

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

**ISO New England Inc. and
New England Power Pool**

Docket No. ER09-1051-000

**MOTION TO INTERVENE AND COMMENTS
OF RICHARD BLUMENTHAL, ATTORNEY GENERAL FOR
THE STATE OF CONNECTICUT**

Pursuant to Rules 212 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214, and the Commission's May 1, 2009 Notice of Filing setting a May 26, 2009 comment date, Richard Blumenthal, Attorney General for the State of Connecticut ("CTAG") hereby moves to intervene as a full party and to oppose the market monitoring restructuring and the revised mission statement that ISO New England Inc. ("ISO-NE") and the New England Power Pool ("NEPOOL") (collectively, "Joint Filing Parties") propose in their April 28, 2009 compliance filing.¹

I. MOTION TO INTERVENE

The CTAG is the chief legal officer of the State of Connecticut. The CTAG is an elected Constitutional officer of the State of Connecticut. Among the CTAG's responsibilities are interventions in various types of proceedings to protect the State, the public interest and the people of the State of Connecticut, and assuring the enforcement of a variety of laws of the State of Connecticut, including Connecticut's Unfair Trade Practices Act and Antitrust Act, so as to promote the benefits of competition and to assure the protection of Connecticut's consumers

¹ Filing of ISO New England Inc. and New England Power Pool in Response to Order No. 719, *ISO New England Inc., et al.*, Docket No. ER09-1051-000 (filed Apr. 28, 2009) ("Compliance Filing").

from anti-competitive abuses. The CTAG's request for leave to intervene in this proceeding is in furtherance of these overall responsibilities.²

The CTAG seeks to intervene in this proceeding to represent the interests of the State of Connecticut and the people of the State of Connecticut. In its compliance filing ISO-NE seeks Commission approval to make certain modifications to its market monitoring structure and to modify its "mission statement." Specifically, ISO-NE seeks to implement changes to the roles and obligations of its internal and external market monitors. ISO-NE further proposes to modify its objectives to include a statement that "the ISO shall strive to perform all its functions and services in a cost-effective manner, for the benefit of all those served by the ISO."³

As the Commission is well aware, the CTAG, together with the Connecticut Department of Public Utility Control and the Office of Consumer Counsel, have recently filed a Consolidated Amended Complaint Seeking An Investigation, Hearing, Disgorgement, and Penalties. *See*

² The CTAG has previously initiated or intervened in a number of recent FERC proceedings addressing important policy issues affecting the electric industry and electric ratepayers in Connecticut and New England. These proceedings include FERC Docket Nos: ER08-633, ISO New England, Inc.; ER07-700, Norwalk Power, LLC; ER07-655, ISO New England, Inc., ER07-546, ISO New England, Inc.; ER07-219, ISO New England, Inc. et. al.; ER07-116, ISO New England, Inc.; ER06-089-000, ISO New England, Inc.; ER05-508-000, ISO New England, Inc.; ER05-611-000, Bridgeport Energy, LLC; ER05-231-000, PSEG Power Connecticut, LLC; ER05-163-000, Milford Power Company, LLC; ER03-563-030, Devon Power LLC, et al.; EL03-123, Richard Blumenthal, Attorney General for the State of Connecticut and The Connecticut Department of Public Utility Control v. NRG Power Marketing, Inc.; EL03-129-000, The Connecticut Light and Power Company; ER03-421-000, PPL Wallingford Energy LLC and PPL Energy Plus LLC; ER02-2463-001, ISO New England Inc; RT02-3-000, ISO-New England and New York Independent System Operator: Joint Petition for Declaratory Order Regarding the Creation of a Northeast Regional Transmission Organization; ER02-2330-000, New England Power Pool and ISO-New England, Inc.; RT01-86-000, the filing for a regional transmission organization ("RTO") for the New England Region; RT01-99-000, Regional Transmission Organizations; RM01-12-000, Electricity Market Design and Structure; and Docket Nos. EC01-70-000 and ER01-1259-000, Wisvest-Connecticut, LLC and NRG Connecticut Power Assets.

³ Compliance Filing at 117.

Blumenthal. v. ISO New England Inc. et al. Docket No. EL09-47-000 and *Connecticut Dept. of Pub. Util. Control v. ISO New England, et al.*, Docket No. EL09-48-000 (filed May 22, 2009) (“Connecticut Representatives’ Consolidated Amended Complaint”). In this Consolidated Amended Complaint, the Connecticut Representatives seek a thorough investigation into the recent failures of ISO-NE’s market monitors and to have the Commission reorganize and restructure the roles of ISO-NE’s market monitors in order to ensure their independence from ISO-NE. In this regard, any action the Commission may undertake in this proceeding could have profound implications for the Commission’s subsequent review of the issues raised in the Connecticut Representatives’ Consolidated Amended Complaint.

It is clear that the resolution of these issues by the Commission will have a direct and profound impact upon consumers in Connecticut. As the public official charged with responsibility to represent the State, the public interest and the people of the State of Connecticut with respect to such matters insofar as they affect the electric industry and electric consumers in Connecticut, the CTAG’s interests in this matter are direct and substantial, and no other party can represent adequately those interests. For these reasons, the CTAG should be granted leave to intervene in this proceeding with full rights as a party.

II. PLEADINGS AND OTHER COMMUNICATIONS

Service of all documents should be addressed to the following persons whose names and addresses should be placed on the official service list compiled by the Secretary for this proceeding:

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III. COMMENTS

The CTAG urges the Commission to reject the Joint Filing Parties compliance filing. It is clear that the ISO-NE's proposed reforms do not provide the safeguards that are essential to assure that market monitoring decision-making is independent from ISO-NE. ISO-NE's proposed reforms are also inadequate to cure the external market monitor's isolation from day-to-day market operations, which prevent it from competently fulfilling even its limited duties. Instead, the Commission should establish hearing procedures as requested in the Connecticut Representatives' Consolidated Amended Complaint to determine necessary reforms to assure customers and regulators that ISO-NE's market monitoring function will effectively protect New England's competitive markets. Further, the Commission should order ISO-NE to modify its mission statement to include the most fundamental element of just and reasonable rates – a commitment to provide its services at the lowest reasonable cost consistent with operation of a reliable electric system.

The CTAG further adopts and supports the comments filed by the Connecticut Department of Public Utility Control in this proceeding on this date.

IV. CONCLUSION

WHEREFORE, the CTAG respectfully request that the Commission grant the CTAG's motion to intervene and reject the Joint Filing Parties' compliance filing as described herein.

Respectfully submitted,

RICHARD BLUMENTHAL
ATTORNEY GENERAL FOR THE
STATE OF CONNECTICUT,

By: /s/
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Dated: May 26, 2009

CERTIFICATE OF SERVICE

I, John S. Wright, hereby certify that on this day I caused the foregoing to be served upon all parties identified on this agency's service list for this proceeding.

John S. Wright

Dated: May 26, 2009