

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**TEXAS BLOCKCHAIN COUNCIL,
a nonprofit association;
RIOT PLATFORMS, INC.,**

Plaintiffs

v.

**DEPARTMENT OF ENERGY;
JENNIFER M. GRANHOLM, in her
official capacity as Secretary of Energy;
ENERGY INFORMATION
ADMINISTRATION; JOSEPH
DECAROLIS, in his official capacity as
Administrator of Energy Information
Administration; OFFICE OF
MANAGEMENT AND BUDGET;
SHALANDA YOUNG, in her official
capacity as Director of Office of
Management and Budget,**

Defendants.

Case No. 6:24-cv-99

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF
NEITHER PARTY**

Pursuant to Fed. R. Civ. P. 7, Sierra Club respectfully moves for leave to file the attached brief as amicus curiae. Counsel for Plaintiff oppose and counsel for Respondent do not consent to the filing. Sierra Club’s participation as amicus curiae will provide relevant and useful information to the Court regarding the reasonable likelihood of public harm absent the Energy Information Administration’s (“EIA”) emergency collection of information regarding cryptocurrency mining facilities, particularly in the absence of any briefing or other filings addressing the need for this information.

I. Interests of Amicus Curiae

Sierra Club is a nonprofit, grassroots environmental organization with over 680,000 members and with more than 60 chapters throughout the country. Sierra Club's Lone Star Chapter consists of more than 22,000 members. Sierra Club seeks to advance clean, affordable, and reliable electricity service and, in this capacity, particularly seeks to optimize demand response programs that reduce the need for generation resources and stabilize the grid by incentivizing customers to reduce demand.

Sierra Club's members who are residential utility customers have economic and environmental interests in ensuring that electric grid operators provide for the least-cost means of meeting customer energy and reliability needs while also avoiding unnecessary pollution. As a result, Sierra Club's members likewise have a particular interest in optimal demand response programs, which decrease prices and increase reliability for customers. Similarly, Sierra Club's members also have a significant interest in the accuracy and precision of aggregate demand (or "load") forecasts—predictions that grid operators and utility companies use for long-term planning to ensure an adequate supply of electricity for customers and to determine how much capacity needs to be added to the grid, whether through the addition of new electricity generators and/or through the addition of demand response programs.

II. Desirability and Relevance of the Proposed Brief

Sierra Club's proposed amicus brief is "desirable," and the matters it addresses are "relevant to the disposition of the case." *Cf.* Fed. R. App. P. 29(a)(3)(B), (b)(3). A key issue in this case, and the basis for this Court's temporary restraining order, is whether an emergency exists to justify the EIA's use of emergency procedures under the Paperwork Reduction Act to collect information regarding the effects of cryptocurrency mining on the nation's energy

system. Dkt. 13 (Order) at 4; *see also* Dkt. 1-2 (Compl. Exh. 1) at 2. Additionally, at the preliminary injunction stage, this Court must weigh potential “injury if the injunction is denied” against “any harm that will result if the injunction is granted” and determine whether an injunction is in ‘the public interest.’ *Speaks v. Kruse*, 445 F.3d 396, 399-400 (5th Cir. 2006). Sierra Club’s proposed brief will provide additional information that will aid in this Court’s consideration of these issues.

Specifically, Sierra Club’s proposed brief provides information regarding the needs of grid operators to ensure reliability and affordability—that customers’ lights stay on and that their bills are low. Crucially, grid operators must be able to engage in long-term resource planning and must be able to respond to rapidly evolving stress on the grid through flexible demand response programs. The proposed brief describes the unique characteristics of cryptocurrency mining facilities that, in the absence of sufficient information, can inhibit grid operators and utilities from accurately making long-term plans and responding to extreme events.

Sierra Club has significant expertise both in utility resource planning generally and in demand response programs specifically. Sierra Club regularly advocates for more robust demand response programs with characteristics that will enable rapid, flexible reduction of demand on the electric grid. The Club has engaged deeply for more than a decade with Texas’s primary electric grid operator, the Electric Reliability Council of Texas (ERCOT), and is an official voting member of ERCOT. In that capacity, Sierra Club regularly analyzes threats to the reliability of the grid and works to ensure affordable electricity for customers. Beyond Texas, the Club regularly engages with these issues in states throughout the country. The proposed brief, rooted in this experience, will provide further information as to the urgency of better understanding the impacts of cryptocurrency mining facilities on the grid.

Courts within this district, including this Court, have regularly permitted the participation of interested amici curiae. *E.g.*, *Book People, Inc. v. Wong*, 1:2023-cv-00858, 2023 WL 6060045 (W.D. Tex.); *McGee v. Armstrong*, No.W- 22-CA-380, 2023 WL 5170128 (W.D. Tex.); *Gill v. Crockett*, PE:20-CV-00011, 2021 WL 11669830 (W.D. Tex.); *McDonald v. Sorrels*, No. 1:19-CV-219, 2020 WL 3261061 (W.D. Tex.); *American Stewards of Liberty v. Dep't of the Interior*, No. 1:15-CV-1174, 370 F. Supp. 3d 711 (W.D. Tex.); *Fisher v. Univ. of Tex. at Austin*, No. A-08-CA-263, 645 F. Supp. 2d 587 (W.D. Tex.); *Save Our Springs Alliance v. Norton*, No. A-04-CA-314, 361 F. Supp. 2d 643 (W.D. Tex.). In light of Sierra Club's interests at stake in this case and the potential for the proposed amicus brief to aid the Court in its decision-making, Sierra Club respectfully requests leave to file the proposed brief.

Dated: February 27, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing motion and associated exhibits via the Court's ECF filing system.

Dated: February 27, 2024

/s/ Casey Roberts
Casey Roberts