Commission reforms outdated generator interconnection regulations.

In 2003, the Commission issued Order No. 2003,⁵ pursuant to section 206 of the FPA,⁶ to remove undue discrimination from the generator interconnection process and increase competition among generators in the wholesale energy markets, which are generally designed to prioritize dispatch of the least-cost generators. With unlocking competition, the Commission sought to increase the available electricity supply and, in turn, lower wholesale prices for customers.

The Order established standard (“*pro forma*”) procedures and agreements that public utilities that own, control, or operate facilities for transmitting electric energy in interstate commerce must use to interconnect new generators with a capacity of twenty megawatts or more. Since issuing Order No. 2003, the Commission has implemented more reforms and companion *pro forma* procedures and agreements for smaller generators.⁷

⁵ Order No. 2003, 68 Fed. Reg. 49,846 (Aug. 19, 2003), 104 FERC ¶ 61,103 (2003), *order on reh’g*, Order No. 2003-A, 69 Fed. Reg. 15932 (Mar. 5, 2004), 106 FERC ¶ 61,220, *order on reh’g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 19, 2005), 109 FERC ¶ 61,287 (2004), *order on reh’g*, Order No. 2003-C, 70 Fed. Reg. 37,661 (July 18, 2005), 111 FERC ¶ 61,401 (2005), *aff’d sub nom. Nat’l Ass’n of Regul. Util. Comm’rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

⁶ 16 U.S.C. § 824e.

⁷ *Standardization of Small Generator Interconnection Agreements & Procs.*, Order No. 2006, 111 FERC ¶ 61,220, *order on reh’g*, Order No. 2006-A, 70 Fed. Reg. 71,760 (Dec. 30, 2005), 113 FERC ¶ 61,195 (2005), *order granting clarification*, Order No. 2006-B, 71 FR 42587 (July 27, 2006), 116 FERC ¶ 61,046 (2006); *See*

The *pro forma* procedures and agreements establish a process that starts with the generator interconnection customer submitting an interconnection request, which includes preliminary site information for the generator and a deposit. Next, the interconnection request enters the transmission provider's interconnection queue along with other pending requests. Then, the transmission providers perform various interconnection studies to identify any adverse impacts to the transmission system, the need for interconnection facilities, the need for network upgrades, which are equipment upgrades that are needed beyond the point of interconnection, and the estimated upgrade costs that the interconnection customer will need to pay.

Finally, if the interconnection customer agrees to pay the upgrade costs, it executes an agreement with the transmission provider. In sum, from the point that an interconnection request is submitted, it is considered to be in the “interconnection queue” until the project is connected to the grid.

Across the country, the interconnection queues are backlogged at alarming rates,⁸ mostly with renewable generator projects due in part to the majority of

Reform of Generator Interconnection Procs. & Agreements, Order No. 845, 83 Fed. Reg. 21,342 (May 9, 2018), 163 FERC ¶ 61,043 (2018), *order on reh'g*, Order No. 845-A, 84 Fed. Reg. 8,156 (Mar. 6, 2019) 166 FERC ¶ 61,137, *order on reh'g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019).

⁸ Joseph Rand et al., *Queued Up: Characteristics of Power Plants Seeking Transmission Interconnection As of the End of 2021*, at 6, Lawrence Berkeley National Laboratory (Apr. 2022) (“Queued Up Report”).

states across the country establishing clean energy requirements,⁹ including twenty-three with 100% clean energy goals and/or legislative mandates that include interim targets for 2030 and 2035.¹⁰ Furthermore, fossil fuel plants that have met or exceeded their useful lives may now need to be replaced.¹¹ Because wind and solar resources are now cheaper forms of generation than most fossil-fuel powered resources,¹² even states with low or no clean energy mandates are rapidly building renewable resources.¹³

In 2021, the Commission estimated that 8,100 interconnection requests were outstanding.¹⁴ While the interconnection requests are in various stages of the process—studies, cost assessment, signed agreement—the average wait time for a

⁹ See Nat'l Regul. Rsch. Inst., State Clean Energy Policy Tracker, <https://www.naruc.org/nrri/nrri-activities/clean-energy-tracker/> (last accessed Nov. 3, 2023).

¹⁰ Clean Energy States Alliance, Tale of 100% Clean Energy States, <https://www.cesa.org/projects/100-clean-energy-collaborative/guide/table-of-100-clean-energy-states/#:~:text=There%20are%20currently%2022%20states,incluing%20Puerto%20Rico%2C%20click%20here> (last accessed Nov. 3, 2023).

¹¹ See EIA, “Coal and natural gas plants will account for 98% of U.S. capacity retirements in 2023” (Feb. 7, 2023), <https://www.eia.gov/todayinenergy/detail.php?id=55439>.

¹² See Lazard, Levelized Cost of Energy (Apr. 2023), <https://www.lazard.com/media/20zoovyg/lazards-lcoeplus-april-2023.pdf>.

¹³ See, e.g., Nat. Res. Def. Council, *Waiting Game: How the Interconnection Queue Threatens Renewable Development in PJM*, at 28–29 (2023), <https://www.nrdc.org/sites/default/files/2023-05/pjm-interconnection-queue-renewable-development-report.pdf>.

¹⁴ *Improvements to Generator Interconnection Procs. & Agreements*, 87 Fed. Reg. 39,934 (July 5, 2022), 179 FERC ¶ 61,194 at 18 (2022) (“Rulemaking”).

generator to complete the interconnection process and connect to the grid has increased from under two years in 2008 to five years now,¹⁵ and could continue to increase. PJM Interconnection, the largest grid operator in the nation, ceased taking new interconnection requests until the fourth quarter of 2025,¹⁶ and MISO is contemplating similar actions.¹⁷

The excessive delays with interconnection queues are costly to interconnection customers, which are developers that must contend with financial and land use commitments that are tied to study timelines, and ultimately these costs are passed to consumers. And failing to interconnect new supply threatens reliability and resilience of the grid's ability to recover after an outage or extreme event, given the needed fossil-fuel plan retirements.

Most of the new generators in the Industry Petitioners' interconnection queues are wind, solar, or electric battery storage resources,¹⁸ which are more cost effective at producing electricity than traditional fossil generation and have the added benefit of not releasing polluting carbon emissions. This issue is likely to grow since, aside from state programs, federal funding from the Inflation

¹⁵ Queued Up Report at 3.

¹⁶ *Id.* at 9.

¹⁷ MISO, Generator Interconnection Queue Improvements, at 2, 5 (July 19, 2023), <https://cdn.misoenergy.org/20230719%20PAC%20Item%20006%20GI%20Queue%20Improvements%20Proposal629634.pdf>.

¹⁸ Rulemaking, 179 FERC ¶ 61,194 at P 31.

Reduction Act and other programs are also at risk of being wasted unless the Commission implements strong reforms to its *pro forma* interconnection regulations to ensure that generators are interconnected to the transmission grid in a timely manner.

To address these issues, the Commission issued Order No. 2023 and the Rehearing Order,¹⁹ the two Orders under review in this proceeding. But prior to that, the Commission convened a comprehensive rulemaking proceeding to seek public comment on its proposals to correct the infirmities with its then-existing *pro forma* generator interconnection agreements and procedures.²⁰ There, the Commission proposed remedies to address two primary deficiencies. First, the Commission recognized that the existing *pro forma* generator interconnection procedures and agreements could be insufficient to ensure that new generator facilities may interconnect to the transmission grid in a reliable and efficient enough manner to ensure that rates, terms, and conditions for Commission-jurisdictional service are just and reasonable.²¹

As a remedy, among other things, the Commission proposed—and subsequently implemented in Order No. 2023—provisions to change the order and

¹⁹ *Supra* note 1.

²⁰ *Improvements to Generator Interconnection Procs. & Agreements*, 87 Fed. Reg. 39934 (July 5, 2022), 179 FERC ¶ 61,194 (2022).

²¹ Order No. 2023, 84 FERC ¶ 61,054 at 27.

format in which transmission providers studied new generator interconnection requests. In addition, to reduce upgrade costs, the Commission required transmission providers to consider using alternative transmission solutions in lieu of costlier types of traditional upgrades. Clean Energy Advocates filed various pleadings in the rulemaking proceeding to advocate that the Commission not only implement its proposed changes but also strengthen them.²²

Second, the Commission observed that the interconnection backlogs and study delays were afflicting generator interconnection service nationwide, hindering the timely development of new generation and, therefore, stifling competition in the wholesale electricity markets and increasing costs for consumers.²³ To remedy this deficiency, the Commission replaced discretionary timelines for Industry Petitioners to perform interconnection studies with firm study deadlines that have penalties for noncompliance. Clean Energy Advocates strongly supported this revision and offered recommendations to make the penalty process more effective at encouraging compliance to ensure that studies are

²² Comments of Public Interest Organizations, FERC Docket No. RM22-14-000 (Oct. 13, 2022); Comments of Environmental Defense Fund, FERC Docket No. RM22-14-000 (Oct. 13, 2022); Reply Comments of Sierra Club et al., FERC Docket No. RM22-14-000 (Dec. 15, 2022); Reply Comments of Environmental Defense Fund, FERC Docket No. RM22-14-000 (Dec. 14, 2022); Request for Rehearing of Environmental Defense Fund et al., FERC Docket No. RM22-14-000 (Aug. 28, 2023).

²³ Order No. 2023, 84 FERC ¶ 61,054 at 3, 24, 30.

performed timely, which would allow low-cost, renewable resources to connect to the grid at a reasonable pace.

As noted earlier, in this proceeding, Industry Petitioners seek to challenge the very provisions that the Commission implemented to resolve the excessive interconnection queue delays and cost overruns plaguing the prior generator interconnection process. They filed petitions seeking review of two Orders that the Commission issued to revise the *pro forma* Generator Interconnection Procedures for large and small generators and *pro forma* Generator Interconnection Agreement for large and small generators.²⁴

If the Industry Petitioners are successful and the Commission's Orders are vacated, Clean Energy Advocates and their members will be on the hook to shoulder the excess costs and increased carbon emissions associated with a broken interconnection process. Accordingly, we seek permission to intervene in this proceeding.

ARGUMENT

Under Federal Rule of Appellate Procedure 15(d), a party seeking to intervene in a petition for review in this Court must file a motion that contains “a concise statement of the interest of the moving party and the grounds for

²⁴ *Supra* note 1.

intervention.” Because the appellate rule does not articulate a standard for intervention, appellate courts reviewing motions brought pursuant to Federal Rule of Appellate Procedure 15(d) “have turned to the rules governing intervention in the district courts under [Federal Rule of Civil Procedure 24].”²⁵ Here, Clean Energy Advocates satisfy the standards for intervention as-of-right, permissive intervention, and Article III standing.

I. Clean Energy Advocates are entitled to the right to intervene

With respect to Federal Rules of Civil Procedure Rule 24, Clean Energy Advocates satisfy all of the elements, which include demonstrating (1) timely motion to intervene, (2) movant has an interest related to the subject of the action, (3) disposition of the action may, as a practical matter, impair or impede movant’s ability to protect that interest, and (4) the existing parties may not adequately represent the movant’s interest.

Timeliness: This motion is timely because it is being filed within thirty days of the filing of the petition for review in this consolidated proceeding.²⁶ The earliest date that the Industry Petitioners filed a petition for review was October 6,

²⁵ See *Sierra Club, Inc. v. EPA*, 358 F.3d 516, 517–18 (7th Cir. 2004); see also *Int’l Union v. Scofield*, 382 U.S. 205, 216–17 n.10 (1965).

²⁶ Federal Rule of Appellate Procedure Rule 15(d).

2023. Because the thirtieth day, November 5, 2023, is a Sunday, the period in which to file extends to today, November 6, 2023.²⁷

Sufficiency of Interests: Clean Energy Advocates and their members have an interest in promoting the rapid and affordable interconnection of renewable generators, such as wind, solar, and hybrid battery storage, to the transmission grid.²⁸ The Commission has acknowledged that Order No. 2023 will reduce barriers to interconnecting new resources to the grid and benefit consumers²⁹ such as Clean Energy Advocates and their members since it promotes the timely interconnection of generators in the nation's interconnection queues, which mainly comprise wind and solar generators. Because renewable generators have zero emissions and are more cost-effective to operate than fossil-fueled generators, interconnecting more clean energy resources will reduce wholesale electricity costs and, in turn, Clean Energy Advocates' and their members' individual utility bills while creating a healthier environment. Given the Inflation Reduction Act and state funding for these renewable generators,³⁰ the resulting abundance of them will help ensure that grid operators have enough energy supply to meet growing demand and

²⁷ *Id.* 26(a)(1)(C).

²⁸ Decl. of Tisha Alfred ¶¶ 3, 5, 12; Decl. Brian Attas ¶¶ 3-4, 7, 13; Decl. of Huda Fashho ¶ 4; Decl. of Paul Richard Hill ¶¶ 4, 6-7; Decl. Verna Owen ¶¶ 5-8; Decl. of Hilary Persky ¶¶ 4,6-7, 9; Decl. of John Stith ¶¶ 4, 6; Decl. of Gina Trujillo ¶ 5; Decl. of Amanda Warner ¶¶ 3, 4, 6, 8.

²⁹ Order No. 2023, 84 FERC ¶ 61,054 at 3, 30, 43.

³⁰ *Supra* at 8.

to respond to extreme weather events, provided that new renewable generators are able to interconnect to the transmission grid. Clean Energy Advocates seek to intervene here to continue to protect these interests.

With their members' support, Clean Energy Advocates engage in a variety of fora, including at FERC and the U.S. Courts of Appeal, to secure the reforms in Order No. 2023.³¹ As noted above, Clean Energy Advocates actively participated in the rulemaking proceeding that led to the Commission's issuance of Order No. 2023. In addition, Clean Energy Advocates also actively participated in the Commission's Advanced Notice of Proposed Rulemaking proceeding, where the Commission sought comments on a bundle of proposals that covered broad areas of the Commission's Jurisdiction, including interconnection queue reforms.³²

Impairment of Interests: For the reasons above, granting the relief sought in the Industry Petitioners' petitions could impair or impede Clean Energy Advocates' ability to protect the interests of their members.³³

³¹Hill Decl. ¶ 8; Owen ¶ 9; Persky Decl. ¶¶ 5-10; Stith Decl. ¶¶ 4-6; Warren Decl. ¶¶ 3, 5.

³² Comments of the Sustainable FERC Project et al., Docket No. RM21-17-000 (Oct. 12, 2021); Reply Comments of Public Interest Organizations, Docket No. RM21-17-000 (November 30, 2021).

³³ See *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 733 (D.C. 2003) (intervention in administrative review proceedings is appropriate where the movant would be harmed by a successful challenge to a regulatory action and that harm could be avoided by a ruling denying the relief sought by the petitioner).

Inadequate Representation: The current parties to this proceeding may not adequately represent Clean Energy Advocates' interest. This Court has made clear that a party need only "show[] that representation of [its] interest 'may be' inadequate; and the burden of making that showing should be treated as minimal."³⁴

Here, the Industry Petitioners are directly adverse to the Clean Energy Advocates in this litigation. As stated above, Industry Petitioners seek to undo the very provisions that the Clean Energy Advocates spent the last two years trying to strengthen. While Clean Energy Advocates request intervention to support the Respondent, a federal government agency, this Court "ha[s] often concluded that governmental entities do not adequately represent the interests of aspiring intervenors."³⁵ Clean Energy Advocates strongly advocated in the Commission's rulemaking docket to improve many of the provisions that are being challenged.

And unlike the Commission, which has a regulatory duty to ensure just and reasonable rates, Clean Energy Advocates are specifically motivated to advocate for the timely implementation of generator interconnection procedures that will speed up the timeline for interconnecting low-cost, emissions-free clean energy

³⁴ *Id.* at 735 (quoting *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972)).

³⁵ *Id.* at 736; *see also Nat. Res. Def. Council v. Costle*, 561 F.2d 904, 913 (D.C. Cir. 1977) (holding that industry intervenors' interests may not be adequately represented by EPA and that intervention as a matter of right is thus justified).

resources. While the Commission's goals are not completely inapposite to our objectives, this Court has held that the "interests need not be wholly adverse before there is a basis for concluding that existing representation of a different interest may be inadequate."³⁶

Clean Energy Advocates have thus met the "comparatively light" burden to show divergent interests from the relevant government agency in this proceeding.³⁷

II. Clean Energy Advocates meet the standard for permissive intervention

Clean Energy Advocates also meet the standard for permissive intervention under Federal Rule of Civil Procedure 24(b). That provision allows the court to "permit anyone to intervene who . . . has a claim or defense that shares with the main action a common question of law or fact" so long as the motion is timely and intervention would not "unduly delay or prejudice the adjudication of the original parties' rights."³⁸ This Court has "eschewed strict readings of the phrase 'claim or defense'" and its body of precedents instead "compels a flexible reading of Rule 24(b)."³⁹

³⁶ *Nuesse v. Camp*, 385 F.2d 694, 703 (D.C. Cir. 1967) (quotation marks omitted).

³⁷ *See Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 972 (3d Cir. 1998).

³⁸ Federal Rule of Civil Procedure 24(b)(1)(B), (3).

³⁹ *Equal Employment Opportunity Comm'n v. Nat'l Children's Ctr., Inc.*, 146 F.3d 1042, 1046 (D.C. Cir. 1998).

As demonstrated above, Clean Energy Advocates have a compelling interest in preventing the Commission's *pro forma* generator interconnection procedures and agreements from reverting back to the old regulations. In addition, this motion is timely and granting it will not cause undue delay or prejudice to the rights of any parties. The Commission has yet to file its certified index, and this Court has not yet set a briefing schedule.

III. Clean Energy Advocates have standing

Because a movant that seeks to intervene in support of the Respondent is not affirmatively invoking the Court's jurisdiction, they do not need to independently have standing to sue.⁴⁰ Nevertheless, Clean Energy Advocates and their members have standing here.

A movant has standing when it "benefits from agency action, the action is then challenged in court, and an unfavorable decision would remove the [movant's] benefit."⁴¹ This applies even when the agency action benefits the movant only "tangentially" or "indirectly."⁴² An organization may defend agency

⁴⁰ The Supreme Court has called into question whether defendant-intervenors need to establish standing. *See Va. House of Delegates v. Bethune-Hill*, 139 S. Ct. 1945, 1951 (2019) (explaining that "it was not ... incumbent on [a party] to demonstrate its standing" when it participated "as an intervenor in support of the... Defendants," or "as an appellee" on appeal, "[b]ecause neither role entailed invoking a court's jurisdiction").

⁴¹ *Crossroads Grassroots Pol'y Strategies v. Fed. Election Comm'n*, 788 F.3d 312, 317 (D.C. Cir. 2015).

⁴² *Id.* at 318.

action on its members' behalf when it can demonstrate associational standing, which requires that (1) at least one of its members would have standing to defend in his or her own right; (2) the interest it seeks to protect are germane to the organization's purpose; and (3) neither the defense asserted nor the relief requested requires the participation of individual members in the lawsuit.⁴³

Here, Clean Energy Advocates' members satisfy the requirements for Article III standing. As discussed above, the Commission issued Order No. 2023 to redress widespread and extensive interconnection queue delays, which increase costs to customers and stifle integration of cheaper, cleaner energy like wind, solar, and battery storage. These backlogs impose unnecessary costs in multiple ways: making it more expensive than necessary for clean energy to come online; keeping older, more expensive fossil-fuel plants running; and imposing additional economic costs from additional pollution.⁴⁴ Clean Energy Advocates have hundreds of thousands of members who will benefit from Order No. 2023's

⁴³ *Hearth, Patio & Barbecue Ass'n v. Env't Prot. Agency*, 11 F.4th 791, 802 (D.C. Cir. 2021); *Sierra Club v. FERC*, 827 F.3d 59, 65 (D.C. Cir. 2016) (quoting *WildEarth Guardians v. Jewell*, 738 F.3d 298, 305 (D.C. Cir. 2013)).

⁴⁴ See Americans for a Clean Energy Grid, *Disconnected: The Need for a New Generator Interconnection Policy*, at 4–5 (2021), <https://cleanenergygrid.org/wp-content/uploads/2021/01/Disconnected-The-Need-for-a-New-Generator-Interconnection-Policy-1.pdf>; Leyline Renewable Capital, “The Growing Impact of Delays on Solar Development Costs across Different Regions,” <https://www.leylinecapital.com/news/the-growing-impact-of-delays-on-solar-development-costs-across-different-regions> (last accessed Nov. 6, 2023).

improvements to the interconnection process, and who would suffer concrete injuries—such as increased electricity costs and exposure to more pollution—if Industry Petitioners’ lawsuits undo those improvements.⁴⁵

For example, Environmental Defense Fund has 318,225 members located in the forty-seven states where most or all customers are served by Regional Transmission Organizations and electric utilities subject to Order No. 2023,⁴⁶ including Amanda Warner, a six-year EDF member and ratepayer in PJM’s and Dominion Electric’s service territory.⁴⁷ Natural Resources Defense Council similarly has approximately 443,000 members across the country,⁴⁸ including Hilary Persky, a twenty-plus-year member and ratepayer who resides in PJM’s and Public Service Enterprise Group’s service territory.⁴⁹ Likewise, Sierra Club has 694,647 members in all fifty states and the District of Columbia,⁵⁰ including Paul Richard Hill, a twelve-year Sierra Club member and ratepayer in Duke Energy Indiana’s and MISO’s service territory,⁵¹ and Verena Owen, a twenty-two year

⁴⁵ See, e.g., *Env’t Action v. FERC*, 996 F.2d 401, 406-07 (D.C. Cir. 1993) (concrete injury from increased electricity rates).

⁴⁶ Stith Decl. ¶ 8.

⁴⁷ Warner Decl. ¶¶ 1, 6.

⁴⁸ Trujillo Decl. ¶ 4.

⁴⁹ Persky Decl. ¶¶ 1-3.

⁵⁰ Huda Decl. ¶ 3.

⁵¹ Hill Decl. ¶¶ 3, 5.

Sierra Club member and ratepayer in PJM's and Commonwealth Edison's service territory.⁵²

These members have interests in lowering their electric bills and reducing harms they experience from emissions of climate change-causing greenhouse gases and other pollutants.⁵³ They likewise have interests in the rapid incorporation of a diverse set of generation resources, which are necessary to ensure a more reliable and resilient grid, particularly in the face of increasingly extreme weather.⁵⁴ These members have thus long supported, through their own advocacy and consumer choices, swiftly transitioning the nation's energy mix to low-cost, emission-free resources.⁵⁵ These benefits to Clean Energy Advocates' members, which are threatened directly by Industry Petitioners' lawsuits, supply Article III standing here.⁵⁶

Clean Energy Advocates also meet the remaining prongs of associational standing.⁵⁷ Their members' interests are germane to the organizations' purposes to

⁵² Owen Decl. ¶¶ 3, 6.

⁵³ See Warner Decl. ¶¶ 4-8; Persky Decl. ¶¶ 5, 8-9; Owen Decl. ¶¶ 4-9; Hill Decl. ¶¶ 4-8.

⁵⁴ Warner Decl. ¶ 6.

⁵⁵ See, e.g., Warner Decl. ¶ 1 (Director of Climate and Clean Air Policy); Persky Decl. ¶ 4 (participant in clean energy ratepayer program); Hill Decl. ¶ 3 (Sierra Club advocacy to "clean[] up the electric generation sector in the Midwest since the 1990s"); Owen Decl. ¶¶ 3-4 (co-founding Sierra Club Beyond Coal Campaign in 2002 and participating in rulemakings to strengthen air pollution standards).

⁵⁶ See *Crossroads*, 788 F.3d at 317.

⁵⁷ *Hearth, Patio & Barbecue Ass'n*, 11 F.4th at 802 (D.C. Cir. 2021).

facilitate the country's transition to an electric grid based on clean, affordable, and reliable energy.⁵⁸ And this lawsuit will not require the participation of individual members.

Finally, in addition to associational standing on behalf of their members, each of the Clean Energy Advocates' organizations has standing on its own behalf, as a ratepayer that would be harmed by higher electricity rates if Industry Petitioners' suits succeed.⁵⁹ The Environmental Defense Fund and Natural Resources Defense Council operate multiple offices in jurisdictions subject to Order No. 2023 and pay for the electricity used by those offices, and at minimum, the Sierra Club pays for the electricity used by its Washington, DC office.⁶⁰ Accordingly, the organizations will likewise benefit directly from lower electricity bills due to Order No. 2023's improvements to the interconnection process and would be injured if those improvements are reversed.⁶¹

If Industry Petitioners were to prevail in their position, Clean Energy Advocates and their members could suffer the harms described above. Clean Energy Advocates therefore have standing to intervene because Industry

⁵⁸ See Trujillo Decl. ¶ 5; Stith Decl. ¶ 6; Huda Decl. ¶ 4.

⁵⁹ See *Env't Action*, 996 F.2d at 406-07.

⁶⁰ See Attias Decl. ¶¶ 2, 8-12 (Environmental Defense Fund offices in New York, Boston, San Francisco, and Washington, D.C.); Alfred Decl. ¶¶ 2, 6-10 (Natural Resources Defense Council offices in New York, Chicago, San Francisco, Santa Monica, and Washington, D.C.); Decl. of Helen Howard ¶ 3.

⁶¹ *Crossroads*, 788 F.3d at 317.

Petitioners “seek[] relief, which, if granted, would injure” Clean Energy Advocates and their members.⁶²

In sum, Clean Energy Advocates thus have a direct and substantial interest in and will be directly affected by the outcome of the above-captioned proceeding. Accordingly, good cause exists to allow Clean Energy Advocates to intervene in this proceeding.

CONCLUSION

For the forgoing reasons, the Court should grant Clean Energy Advocates leave to intervene.

Dated: November 6, 2023

Respectfully submitted,

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⁶² *Id.* at 318.

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure and the D.C. Circuit Rule 26.1, Clean Energy Advocates, which are the Environmental Defense Fund, Natural Resources Defense Council, Inc., and Sierra Club state that they are non-profit advocacy organizations dedicated to the protection of public health, the environment, and the consumer interest. They have no outstanding shares or debt securities in the hands of the public, nor any parent, subsidiary, or affiliate that has issued shares or debt securities to the public.

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CERTIFICATE OF PARTIES

Pursuant to D.C. Circuit Rule 27(a)(4) and 28(a)(1)(A), I certify that the parties, intervenors, and amici in the consolidated cases are:

Petitioners: The petitioners in case 23-1282 are Advanced Energy United, American Clean Power Association, and the Solar Energy Industries Association. The petitioner in case 23-1284 is Midcontinent Independent System Operator, Inc. The petitioner in case 23-1289 is PacifiCorp. The petitioner in case 23-1293 is Florida Power & Light Company. The petitioner in case 23-1297 is Southwest Power Pool, Inc. The petitioner in case 23-1299 is PJM Interconnection, L.L.C.

Respondent: The respondent is the Federal Energy Regulatory Commission.

Intervenors: Versant Power, FirstEnergy Service Company, Advanced Energy United, American Clean Power Association, and Solar Energy Industries Association have moved for leave to intervene at the time of filing.

Amici: There are no amici curae at the time of filing.

/s/ Christine A. Powell
Christine A. Powell
Earthjustice
50 California Street
Suite 500
San Francisco, CA 94105

*Counsel for Natural Resources Defense
Council and Sierra Club*

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2023, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Respectfully submitted,
/s/ Christine A. Powell
Christine A. Powell
Earthjustice
50 California Street
Suite 500
San Francisco, CA 94105

*Counsel for Natural Resources Defense
Council and Sierra Club*

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Motion to Intervene complies with the type-volume limitations of Rule 27 of the Federal Rules of Appellate Procedure. According to Microsoft Word, the word processing system used to compose this motion, this document contains 4,399 words excluding the parts exempted by Rule 32 (f).

I further certify that this document complies with the typeface and type-style requirements of Rule 32(a)(5) and (6) because this document has been prepared in a proportionally spaced typeface in 14-point Times New Roman.

/s/ Christine A. Powell
Christine A. Powell
Earthjustice
50 California Street
Suite 500
San Francisco, CA 94105

*Counsel for Natural Resources Defense
Council and Sierra Club*

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.)
)
 Petitioners,)
)
 v.)
)
 Federal Energy Regulatory Commission,)
)
 Respondent.)
)

Case No. 23-1282
and consolidated cases

DECLARATIONS ADDENDUM

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**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.)
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Case No. 23-1282
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**DECLARATION OF BRIAN ATTAS
Submitted in Support of Environmental Defense Fund**

I, **Brian Attas**, state and declare as follows:

1. I am an employee of the Environmental Defense Fund (EDF). I am the Vice President of Corporate Services and Risk Management for EDF.
2. As Vice President of Corporate Services and Risk Management for EDF, I am responsible for overseeing office management services and corporate sustainability for all EDF offices, including the New York office, which is located at 257 Park Ave. South, the Boston office, which is located at 18 Tremont St, Suite 850, the San Francisco office, which is located at 123 Mission St., 28th Floor and the D.C. office, which is currently located at 555 12th St. NW, Suite 400, but until October 15, 2023 was located at 1875 Connecticut Ave, NW, Suite 600. My responsibilities include reviewing the consumption of energy in our workplaces and overseeing the processing of

all energy related invoices by the individual building managers, who pay the utility bills, including electricity bills, for the New York, Boston, D.C., and San Francisco offices.

3. I am also responsible for ensuring that EDF has a master plan for sustainable operations, that our facilities operate efficiently, and that we provide a safe and healthy environment for our employees. EDF has a Sustainability Council and a sustainable operations plan. Our sustainability goals include reducing our energy consumption and the net creation of carbon emissions derived from our building operational activity over the next five years.
4. Specifically, we seek to reduce energy consumption within EDF facilities' by limiting the use of HVAC, prohibiting the use of personal space heaters, and regularly auditing our existing systems and equipment for their energy efficiency, and updating accordingly.
5. Many of our offices have sub-meters installed that allow us to measure our usage, which is then tracked to determine our energy consumption per site year-over-year. We then mitigate this usage accordingly with other scope 1, scope 2 and scope 3 emissions.
6. I also help ensure that all of our offices and our suites are LEED or Energy Star certified. This applies to any office buildouts and renovations. Our most recent office buildout in D.C., once fully complete, will achieve LEED gold

status. In the LEED category of *Energy and Atmosphere* and sub-category of *Optimize Energy Performance*, we followed a prescriptive path that places our Lighting Power Density Reduction at 52%.

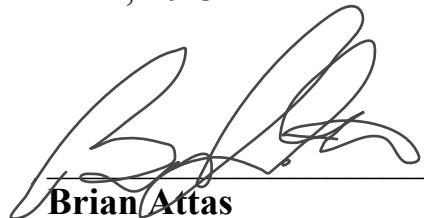
7. EDF, as part of our work, also advocates for a transition to cleaner forms of electric generation, while maintaining affordable electric rates and implementing policies that increase the levels of clean energy resources. EDF and its members have a strong interest in promoting actions that displace less cost-effective fossil generation with more cost-effective clean energy.
8. EDF uses electricity in our New York office. Each month, the owner, Feil Organization, through its property management company, Jeffrey Management Corporation (“Jeffrey Management”), sends an invoice for rent, real estate taxes and electricity. The bill includes EDF’s sub-meter numbers, present and previous readings, total KWH and KWD, and the total amount owed to Jeffrey Management. Jeffrey Management then pays Consolidated Edison (“Con Ed”). Con Ed is a member of NYISO.
9. EDF uses electricity in our Boston office. Each month, EDF receives an invoice from Eversource for our electricity use based on the readings of the three sub-meters connected to our office. EDF pays Eversource directly. Eversource is a member of ISO-NE.

10. EDF also uses electricity in our D.C. office. The owner of the building that we occupied until October 15, 2023, is PB Universal North, LLC (“PB Universal”). PB Universal, through their property management company, JBG Smith, sends an invoice for electricity. The bill includes EDF’s sub-meter labels, reading date, previous and current readings, total KWH usage and cost per KWH, and the total amount owed to PB Universal. We pay PB Universal and then PB Universal pays Potomac Electric Power Company (“Pepco”) for the electricity we use. Pepco is a member of PJM Interconnection.
11. While EDF has vacated our Washington, DC office on October 15, 2023, we will be moving into our new space at 555 12th St. NW, Suite 400 on November 20, 2023, in which a similar but new process will be tracked and memorialized. The utility provider for the office will remain Pepco.
12. EDF uses electricity in our San Francisco office. Each month, the owner, Juul Labs dba Main Mission LLC (“Main Mission”), through their property management company, Newmark, sends an invoice for rent, real estate taxes, and electricity. The bill includes EDF’s sub-meter numbers, time period KWH, rate and total charges for energy use and demand charges for KW owed to Main Mission. EDF pays the amount due to Main Mission.

Main Mission then pays Pacific Gas & Electric (“PG&E”) for our electric use. PG&E is a member of CAISO.

13. EDF is a nonprofit organization and it is very important to us to minimize our operating costs, including the costs of paying our electricity bills, so that the money from our members can be spent efficiently pursuing the goals they support. The ability to purchase affordable clean energy is also crucial to meeting our organizational sustainability goals. Regulations that support the addition of clean energy resources to the grid more quickly and at lower costs directly support EDF’s interest in accessing clean energy while minimizing operating costs.

I declare under penalty of perjury that the foregoing is true and correct. Executed in New York, NY, on this Third day of November, 2023.



Brian Attas

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.)
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Petitioners,)
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v.)
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)
Respondent.)
_____)

Case No. 23-1282
and consolidated cases

**DECLARATION OF AMANDA WARNER
Submitted in Support of Environmental Defense Fund**

I, Amanda Warner, under the penalties of perjury declare as follows:

1. I respectfully submit this declaration on behalf of Environmental Defense Fund.

I have been a member of Environmental Defense Fund ("EDF") since May 2016. I am also a Director of Climate and Clean Air Policy for EDF and have worked at EDF for over fourteen years. I have personal knowledge of the matters set forth herein and, if called to testify, I could and would testify to the truth of these facts. I submit this declaration in support of EDF's motion to intervene.

2. EDF is a non-profit organization with U.S. offices in Austin, TX, Boston, MA, Boulder, CO, New York, NY, Raleigh, NC, San Francisco, CA, and

Washington, D.C. A core mission of EDF is to support the rapid deployment of cost-effective clean energy to protect human health and the environment.

3. EDF has long sought to promote its members' interest in reducing greenhouse gas emissions by advocating in support of an electricity sector that supports the integration of cost-effective clean energy resources to the electric grid. In support of this, EDF regulatory advocates before the Federal Energy Regulatory Commission ("FERC" or "Commission"), engages in FERC-regulated stakeholder proceedings, and provides expert analysis and public education materials on clean energy. EDF filed comments with FERC in support of Order 2023 during the Commission's rulemaking process.
4. One of the reasons I am a member of EDF is because I believe that transitioning to clean energy is critical to protect the environment and the public from the impacts of climate change and other air pollution. I also believe that an effective transition to clean energy resources will have other benefits for society, including reduced electric rates and increased resiliency and reliability. I support EDF's goal of reducing power sector emissions to at least 80% below 2005 levels by 2030 and understand that achieving this goal will require that many new clean energy resources be built and connected to the grid, including renewable generators and energy storage resources.

5. I understand from my involvement with EDF that FERC issued Order 2023 in response to long delays, high costs, and lengthy queues composed primarily of clean energy and storage resources in the processes for interconnection managed by FERC-regulated entities, including Regional Transmission Organizations and transmission-owning electric utilities. I understand that the reforms to the generator interconnection process in Order 2023 would directly result in reduced timelines and costs for the developing and interconnecting new generators and storage resources, resulting in faster connections at lower cost for the many clean energy resources currently in interconnection queues as well as future projects. I understand that connecting clean energy and storage resources results in reduced usage of fossil fuel power plants that emit greenhouse gases and other pollutants. I also understand that connecting clean energy and storage resources can lead to lower costs for electricity and increased reliability.
6. I currently live in Fairfax, Virginia. I use electricity in my home and pay my electric bills each month to the utility company, Dominion Energy. It is my understanding that Dominion Energy operates as part of the Regional Transmission Organization PJM Interconnection, LLC (“PJM”). Order 2023 applies to both PJM and Dominion Energy. Therefore, the electric rates I pay and electric service I receive will be affected by implementation of Order 2023.

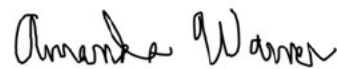
I do not wish to pay a higher rate for electricity that results in a greater level of pollution and is potentially less reliable and less resilient against extreme weather conditions due to continued long interconnection delays. As Order 2023's primary effects would be to accelerate the interconnection of clean energy and storage resources that will result in additional, cleaner, and lower-cost electricity being available, I will directly benefit from Order 2023 and a decision invalidating part or all of Order 2023 would adversely impact my interests.

7. I have long been concerned about the impact of air pollution on my and my family's health and welfare. I live in Fairfax, Virginia and work from home in Fairfax and in EDF's Washington, D.C. office, both of which are within PJM's footprint. My family, including my young children, enjoy spending time outdoors in and around Fairfax and Virginia and expect to continue to do so. Because Order 2023 has the potential reduce usage of fossil-fueled generators, it also has the potential to reduce various kinds of pollution created by those resources, including particulate matter, ozone, mercury, and climate change-causing greenhouse gases. Due to my professional experience, I am aware of the scientific evidence that demonstrates the short- and long-term impacts of these pollutants on human health and the environment. I believe Order 2023

will support my family's ability to continue to enjoy the outdoors without increased negative impacts on our health from pollutants.

8. As a result of my work, I am also keenly aware of the scientific consensus that greenhouse gas emissions contribute to climate change. Climate change is directly linked to increases in severe weather events, the frequency and severity of heat waves and extremely hot days, wildfires and sea level rise. On September 4, 2023, Dulles Airport, less than twenty miles from Fairfax, Virginia where I live, broke the heat record for that date set in 1985, reaching 99 degrees. During the month of June 2023, Virginia also recorded an unprecedented number of unhealthy air quality days caused by smoke from wildfires. These increases in days with extreme heat or poor air quality impact my family's ability to safely and comfortably enjoy the outdoors.

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct. Executed in Fairfax, VA on this third day of November, 2023



Amanda Warner

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.)
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Petitioners,)
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v.)
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Federal Energy Regulatory Commission,)
)
Respondent.)
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Case No. 23-1282
and consolidated cases

**DECLARATION OF JOHN STITH
Submitted in Support of Environmental Defense Fund**

I, John Stith, declare as follows:

1. I am the Senior Director for Performance Analytics and CRM Operations at the Environmental Defense Fund (EDF). I have held this position for about seven months, and I have worked at EDF for over eighteen years.
2. My duties include maintaining an accurate list of EDF members. My colleagues and I provide information to members, acknowledge gifts and volunteer actions, and manage the organization's member databases. My work requires me to be familiar with EDF's purposes, staffing, activities, and membership.
3. EDF is a membership organization incorporated under the laws of the State of New York. It is recognized as a not-for-profit corporation under section 501(c)(3) of the United States Internal Revenue Code.

4. EDF relies on science, economics, and law to protect and restore the quality of our air, water and other natural resources. EDF employs more than 150 scientists, economists, engineers, business school graduates, and lawyers to help solve challenging environmental problems in a scientifically sound and cost-effective way.
5. I understand from my involvement with EDF that the Federal Energy Regulatory Commission (FERC) regulates the process by which energy resources, including renewable generators and storage, receive permission to connect to the electric grid from Regional Transmission Organizations (RTOs) and transmission-owning electric utilities. I understand that FERC has issued Order 2023, which is intended to accelerate the process of interconnection to address current and significant costs and delays. I understand that Order 2023 would significantly improve the ability and speed of development and deployment of renewable generation and storage, which would create a number of public benefits including reduced pollution from fossil fuel generators, reduced electric costs, and improved reliability. Those benefits would directly impact EDF members.
6. EDF has a strong organizational interest—and a strong interest that is based in its members' recreational, aesthetic, professional, educational, public health, environmental, and economic interests—in reducing harmful air

pollution including climate change-causing greenhouse gas emissions, decreasing utility rates, and increasing the reliability and the resilience of the electric grid, all of which are implicated in Order 2023.

7. When an individual becomes a member of EDF, his or her current residential address is recorded in our membership database. The database entry reflecting the member's residential address is verified or updated as needed.
8. EDF currently has 332,764 members in the United States. These members have a strong interest in protecting human health and the environment from air pollution, including greenhouse gas pollution, and enabling the benefits that clean energy resources can provide. While some of the benefits of Order 2023, such as reduced climate pollution, will benefit all EDF members, I understand that some benefits may apply specifically to members who live in areas where Order 2023 applies. I understand that Order 2023 will apply in most of the country but will not directly apply in Alaska, Hawaii, or much of Texas. Excluding those three states, EDF has 318,225 members in the remaining 47 states.

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct. Executed in Takoma Park, MD on this third day of November, 2023.



John Stith

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.)	
<i>Petitioners,</i>)	
)	Case No. 23-1282
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<i>Respondent.</i>)	

DECLARATION OF HILARY PERSKY

I, HILARY PERSKY, state and declare as follows:

1. I am a member of Natural Resources Defense Council (NRDC) and have been a member for more than 20 years.

2. I live in Princeton, New Jersey. My address is 100 Cuyler Road, Princeton, NJ 08540. I have lived here since 2013.

3. Every month, I pay my electricity bill through Public Service Enterprise Group (PSEG).

4. I care deeply about using renewable energy in my home. Based on my personal beliefs, a few years ago I made the decision to switch to a program called Clean Choice Energy. Through this program, I pay an additional amount every month in order to ensure that the electricity I use in my home is offset by renewable energy credits, or RECs. The Clean Choice Energy program works

directly with PSEG to make sure that every kilowatt hour of power I use in my home is offset by renewable sources (wind and solar), instead of polluting power sources. My electricity is still delivered via PSEG.

5. I understand that NRDC is intervening in a lawsuit challenging FERC's approval of Order 2023. I understand that FERC issued Order 2023 in response to long delays and high costs of connecting new electric resources to the grid. I understand that most of the resources waiting in line are clean energy and storage resources. I understand that PSEG operates within PJM Interconnection's service area. Order 2023 applies to PJM, therefore, the electric rates I pay and electric service I receive will be affected by implementation of Order 2023.

6. I want to see more clean energy resources rather than fossil fuel resources. I understand that the reforms in Order 2023 will result in reduced timelines and costs for developing and interconnecting renewable energy and storage resources, resulting in more clean energy and storage connecting to the grid. I understand that without Order 2023 fossil fuel electricity generators likely will take longer to retire, resulting in more emissions of greenhouse gases and other pollutants.

7. I would like to see a faster transition to renewable energy resources because I'm worried about the effect of pollution from fossil fuel resources on the outdoor activities that I love. I take hikes near where I live in Central New Jersey

and occasionally in other parts of the state. I also maintain a garden that attracts diverse wildlife, including birds. My garden has a real importance to me and is a part of my overall commitment to the environment. I enjoy breathing clean air and spending time observing nature and wildlife in my garden and while hiking. I plan to continue spending time outdoors and I want to engage in these outdoor activities without being exposed to dangerous levels of air pollution. I worry that the continued use of fossil-fuel burning electricity sources will negatively impact my ability to continue spending time outdoors, tending to my garden, and observing the local wildlife.

8. I understand that the reforms in Order 2023 can lead to lower costs for electricity. I do not want to pay a higher rate for electricity than I do now. If my utility bill were to increase substantially it would be difficult for me, and I would have to make decisions about prioritizing costs. I also do not want the electricity in my home to be generated by carbon-intensive sources. I would be upset if Clean Choice Energy, or a similar program that allowed me to commit to renewable energy use, was no longer an option, or if it became too expensive for me to participate. It means a lot to me that I am able to participate in Clean Choice Energy.

9. I strongly support Order 2023 because it will prevent negative impacts on my electricity rates. I also support Order 2023 because, without it, dirty sources

of electricity would continue to be encouraged, environmental progress that would benefit me would be stunted, and my interest in enjoying time outdoors would be interfered with. If Order 2023 were not to go forward, I would be afraid of limited opportunities to use clean energy and of a reduction in the growth of an industry that we should be increasing.

10. For these reasons, I strongly support NRDC's intervention supporting FERC's action.

Remainder of this page intentionally left blank.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Princeton, New Jersey, on this 6 day of November 2023.

Hilary Persky

Hilary Persky (Nov 6, 2023 11:18 EST)
Hilary Persky

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.)	
<i>Petitioners,</i>)	
)	Case No. 23-1282
v.)	and consolidated cases
)	
Federal Energy Regulatory Commission,)	
<i>Respondent.</i>)	

DECLARATION OF GINA TRUJILLO

1. I am the managing director of membership at the Natural Resources Defense Council (NRDC). I have been the director of membership since January 1, 2015. I have worked in the membership department of NRDC for more than 30 years. I submit this declaration in support of NRDC’s intervention supporting the Federal Energy Commission’s (FERC) Order 2023, Reforming Energy Generator Interconnection Procedures.

2. My duties include supervising the preparation of materials that NRDC distributes to members and prospective members. Those materials describe NRDC and identify its mission.

3. NRDC is a membership organization incorporated under the laws of the State of New York. It is recognized as a not-for-profit corporation under section 501(c)(3) of the United States Internal Revenue Code.

4. NRDC currently has approximately 443,000 members. There are NRDC members residing in each of the fifty United States and in the District of Columbia.

5. NRDC's mission statement declares that the Natural Resources Defense Council's purpose is to safeguard the Earth: its people, its plants and animals, and the natural systems on which all life depends. Furthermore, NRDC strives to protect nature in ways that advance the long-term welfare of present and future generations, and works to foster the fundamental right of all people to have a voice in decisions that affect their environment. Additionally, NRDC works to achieve clean energy solutions that will lower consumer energy bills, meet U.S. carbon reduction goals, accelerate the use of energy efficiency, renewable energy, and ensure that clean energy is affordable and accessible to all.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 2nd day of November, 2023.


Gina Trujillo

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.)	
<i>Petitioners,</i>)	
)	Case No. 23-1282
v.)	and consolidated cases
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Federal Energy Regulatory Commission,)	
<i>Respondent.</i>)	

DECLARATION OF TISHA ALFRED

I, TISHA ALFRED, state and declare as follows:

1. I am an employee of the Natural Resources Defense Council (NRDC).

I am the Chief Real Estate & Workplace Strategy Officer for NRDC.

2. As the Chief Real Estate & Workplace Strategy Officer, I am responsible for overseeing many aspects of the operations of NRDC offices, including the New York office, which is located at 40 West 20th Street, 11th Floor, the Chicago office, which is located at 20 North Wacker Drive, Suite 1600, the D.C. office, which is located at 1152 15th Street, NW, Suite 300, the San Francisco office, which is located at 111 Sutter Street, 21st Floor, and the Santa Monica office, which is located at 1314 Second Street. My responsibilities include managing our Workplace Strategy Senior Managers, who pay the utility bills,

including electricity bills, for the New York, Chicago, D.C., San Francisco, and Santa Monica offices.

3. I am also responsible for ensuring that NRDC has a master plan for sustainable operations, that our facilities operate efficiently, and that we provide a safe and healthy environment for our employees. NRDC has a sustainable operations plan. Our goals include reducing the net creation of carbon emissions derived from our building operational activity to zero, using less water from municipal sources, sending virtually no waste to the landfill, and inspiring and guiding others to do the same.

4. Specifically, we plan to eliminate greenhouse gas emissions from NRDC facilities' energy use by reducing our energy consumption and increasing the share of our energy that comes from renewable sources.

5. NRDC advocates for a transition to cleaner forms of electric generation, while maintaining affordable electric rates and implementing policies that increase the levels of clean energy resources. NRDC and its members have a strong interest in promoting actions that displace less cost-effective fossil generation with more cost-effective clean energy.

6. NRDC uses electricity in our New York office. Each month, our property manager, George Comfort & Sons, sends NRDC an invoice for our electricity and maintenance fees. This bill includes the amount owed to

Consolidated Edison, Inc. (“ConEd”). The NY office also partners with a locally based solar energy company and uses 100 percent solar energy to power consumption and any excess energy not used will be fed back into the electrical grid. ConEd allocates Remote Net Metering Generation credits to our account in each billing period for which the kilowatt-hours generated by the System.

7. NRDC uses electricity in our Chicago office. Each month, our property management company, Transwestern, sends NRDC an invoice for rent, real estate taxes, operating expenses, and electricity. This bill includes the amount owed to Commonwealth Edison (“ComEd”) for the electricity we use. NRDC pays the amount due to Transwestern, and Transwestern pays ComEd.

8. NRDC also uses electricity in our D.C. office. Each month, our property management company, Carr Properties, sends NRDC an invoice for the amount owed to Potomac Electric Power Company (“Pepco”) for the electricity we use. NRDC pays the amount due to Carr Properties, and Carr Properties pays Pepco.

9. NRDC uses electricity in our San Francisco office. Each month, our property management company, Paramount Group, Inc., sends NRDC an invoice for the amount owed to Direct Energy for the electricity we use. NRDC pays the amount due to Paramount Group, Inc., and Paramount Group, Inc. pays Direct Energy.

10. NRDC also uses electricity in our Santa Monica office. Each month NRDC receives two invoices from Southern California Edison for the electricity we use and for the electricity we generate from our onsite solar panels. Our accounts are enrolled in the Clean Power Alliance, sourcing 100% Green Power from the grid. The electricity we generate is reconciled annually on a Net Energy Metering structure to offset any charges with energy credits and be paid out for any surplus generation over the past year.

11. Many of the states in which NRDC has offices have clean energy standards. New York's Clean Energy Standard sets a goal of generating 70% of New York's electricity from renewable resources by 2030. Illinois' Climate and Equitable Jobs Act requires Illinois to be at 100% clean energy by 2050, with deadlines for 40% by 2030 and 50% by 2040. Washington, D.C. has a Renewable Portfolio Standard that requires 100% renewable energy by 2032. And California's Renewable Portfolio Standard requires 60% renewable energy by 2030 and 100% by 2045. NRDC supports each of these goals. But these state requirements to replace dirty, overpriced fossil fuel resources with cheaper, cleaner resources are being thwarted by the slow pace of the interconnection queue.

12. NRDC does not want to pay more for electricity for our offices. This is particularly so because, as a nonprofit organization, one of our goals is to minimize our operating costs, including the costs of paying our electricity bills.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, NY, on this 6th day of November, 2023.



Tis a 're'

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.)	
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v.)	Case No. 23-1282
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)	
Federal Energy Regulatory Commission,)	
<i>Respondent.</i>)	
)	

DECLARATION OF VERENA OWEN

I, Verena Owen, hereby declare as follows:

1. I am 66 years old and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness, could testify competently to them. As to those matters which reflect an opinion, they reflect my personal experience, opinion and judgment on the matter.
2. I live in Winthrop Harbor, Illinois, just south of Kenosha, Wisconsin, about one mile from Lake Michigan and about an hour north of Chicago. I have lived in this area of Illinois since approximately 1987.
3. I am an active member of the Sierra Club and have been a member since 1991. I got involved with the Sierra Club because I am passionate about its mission to protect the environment and public health. I am the Volunteer Co-Leader of Sierra Club’s National Beyond Coal Campaign. In that role, I helped co-found the Beyond Coal Campaign in 2002, when other Illinois Sierra Club volunteers and I began to see more and more proposals for new coal plants popping up in the backyards of communities across Illinois and Wisconsin.

4. I believe that highly polluting, existing coal and fossil-fuel burning power plants need to either clean up their pollution or retire to enable a more rapid transition to clean energy. To this end, I have spoken in support of strengthening air pollution standards in numerous Environmental Protection Agency (“EPA”) and state rulemakings.
5. In my capacity as a Sierra Club volunteer, I have been working for more than 30 years to level the playing field for clean energy in Illinois and on the national level. It is important to me that renewable projects are able to connect to the grid as quickly and efficiently as possible and should not have to wait for years in queues before providing clean energy to me and my neighbors.
6. I use electricity in my home, and I pay electric bills each month to my utility Commonwealth Edison, which is a member of PJM Interconnection.
7. I would prefer to have a smaller electric bill each month.
8. I would prefer to get my electricity from clean energy sources as much as possible.
9. I understand that the Federal Energy Regulatory Commission oversees how new electric generators - including wind, solar, and storage – can interconnect to the grid and provide me and others with electricity. I support this intervention to defend FERC’s rule because I understand that the rule will allow renewable and other clean sources of power to interconnect to the grid faster and provide me and others with clean, cheap, and reliable electricity.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Winthrop Harbor, IL on this 3rd day of November, 2023.



Verena Owen (Nov 2, 2023 16:04 CDT)

Verena Owen

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.)	
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)	
v.)	Case No. 23-1282
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<i>Respondent.</i>)	

DECLARATION PAUL RICHARD HILL

I, Paul Richard Hill, hereby declare as follows:

1. I am 72 years old and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness, could testify competently to them. As to those matters which reflect an opinion, they reflect my personal experience, opinion and judgment on the matter.
2. I live in Hanover, Jefferson County, Indiana, where I have lived for most of my life.
3. I am an active member of the Sierra Club and have been a member since 2011. I got involved with the Sierra Club because after advocating for cleaning up the electric generation sector in the Midwest since the 1990s. I joined the Sierra Club because I felt it was doing the beset advocacy work on climate change and coal plant retirements in my region. As a member of the Sierra Club, I have served on the Executive Committee of the Indiana Chapter for twelve years. As a member of the Executive Committee, I have served as the Chair and have been involved with the finance and energy committees.
4. I believe that highly polluting, existing coal and fossil-fuel burning power plants need to clean up their pollution or retire to enable a more rapid transition to clean energy. These

resources should be replaced as much as possible by renewable, storage, and hybrid generators.

5. I use electricity in my home, and I pay electric bills each month to my utility Duke Energy Indiana, which is a member of the Midcontinent Independent System Operator.
6. I would prefer to have a smaller electric bill each month.
7. I would prefer to get my electricity from clean energy sources as much as possible.
8. I understand that the Federal Energy Regulatory Commission oversees how new electric generators - including wind, solar, and storage – can interconnect to the grid and provide me and others with electricity. I support this intervention to defend FERC’s rule because I understand that the rule will allow renewable and other clean sources of power to interconnect to the grid faster and provide me and others with clean, cheap, and reliable electricity.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Hanover, Indiana on this 3rd day of November, 2023.

A handwritten signature in black ink, appearing to read "Paul Hill", with a long horizontal line extending to the right.

Paul Richard Hill

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.)	
<i>Petitioners</i>)	
)	
v.)	Case No. 23-1282
)	and consolidated Cases
)	
Federal Energy Regulatory Commission,)	
<i>Respondent.</i>)	

DECLARATION OF HELEN HOWARD

I, Helen Howard, hereby declare as follows:

1. I am a Sierra Club employee. I am the Regional Facilities Manager for Sierra Club in the District of Columbia.
2. As the Regional Facilities Manager, I am responsible for overseeing many aspects of the operations of the Sierra Club offices in the District of Columbia. Our office is located at 50 F Street NW. My responsibilities include paying the utility bills, including electricity bills, for the District of Columbia office.
3. Sierra Club uses electricity in our District of Columbia office. We pay electricity each month to our landlord. Our landlord then transmits this payment to Potomac Electric Power Company (“PEPCO”), the local electric utility.
4. Sierra Club would prefer to pay less for electricity for our District of Columbia office.
5. I understand that the District of Columbia is in PJM Interconnection’s service territory.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in the District of Columbia on this 6th day of November, 2023.

Helen Howard

Helen Howard

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Advanced Energy United, et al.
Petitioners

v.

Federal Energy Regulatory Commission,
Respondent.

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**Case No. 23-1282
and consolidated Cases**

DECLARATION OF HUDA FASHHO

I, Huda Fashho, hereby declare as follows:

1. I am the Member Care Senior Managing Director at the Sierra Club. I have held this position for approximately 12 years.
2. In my role, I manage aspects of Sierra Club’s customer service functions related to members, including maintaining an accurate list of members and managing the organization’s member databases.
3. Sierra Club currently has 694,647 members in the United States. There are members residing in each of the fifty United States and in the District of Columbia.
4. Sierra Club’s mission statement declares that the purpose of the Sierra Club is to practice and promote the responsible use of the earth’s ecosystems and resources. Further, Sierra Club works across the United States to promote the development of clean energy and transition away from fossil fuels to protect the environment, reduce consumer energy costs, meet U.S. carbon reduction goals, and ensure that safe, low-cost clean energy is available to all.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Fairfield, CA on this 3rd day of November, 2023.

A handwritten signature in black ink, appearing to read "Huda Fashho", written over a horizontal line.

Huda Fashho