

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Goldman Sachs Renewable Power Marketing LLC

Docket No. ER20-547-001

**Comment of Public Citizen, Inc.**

In its March 26 *Motion For Leave To Answer And Answer To Protest*, Goldman Sachs Renewable Power Marketing LLC appears to suggest that a Commission determination of affiliation with The Goldman Sachs Group is irrelevant here, as it is not “affiliated with a franchised public utility with or without captive customers. Therefore, such rules do not apply”.<sup>1</sup> While it true the Commission’s affiliate restriction rules are intended to protect captive ratepayers,<sup>2</sup> labeling Goldman Sachs Renewable Power as an affiliate of The Goldman Sachs Group is necessary to prevent market manipulation and ensure just and reasonable rates.

Enforcement of the Commission’s anti-manipulation rule and just and reasonable rates typically involves prohibited transactions between affiliates. Therefore, designating Goldman Sachs Renewable Power and The Goldman Sachs Group as affiliates is essential for the Commission to enforce the anti-manipulation rule and just and reasonable rates.

For example, see the Commission’s enforcement cases against Louis Dreyfus,<sup>3</sup> Barclays Bank,<sup>4</sup> Deutsche Bank<sup>5</sup> and JP Morgan.<sup>6</sup> In some of these cases, a trade in isolation would not have met criteria for enforcement, but when taken together with separate but related trades (sometimes in totally different markets), then it constitutes market manipulation. If any of these banks had instead included transactions involving

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<sup>1</sup> At page 5.

<sup>2</sup> Well, except when a private shell company clearly directed by JP Morgan Chase acquires the franchised utility El Paso Electric, in which case the Commission declines to even consider affiliation. See paragraph 64, *Order Conditionally Authorizing Disposition of Jurisdictional Facilities re El Paso Electric Company*, issued March 30, 2020, Docket No. EC19-120.

<sup>3</sup> *Order Approving Stipulation and Consent Agreement*, Docket No. IN12-6, issued February 7, 2014, [www.ferc.gov/enforcement/civil-penalties/actions/2014/146FERC61072.pdf](http://www.ferc.gov/enforcement/civil-penalties/actions/2014/146FERC61072.pdf)

<sup>4</sup> *Order Approving Stipulation and Consent Agreement*, Docket No. IN08-8, issued November 7, 2017, [www.ferc.gov/enforcement/civil-penalties/actions/2017/20171107-Barclays-Settlement.pdf](http://www.ferc.gov/enforcement/civil-penalties/actions/2017/20171107-Barclays-Settlement.pdf)

<sup>5</sup> *Order Approving Stipulation and Consent Agreement*, Docket No. IN12-4, issued January 22, 2013, [www.ferc.gov/enforcement/enforce-res/142FERC61056.pdf](http://www.ferc.gov/enforcement/enforce-res/142FERC61056.pdf)

<sup>6</sup> *Order Approving Stipulation and Consent Agreement*, Docket Nos. IN11-8 and IN13-5, issued July 30, 2013, [www.ferc.gov/CalendarFiles/20130730080931-IN11-8-000.pdf](http://www.ferc.gov/CalendarFiles/20130730080931-IN11-8-000.pdf)

shell companies similar in structure to Goldman Sachs Renewable Power, it is unlikely that the Commission could have successfully pursued a manipulation case.

Failing to brand Goldman Sachs Renewable Power an affiliate of The Goldman Sachs Group will open a vast enforcement loophole, providing incentive for traders to proliferate off-the-books shell companies with easy-to-control, weak boards for the purpose of market manipulation—free from worry of FERC prosecution.

Respectfully submitted,

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