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July 7, 2014

VIA ELECTRONIC FILING

The Honorable Mark J. Langer
Clerk of the Court
United States Court of Appeals for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
Room 5423
333 Constitution Avenue, NW
Washington, D.C. 20001

RE: *TransCanada Power Marketing Ltd., v. Federal Energy Regulatory Commission,
Case Nos. 14-1103, 14-1104 (consolidated), Motion to Intervene of the New England
Power Generators Association, Inc.*

Dear. Mr. Langer:

In accordance with Rules 15(d) and 27 of the Federal Rules of Appellate Procedure and the Rules of this Court, the New England Power Generators Association, Inc., submits for filing the enclosed Motion to Intervene, Corporate Disclosure Statement and Certificate of Service.

Please contact me should you have any questions about the enclosed documents.

Respectfully submitted,

/s/ Bruce Anderson

Bruce Anderson
Counsel for New England Power Generators Association, Inc.
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617-902-2347

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

)	
TransCanada Power Marketing Ltd.,)	
)	
Petitioner)	
)	
v.)	Case Nos. 14-1103, 14-1104
)	
Federal Energy Regulatory Commission,)	(Consolidated)
)	
Respondent)	
)	
)	
)	

**MOTION TO INTERVENE OF THE
NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.**

Pursuant to Rule 15(d) of the Federal Rules of Appellate Procedure and D.C. Circuit Rule 15(b), the New England Power Generators Association, Inc. (“NEPGA”)¹ hereby moves to intervene in the above-captioned petitions for review. NEPGA moves to intervene in support of the respondent Federal Energy Regulatory Commission.

¹ The comments expressed herein represent those of NEPGA as an organization, but not necessarily those of any particular member.

BACKGROUND

In Case Nos. 14-1103 and 14-1104, TransCanada Power Marketing Ltd. (“TCPM”) seeks review of the following orders issued by the Commission:

ISO New England, Inc., “Order Conditionally Accepting Tariff Revisions,” 144 FERC ¶ 61,024 (Sept. 16, 2013) (“Tariff Initial Order”);

ISO New England, Inc., “Order Denying Rehearing,” 147 FERC ¶ 61,026 (Apr. 8, 2014);

ISO New England, Inc., “Order Conditionally Accepting Bid Results,” 145 FERC ¶ 61,023 (October 7, 2013) (“Bid Results Initial Order”);

and

ISO New England, Inc., “Order Denying Rehearing,” 147 FERC ¶ 61,027 (April 8, 2014) (“Bid Results Rehearing Order”).

In its Tariff Initial Order, the Commission conditionally accepted changes to ISO-New England’s (“ISO-NE”) Transmission, Markets and Services Tariff (“Tariff”) establishing ISO-NE’s Winter Reliability Program. The Winter Reliability Program set forth a bidding process for ISO-NE to procure energy from oil-fired and dual-fuel generators, and demand response resources, for the winter 2013-14 season. In its Bid Results Initial Order, the Commission conditionally approved the results of that bidding process, subject to ISO-NE filing a more detailed explanation of its process for evaluating the bids. On November 6, 2013, TCMP filed a request for rehearing of the Commission’s Initial Order, arguing that ISO-NE did not comply with its Tariff in evaluating the bids, and that ISO-NE’s bid results filing did not provide sufficient information for the Commission to make a reasoned determination that the bids and resulting costs for the Winter Reliability Program are just and reasonable. In its Bid Results Rehearing Order the Commission denied TCMP’s request, finding that ISO-NE complied with

its Tariff in evaluating bids, and that in accepting the bid results the Commission reasonably balanced the Winter Reliability Program costs with the need to address imminent reliability risks.

Throughout the consideration of the Winter Reliability Program, first at the regional stakeholder level at the New England Power Pool and subsequently before the Commission, NEPGA strenuously expressed concerns about the lack of resource neutrality and out-of-market result obtained under the Program, which concerns remain with respect to what was purportedly a one-time out-of-market solution. NEPGA generally agrees with the Commission, as the respondent, that ISO-NE complied with its Tariff in evaluating the bids results, and therefore moves to intervene in support of the respondent. NEPGA does not agree with petitioner TCPM that the Commission did not have sufficient information upon which to base its decision.

ARGUMENT

NEPGA is a private, non-profit trade association advocating for the business interests of competitive electric power generators in New England. NEPGA's member companies represent approximately 26,000 megawatts of installed capacity throughout the New England region. NEPGA's member companies are responsible for generating and supplying electric power for sale within the New England bulk power system. As active participants in the ISO-NE capacity and wholesale electricity markets, NEPGA's member companies have substantial and direct interests in this case that cannot be adequately represented by any other party in the proceeding. *See Diamond v. District of Columbia*, 792 F.2d 179, 192 (D.C. Cir. 1986) (intervention is appropriate if "representation" by other parties "'may be' inadequate").

If the Commission's approval of the Winter Reliability Program bid results is reversed, NEPGA and its members will face certain and substantial harms. Several of NEPGA's members

participated in the Winter Reliability Program by submitting bids based on the costs necessary to meet the reliability obligations assumed by participating generators. Each of the NEPGA members that participated in the Winter Reliability Program relied on ISO-NE's acceptance of their bids and the Commission's approval of the bid results in incurring the costs necessary to meet the Winter Reliability Program obligations. Should this Court or the Commission order a remedy retroactively decreasing or voiding the payments made to Winter Reliability Program participants, NEPGA's participating members will face certain and substantial harms.

NEPGA's members will be directly affected by the outcome of this proceeding, and NEPGA therefore has a strong interest in ensuring that the Commission's approval of the Winter Reliability Program results is upheld. NEPGA was an active participant in the Commission proceeding approving the Tariff changes defining the Winter Reliability Program, and its members were active participants in the Commission proceeding approving the bid results. NEPGA is therefore seeking leave to intervene in this case to ensure that it is in a position to provide its unique perspective on the issues to be heard by this Court. Because this motion is timely under the rules of this Court, granting NEPGA's motion will not inconvenience any other party to this proceeding.

CONCLUSION

For these reasons, NEPGA respectfully requests that the Court grant its Motion to Intervene in this consolidated case with full rights attendant thereto.

Respectfully Submitted,

/s/ Bruce Anderson

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Dated: July 7, 2014

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Federal Energy Regulatory Commission,)	(Consolidated)
)	
Respondent)	
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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of both the Federal Rules of Appellate Procedure and the local rule of this Court, the undersigned, counsel of record for the New England Power Generators Association, Inc. (“NEPGA”), hereby states as follows:

NEPGA, a not-for-profit entity duly organized under the laws of the Commonwealth of Massachusetts, is a trade association that advocates for the business interests of non-utility competitive electric power generators in New England. NEPGA respectfully submits that it is a trade association as so defined pursuant to Circuit Rule 26.1(b). NEPGA’s member companies represent approximately 26,000 megawatts of installed capacity throughout the New England region. NEPGA’s member companies are responsible for generating and supplying electric power for sale within the New England bulk power system, and are active participants in the ISO-NE capacity and wholesale electricity markets. NEPGA has no corporate parents and does not issue stock. NEPGA therefore does not have a corporate parent that owns 10% or more of its stock.

Respectfully Submitted,

/s/ Bruce Anderson

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Dated: July 7, 2014

CERTIFICATE OF SERVICE

Pursuant to Federal Rules of Appellate Procedure 25(c) and 25(d), and the court's Administrative Order Regarding Electronic Case Filing, I hereby certify that I have served the foregoing document upon each person listed below.

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Dated at Boston, MA, this 7th day of July, 2014.

Respectfully Submitted,

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