

# GreenHat Order to Show Cause and Litigation Update

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Risk Management Committee

January 25, 2022

- FERC issued an Order to Show Cause and Notice of Proposed Penalty on May 20, 2021. (FERC Docket No. IN 18-9-000, 175 FERC ¶ 61,138)
  - An Order to Show Cause is a demand for a non-compliant party to demonstrate compliance
- FERC ordered GreenHat and its three principals, Bartholomew, Ziegenhorn, and the Estate of Kittell to show cause as to why they should not be found to have violated the FPA and Commission's anti-manipulation rules, as well as PJM's Tariff and Operating Agreement.
- FERC also ordered the defendants to show why they should not be required to disgorge \$13M of unjust profits and to pay civil penalties:
  - \$179M for GreenHat
  - \$25M each for Bartholomew and Ziegenhorn
- The Order to Show Cause was supported by a 128 page FERC Enforcement Staff Report.
- Separate Concurrence by Commissioner Danly

- FERC issued an Order Assessing Civil Penalties on November 5, 2021. (FERC Docket No. IN 18-9-000, 177 FERC ¶ 61,073)
  - Effectively reaffirmed the proposed findings of the Order to Show Cause and proposed disgorgements and penalties
  - Commissioner Danly dissented
- Such payments were due 60 days after the order (January 4, 2022) – none were made (Order denying motion to dismiss issued January 5, 2022)
- GreenHat defendants had selected de novo review on June 11, 2021
- On January 6, 2022, FERC filed to enforce its claims in the U.S. District Court for the Eastern District of Pennsylvania (2:22-cv-00044)

Texas litigation has been effectively stayed.  
District Court of Harris County, Texas Cause Nos. 2018-69829, 2018-69829-A

**7/14/2021**  
Estate Notice of Administration

**9/14/2021**  
PJM Interconnection and PJM Settlement submitted a claim in the amount of the default allocation of \$179.6 M; on 9/16/2021 FERC enforcement also filed a claim of \$13 M

**11/10/2021**  
Executor of the estate rejected PJM's claim necessitating a legal action to preserve PJM's ability to enforce obligations within 90 days; Also rejected FERC's claim

**1/5/2022**  
Complaint filed in accordance with California probate law in Superior Court of California (San Diego County) to preserve PJM's ability to enforce obligations  
37-2022-00000466-CU-FR-CTL

PJM is deferring to FERC Enforcement investigative and civil litigation efforts