

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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Secretary

November 1, 2001

Honorable David Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. RM01-12-000 - Electricity
Market Design and Structure

Dear Secretary Boergers:

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,

David G. Drexler
Assistant Counsel

Enclosures

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

ELECTRICITY MARKET DESIGN AND) Docket No. RM01-12-000
STRUCTURE)

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

Pursuant to the Notice of Workshop Organization and Agenda issued October 5, 2001, and Rule 214 of the Federal Energy Regulatory Commission's (FERC or Commission) rules of practice and procedure, the New York Public Service Commission (NYPSC) hereby submits its comments. Although we regret being unable to attend the Workshop, the NYPSC remains supportive of FERC's initiative to form a single northeast energy market. The NYPSC is committed to working with FERC, the state commissions, the three existing Independent System Operators (ISO) in the northeast and the stakeholders to create a NERTO that serves the public interest.

A Northeast Regional Transmission Organization (NERTO) can maximize the potential efficiencies associated with larger markets. A NERTO may also make more efficient use of existing generation and transmission facilities, while encouraging development of new generation and transmission to best serve the

interests of the region. Ultimately, a properly designed NERTO can benefit consumers by expanding the market for competitively priced generation. However, the Commission should utilize certain principles as the foundation for its efforts to maximize the advantages of a regional electricity market. Continued local reliability rules, effective market monitoring, an independent unbiased governing body, and the best practices of each of the three ISOs must guide the Commission's actions.

I. The NERTO Must Incorporate Local Reliability Requirements

System reliability is of paramount concern to the States. Uninterrupted service is vital to the State economy and health and safety of its residents. Our experience during the blackout of 1977 and the most recent World Trade Center disaster reinforce the importance of tailoring the new RTO system to incorporate both system-wide and local requirements. FERC must ensure that economic pressures do not compromise the reliable operation of the system. Thus, the states must have a role in developing and monitoring the electric system to ensure the existing high level of reliability. Moreover, until a more optimal system is developed, the current system for ensuring reliability should be maintained.

II. Effective Market Monitoring Must Be In Place

It is imperative that effective market monitoring be in place to ensure, and justify, confidence in the market. The shared goal of expediting the implementation of a regional market should not overshadow the need to protect consumers during the transition. For example, there are load pockets in New York, which require vigilant monitoring and mitigation until markets are workably competitive. New York has worked diligently to develop effective mitigation measures reflecting these local market conditions, which should be in place prior to start-up of the NERTO. The NYPSC has substantial resources to assist the Commission in this effort and welcomes the opportunity to do so.

III. An Independent and Unbiased Governing Body Must Lead the NERTO

There should be a single, independent governing body that receives effective input from all stakeholders, while maintaining the independence to act in the public interest. The NERTO Board of Directors (Board) must have the independence to file additions or revisions to the NERTO's governing documents, such as tariffs and market rules, pursuant to Federal Power Act §205. These filings should be an unfettered right of the Board, not predicated on stakeholder approval. In addition, the Board

must be represented by an equal number of members from the existing ISOs to prevent bias toward the practices of one ISO, at the potential expense of the other ISOs. A Board comprised of independent members unassociated with the existing ISOs will achieve the necessary impartiality and independence required.

IV. The Essential Best Practices Must Be In Place Prior To Start-Up

A Board fully empowered to act by the three northeast regions must identify the "best practices" from each market so that uniform, regional rules can be in place as expeditiously as possible, consistent with the needs to maintain reliability and account for local market conditions. We believe that the essential best practices of each of the three ISOs must be in place prior to NERTO start-up. The NERTO must incorporate such best practices in implementing a regional market.

V. There Must Be Substantial Coordination Between RTOs And The States

Building a NERTO based on the above principles will instill confidence in a regional wholesale market. State regulators have a long history in overseeing that the public interest is maintained. Consequently, state regulators must be able to provide independent input to the RTO, which reflects their responsibilities in siting of generation and transmission,

ensuring local reliability and effective market monitoring, and protecting the interests of consumers. To that end, the Northeast Commissioners will be meeting in Philadelphia during the NARUC meetings to develop a proposal for the State role in implementing the NERTO

Respectfully submitted,

Lawrence G. Malone
General Counsel
By: David G. Drexler
Assistant Counsel
Public Service Commission
Of the State of New York
3 Empire State Plaza
Albany, NY 12223-1305
(518) 473-8178

Dated: November 1, 2001
Albany, New York

CERTIFICATE OF SERVICE

I, Naomi Tague, do hereby certify that I will serve on November 1, 2001, the foregoing Notice of Intervention and Comments of the Public Service Commission of the State of New York by depositing a copy thereof, first class postage prepaid, in the United States mail, properly addressed to each of the parties of record, indicated on the official service list compiled by the Secretary in this proceeding.

Date: November 1, 2001
Albany, New York

Naomi Tague