

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 26, 2017

Via Email

The Honorable Manish S. Shah
United States District Court for
the Northern District of Illinois
219 South Dearborn Street
Room 1720
Chicago, IL 60604
c/o Susan McClintic, Courtroom Deputy

Re: *Vill. of Old Mill Creek, et al. v. Star (17-cv-1163); Elec. Power Supply Ass'n, et al. v. Star, et al. (17-cv-1164)*

Dear Judge Shah:

This letter responds to your April 24, 2017 orders inviting the Federal Energy Regulatory Commission (“Commission” or “FERC”) to submit in the above-noted dockets an *amicus* brief, “if it chooses to file one,” stating the agency’s views on “the intersection of Illinois’s Zero Emission Credit program and the Federal Power Act and/or FERC’s jurisdiction over wholesale electricity sales.”

The Commission appreciates the court’s interest in its views on this issue. However, for the reasons discussed below, the Commission respectfully declines your invitation to submit a brief on this issue at this time.

Where the Commission previously has submitted an *amicus* brief at the invitation of a court, such briefs typically have relied substantially upon the statements of the Commission as expressed in its orders. *See, e.g.,* Brief of the United States and FERC as *Amici Curiae, PPL EnergyPlus, LLC v. Solomon*, Case Nos. 13-4330, 13-4501 (consol.) (3d Cir. filed Mar. 20, 2014). A complaint now pending before the Commission, filed by one of the plaintiffs in the above-noted dockets, relates to the Illinois Zero Emission Credit program. *See Calpine Corp. v.*

PJM Interconnection, L.L.C., FERC Docket No. EL16-49-000 (filed Jan. 9, 2017). However, the Commission has not yet issued an order on that complaint.

Furthermore, as the court may be aware, the Commission has been without a quorum since February 4, 2017, and currently cannot act on the pending complaint noted above. The Commission looks forward to the nomination and confirmation of new Commissioners, which would restore its quorum and allow it to address that complaint. The Commission may then be in a position to provide a more definitive statement of its views on this issue.

Respectfully submitted,

/s/ David L. Morenoff

David L. Morenoff
General Counsel
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426
E-mail: David.Morenoff@ferc.gov