

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
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March 8, 2010

SENT VIA ELECTRONIC FILING
Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket Nos. ER09-1048-000 - California Independent System Operator Corporation; ER09-1049-000 - Midwest Independent Transmission System Operator, Inc.; ER09-1050-000 and ER09-1192-000 - Southwest Power Pool, Inc.; ER09-1051-000 - ISO New England, Inc. and New England Power Pool; ER09-1063-000 - PJM Interconnection, LLC; and, ER09-1142-000 - New York Independent System Operator, Inc.

Dear Secretary Bose:

For filing, please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceedings. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

Handwritten signature of David G. Drexler.

David G. Drexler
Assistant Counsel

Attachment

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator Corporation)	Docket No. ER09-1048-000
)	
Midwest Independent Transmission System Operator, Inc.)	Docket No. ER09-1049-000
)	
Southwest Power Pool, Inc.)	Docket Nos. ER09-1050-000
)	ER09-1192-000
)	
ISO New England, Inc. and New England Power Pool)	Docket No. ER09-1051-000
)	
PJM Interconnection, LLC)	Docket No. ER09-1063-000
)	
New York Independent System Operator, Inc.)	Docket No. ER09-1142-000
)	

**NOTICE OF INTERVENTION AND COMMENTS
OF THE NEW YORK STATE
PUBLIC SERVICE COMMISSION**

BACKGROUND

On February 4, 2010, the Federal Energy Regulatory Commission (FERC or Commission) held a technical conference to discuss issues related to the responsiveness of Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) to their customers and other stakeholders. Various parties filed specific proposals in the above-referenced proceedings to address perceived problems with stakeholder and Board processes and configurations. In particular, the Ohio

Consumers' Counsel filed a report prepared by the National Association of State Utility Consumer Advocates (NASUCA) entitled Model Corporate Governance for RTOs and ISOs (Report). NASUCA's Report maintains that existing RTO/ISO structures prevent effective participation by end-user consumers and that there is a lack of adequate retail consumer involvement under the current structure.

The NASUCA Report recommends that the Commission reorganize the RTO/ISO stakeholder process and governance structure to ensure meaningful representation of end-use consumer interests. The Report suggests that all RTO/ISO Board meetings should be open to the public and include remote participation by teleconference wherever possible. In addition, NASUCA proposes a revised governance structure that reflects consumer interests at the Board level through the inclusion of two Board members with Consumer Advocate experience, as well as at the Committee level through a Standing Committee dedicated to Consumer Affairs, and within the RTO/ISO through a Division of Consumer Affairs. NASUCA also recommends the creation of a funding mechanism, via RTO/ISO fees, which would provide resources for public representatives of consumers to support consumer positions at all levels of the stakeholder process.

NOTICE OF INTERVENTION

The New York State Public Service Commission (NYPSC) hereby submits its Notice of Intervention and Comments in accordance with the "Notice Providing Agenda for Technical Conference on RTO/ISO Responsiveness," and Rule 214 of the Commission's Rules of Practice and Procedure. Copies of all correspondence and pleadings should be addressed to:

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DISCUSSION

The NYPSC supports the inclusion of RTO/ISO board members with relevant experience in advocating for electric consumer interests. At a minimum, approximately 20% of the board (i.e., two NYISO board members) should have expertise and experience in advocating on behalf of electric consumers. We believe this will provide a balance to the board that will help ensure consumer interests receive thorough and meaningful consideration. This will also provide an opportunity for consumer-related issues to be presented from the top down.

The NYPSC also agrees with the NASUCA Report's conclusion that end-use consumers should have a stronger voice in the existing RTO/ISO structures. We believe this is particularly true with respect to residential and small commercial consumers.¹ While many participants in the RTO/ISO process may be cognizant of the interests of residential and small commercial customers, and may reflect these interests in their advocacy, few or none will be expected to represent these interests alone. As noted above, this is in contrast to the interests of large commercial customers or the interests of other sectors whose individual participation gives them a singular clear voice in the decision making process.

Because of the imbalance in resources, residential and small commercial customers must rely on others, who may be balancing the interests of these customers with the interests of many other sectors, to voice their concerns. As a result, RTOs/ISOs may often fail to fully recognize and measure clearly how the decisions they make will affect these consumers. We

¹ Various large end-use commercial consumers actively participate in the New York Independent System Operator, Inc.'s (NYISO) stakeholder process. Because of the financial impact of NYISO decisions on individual large end-use commercial customers, these customers will often fund and support their individual participation at the NYISO.

encourage the Commission to address this problem by pursuing several of the recommendations in NASUCA's Report.

In particular, we believe that a funding mechanism through RTO/ISO fees should be pursued for residential and small commercial customer advocacy on RTO/ISO issues. This funding mechanism is essential so that these customers may dedicate the resources necessary to understand the complexity of RTO/ISO tariffs. Moreover, the complexity of the formulas and models used to effectuate the markets require the commitment of sufficient resources in order to achieve the high levels of expertise and sophistication that are needed. With access to adequate funding resources, consumer representation will be more direct and more clearly stated.

It is important that all stakeholders, including those affected at the retail level, have an effective opportunity to present input on RTO/ISO decisions. Provisions for funding consumer representatives would afford residential and small commercial the ability to provide the type of bottom-up input they currently lack in RTO/ISO stakeholder processes. As a consequence, RTO/ISO decision making will be strengthened and made more transparent for the issues of concern to these customers.

CONCLUSION

As discussed above, the Commission should pursue provisions for funding consumer representatives, and for including RTO/ISO board members with experience in representing the interests of electric consumers. These measures will address current deficiencies in the RTO/ISO structures.

Respectfully submitted,



Peter McGowan
General Counsel
Public Service Commission
of the State of New York

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Dated: March 8, 2010
Albany, New York

CERTIFICATE OF SERVICE

I, David G. Drexler, do hereby certify that I will serve on March 8, 2010, the foregoing Notice of Intervention and Comments of the New York State Public Service Commission upon each of the parties of record indicated on the official service list compiled by the Secretary in this proceeding.

Dated: March 8, 2010
Albany, New York


David G. Drexler