UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Constellation Energy Commodities Group, Inc. Docket No. IN12-7-000

NEW ENGLAND STATE AGENCIES’ REPLY TO AARP COMMENTS

In accordance with the September 28, 2012 Order of Deputy Chief Administrative Law Judge McCartney, the New England State Agencies file this reply to the Comments of the American Association of Retired Persons (“AARP”), filed on September 26, 2012. As discussed below, the New England State Agencies do not opine on the pros or cons of using the Disgorgement Fund, which is to be used for the benefit of electric energy consumers, to fund consumer advocacy. Instead, the New England State Agencies explain that their proposal to return the ISO-NE portion of disgorged funds directly to electric energy consumers in New England directly benefits New England electric energy consumers.

I. BACKGROUND

On March 9, 2012, the Commission issued an order approving a Stipulation and Consent Agreement in the above-captioned docket. Constellation Energy Commodities Group, Inc., 138 FERC ¶61,168 (2012). Paragraph 37.b. of the approved agreement creates a "fund for the benefit of the electric energy consumers in the affected States within the . . . ISO-NE . . . " (the Fund). The Fund is to be apportioned by a Commission Administrative Law Judge upon the request of state agencies, including state consumer advocate offices, in those regions. Pursuant to the order, $20,000,000 of the Fund was allocated to those states within the ISO-NE geographic footprint.

At a March 29, 2012, Prehearing Conference held in the above-captioned matter at the Federal Energy Regulatory Commission ("Commission"), Deputy Chief Administrative Law Judge Bobbie J. McCartney requested interested parties to file, by April 30, 2012, Motions for Determination of Eligibility to apportion monies collected in the Fund for the benefit of electric energy consumers in their respective states.

On April 30, 2012, the New England State Agencies submitted a Joint Stipulation Agreement and Motion for a Determination of Eligibility which was unopposed. Also on April 30, 2012, the Massachusetts Municipal Wholesale Electric Company (MMWEC), the Eastern Massachusetts Consumer-Owned Systems (EMCOS), Groveland Municipal Light Department (Groveland) and Merrimac Municipal Light Department (Merrimac) filed Motions for Determination of Eligibility to which no party objected.

On June 7, 2012, the ALJ granted all of the above-referenced unopposed Motions for Determination of Eligibility as to the portion of the fund allocated to the ISO-NE market. Accordingly, the New England State Agencies, MMWEC, EMCOS, Groveland,
and Merrimac (collectively, the “Eligible New England Parties”) are eligible to apportion such monies in the Energy Consumers Fund for the benefit of electric energy consumers in their respective states.

On July 11, 2012, the ALJ issued an Order Denying Opposed Motions for Eligibility Determination and Directing Parties to File Joint Stipulations. The July 11, 2012 Order provided, *inter alia,*

The eligible state agency parties in the ISO-NE footprint are directed to file a joint stipulation within sixty (60) days of this order regarding a proposed allocation and distribution method of the $20 million portion of the ISO-NE disgorgement fund. The eligible state agency parties are to inform the undersigned if a joint stipulation cannot be reached, and oral argument will be held.

On September 10, 2012, in accordance with the July 12, 2012 Order, the Eligible New England Parties filed a Stipulation regarding the allocation and distribution of the $20 million portion of the disgorgement fund allocated to New England. The stipulation reiterated the New England State Agencies earlier stipulation’s allocation among the New England States and also provided in the appendices each states statement or agreement regarding that state’s intrastate distribution. In each case, the statement or stipulation provided that funds would be returned directly to electric energy consumers.

On September 26, 2012, AARP filed comments on filings by State Agencies including the September 10 filing by Eligible New England Parties. AARP suggested some criteria that the Commission should consider in evaluating the state agencies’ allocation and distribution proposals. Specifically, with regard to the filing by the Eligible New England Parties, while not specifically objecting to the New England Eligible Parties proposed allocation and distribution, the
AARP noted that “the NE ISO is the only affected RTO which has not recommended using a portion of its allocation for consumer advocacy for residential customers at the RTO and FERC.” AARP Filing at 20. AARP stated its view that “enhancement of independent consumer advocacy and fuller participation of residential consumers in decisions regarding wholesale markets will provide long term benefits to consumers.” On September 28, 2012, the ALJ issued an order permitting a reply to AARP’s comments.

II. DISCUSSION

AARP’s comments indicate its apparent interest in consumer advocacy funding as a means of providing benefits to consumers. However, the question before the Commission is whether the Eligible New England parties have filed a stipulation that demonstrates that the funds will be used for the benefit of electric energy consumers. Returning the relevant portion of the disgorged funds directly to electricity consumers as a bill credit clearly meets the “benefit of electric energy consumers” standard. Even if there are other reasonable approaches (a matter upon which the New England State Agencies do not opine), as long as the New England proposed allocation and distribution is reasonable and meets the standard set forth by the Commission, the New England proposed allocation and distribution should be approved.

III. CONCLUSION

For the reasons discussed above, the New England State Agencies respectfully request that their proposed allocation be approved.
Dated: October 15, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Lisa Fink, hereby certify that on this day I caused the foregoing to be served via electronic mail or first class mail upon all parties identified on this agency’s service list for this proceeding in accordance with 18 C.F.R. § 385.2010 (2012).

/s/ Lisa Fink
Lisa Fink

Dated: October 15, 2012