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

New England Power Generators  
Association  

v.  

Docket No. EL13-66-000  

ISO New England Inc.  

NOTICE OF INTERVENTION AND INITIAL COMMENTS OF THE
MAINE PUBLIC UTILITIES COMMISSION

Pursuant to Rules 212 and 214\(^1\) of the Rules of Practice and Procedure of the
Federal Energy Regulatory Commission ("Commission") and the Commission's May 21,
2013 Notice of Filing, the Maine Public Utilities Commission ("MPUC"), by and through
counsel, Lisa Fink, State of Maine Public Utilities Commission, 18 State House Station,
Augusta, Maine 04333-0018, files this Notice of Intervention and Initial Comments in the
above-captioned proceedings in response to the Complaint filed by the New England
Power Generators Association ("NEPGA") against ISO New England, Inc. (ISO-NE\(^2\)).
While the MPUC plans to seek leave to respond to the specific arguments that will be set
forth in the answer of ISO-NE to the NEPGA complaint, the MPUC, in these initial
comments, raises a concern with what appears to be the notion underlying the NEPGA
Complaint that a generator with a Capacity Supply Obligation ("CSO") may not need to
be available for dispatch by ISO-NE if it is difficult, expensive or financially risky for the
generator to procure fuel so that it can operate when called.


\(^2\) New England Power Generators Association v. ISO New England Inc.,
Complaint, Docket No. EL13-66-000 (filed May 17, 2013) ("Complaint").
I. COMMUNICATIONS

The persons to whom correspondence, pleadings, and other papers in relation to this proceeding should be addressed and the persons whose names are to be placed on the Commission’s official service list are designated as follows pursuant to Rule 203, 18 C.F.R. § 385.203 (2013):

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II. NOTICE OF INTERVENTION

Under Maine law, the MPUC is the state commission designated by statute with jurisdiction over rates and service of electric utilities in the state. See 35-A M.R.S. § 101 et seq. It is, therefore, a “state commission” under the Commission’s regulations. 18 C.F.R. § 1.101(k) (2013). Accordingly, the MPUC hereby gives notice of its intervention pursuant to Rules 212 and 214 of the Commission’s rules of practice and procedure.
III. COMMENTS

The Implications of Using a “Commercially Reasonable” Efforts Standard Are Significant and Must Be Considered Within the Context of the Purpose of the FCM Settlement.

The settlement approved by the Commission in Docket No. ER03-563\(^3\) ("FCM Settlement") obligates suppliers who get payments from the Forward Capacity Auctions ("FCAs") to bid into the day-ahead and real-time energy market and be available for dispatch by ISO-NE on the operating day. At its core, the bargain struck under the FCM Settlement was that, in exchange for payments (first Transition payments and then FCA-derived payments), generators with a CSO would be available to provide energy, thus providing for a reliable energy supply. The standard proposed by NEPGA raises concerns about the difficulty of objectively defining what constitutes a "commercially reasonable" effort. See, Complaint at 3, 6, 22, 42. Further, in weighing the merits of NEPGA’s argument and ISO-NE’s response, the Commission will need to determine whether the “commercially reasonable” efforts standard can be reconciled with the notion that consumers making capacity market payments are procuring a reliable energy supply.

\(^3\) Devon Power LLC, 115 FERC ¶ 61,340 (2006).
IV CONCLUSION

The MFUC respectfully files these initial comments and looks forward to the answer of ISO-NE.

Dated: June 6, 2013

Respectfully submitted,

/s/ Lisa Fink

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document:

either by first class mail or electronic service upon each party on the official service list
compiled by the Secretary in this proceeding.

Dated at Hallowell, Maine, this 6th day of June, 2013.

/s/ Lisa Fink
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