

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

PSEG Energy Resources & Trade LLC and)	
PSEG Power Connecticut LLC,)	
)	
Petitioner)	
)	
v.)	Case No. 10-1103
)	
Federal Energy Regulatory Commission,)	
)	
Respondent)	
)	
)	

MOTION FOR LEAVE TO INTERVENE

Pursuant to F.R.A.P. 15(d) and D.C. Cir. Rule 15(b), ISO New England Inc. (the “ISO”) hereby moves to intervene in the above-captioned petition for review. In this proceeding, PSEG Energy Resources & Trade LLC (“PSEG ER&T”) and PSEG Power Connecticut LLC (“PSEG Power CT”) (collectively the “PSEG Companies”) seek review of the following orders issued by the Federal Energy Regulatory Commission (“FERC” or “Commission”):

- (1) Order Accepting Filing, *ISO New England Inc.*, Docket No. ER08-633-000, 123 FERC ¶ 61,290 (June 20, 2008) (“Initial Order”); and
- (2) Order Denying Rehearing and on Informational Filing, *ISO New England Inc.*, Docket Nos. ER08-633-001, *et al.*, 130 FERC ¶ 61,235 (March 24, 2010) (“Rehearing Order”).

The ISO is intervening generally in support of the Commission. As required by F.R.A.P. 26.1 and D.C. Cir. Rule 26.1, a Corporate Disclosure Form for the ISO is enclosed with this pleading.

Created in 1997, the ISO is an independent, not-for-profit corporation responsible for the day-to-day reliable operation of New England's bulk power generation and transmission system; development and operation of the region's wholesale electricity markets, which opened in 1999; and management of a comprehensive regional bulk power system planning process. The ISO serves the New England region which includes Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont and the majority of Maine. In support of its functions, the ISO makes filings before the FERC as required by the Federal Power Act.¹

In the Initial Order, the Commission accepted the ISO's filing providing the results of its first Forward Capacity Auction. In that Order, the Commission responded to PSEG Companies' protest, among others, that the ISO did not properly administer its Tariff concerning pricing of resources prevented from prorating (*i.e.*, either selling all of the capacity a resource offered at a lower price than offered, or selling a lesser amount of capacity at the full price offered) because of local transmission security requirements. In particular, PSEG Companies argued that the Tariff gives suppliers the option to reduce the number

¹ 16 U.S.C. §§ 791a-825r (2006).

of megawatts that are committed to the ISO, and that resources not allowed to prorate should be paid the full clearing price.

In its holding, the Commission disagreed with PSEG Companies' reading of the ISO's Tariff, stating that PSEG Companies' reading would violate the Tariff because the ISO is prohibited from purchasing more capacity than what is equal to the Installed Capacity Requirement times the clearing price. Furthermore, it found that if allowing resources to prorate their megawatts would violate reliability criteria, the Tariff is clear that such resources will only be allowed to prorate the price they receive and not their megawatt capacity obligation. The Rehearing Order upholds the conclusions reached in the Initial Order.

The ISO actively participated in the proceedings before the Commission that gave rise to this petition for review. Moreover, the ISO will be directly affected by the Court's decision in this proceeding. The Court should, therefore, grant this motion to intervene.

Respectfully submitted,

ISO New England Inc.

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June 18, 2010

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CORPORATE DISCLOSURE STATEMENT

ISO New England Inc. (the “ISO”) is filing this Corporate Disclosure Statement in compliance with F.R.A.P. 26.1 and D.C. Cir. Rule 26.1. The ISO is a nonprofit corporation. It does not have a parent corporation. The ISO does not issue stock; therefore, no publicly held corporation owns 10% or more of its stock.

Respectfully submitted,

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CERTIFICATE OF SERVICE

In accordance with Fed. R. App. P. 25(d), and the court's Administrative Order Regarding Electronic Case Filing, I hereby certify that I have this day served the foregoing document upon each of the persons on the attached list of parties to this case via e-mail through the court's CM/ECF system.

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Dated at Washington, D.C., this 18th day of June 2010.

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