

Request for Clarification of Paragraph 33 of your Order Assessing Civil Penalties (151 FERC ¶ 61,179) issued May 29, 2015, in Docket No. IN15-3 by Eric S. Morris

Pursuant to no identified rule<sup>1</sup> and specifically not a Rule 713 rehearing request since I am not and never requested party or participant status<sup>2</sup>, I hereby request that you clarify that either you do not know your own Rule 211 or that you intentionally violated it. For your reference, since apparently you do not know it, and with bolding added by emphasis, here is your Rule 211:

**§385.211 Protests other than under Rule 208 (Rule 211).**

(a) *General rule.* (1) **Any person may** file a protest to object to any application, complaint, petition, **order to show cause**, notice of tariff or rate examination, or tariff or rate filing.

(2) The **filing of a protest does not make the protestant a party to the proceeding**. The protestant must intervene under Rule 214 to become a party.

(3) Subject to paragraph (a)(4) of this section, the Commission **will** consider protests in determining further appropriate action. Protests will be placed in the public file associated with the proceeding.

(4) If a proceeding is set for hearing under subpart E of this part, the protest is not part of the record upon which the decision is made.

(b) *Service.* (1) Any protest directed against a person in a proceeding must be served by the protestant on the person against whom the protest is directed.

(2) The Secretary may waive any procedural requirement of this subpart applicable to protests. If the requirement of service under this paragraph is waived, the Secretary will place the protest in the public file and may send a copy thereof to any person against whom the protest is directed.

I agree this proceeding was initiated pursuant to Part 1b so Rule 214 intervention is not allowed. However, this public proceeding is related to an order to show cause issued pursuant to Rule 209<sup>3</sup> so Rule 211 allows me<sup>4</sup> to protest ("may"). Then you will consider my protest. I hope I don't have to get into legal drafting 101 with you, but "will" and "must" leave you no discretion while "may" does<sup>5</sup>. In many ways, though, your decision to ignore your own Rule 211 proves the point of my protest and why you spent 90 pages rubber-stamping the decision to fine in this case. I think we have a "First they ignore you, then they laugh at you, then they fight you, then you win" case here. As the Dennis Hastert case proves, the PATRIOT Act is the last refuge of a scoundrel and justice will eventually be done. Do it now and correct your paragraph 33 denying the protests of PJM and me; even better take this as a chance to reverse your unjust decision in this case.

<sup>1</sup> I could not find a rule specifically mentioning "requests for clarification" so rely on your custom and practice.

<sup>2</sup> I know it is not allowed under Rule 214, hence partly why I filed my protest pursuant to Rule 211.

<sup>3</sup> "On December 17, 2014, the Commission issued an Order to Show Cause, which commenced this public proceeding." See this order at P31 referencing the Order to Show Cause, 149 FERC ¶ 61,261 at 1 ("Pursuant to Rule 209(a)(2) of the Commission's Rules of Practice and Procedure").

<sup>4</sup> Last time I checked I was a "person".

<sup>5</sup> Otherwise I may need to stop reading the book Pig Will, Pig Won't so often to my children. It loses all its meaning if Pig Will can do whatever he wants.

Document Content(s)

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