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July 7, 2009

**VIA ELECTRONIC FILING**

The Honorable Kimberly D. Bose, Secretary  
The Honorable Nathaniel J. Davis, Sr., Deputy Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

Re: NextEra Energy Power Marketing, LLC  
Docket No. ER09-1344-000

Dear Ms. Bose and Mr. Davis:

Attached for electronic filing in the above-referenced docket is the *Motion to Intervene and Comments of ISO New England Inc.* A copy of the foregoing has been served upon all parties included on the Commission's service list.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance in this matter.

Respectfully submitted,

/s/ Sherry A. Quirk  
Sherry A. Quirk, Esq.

Counsel for ISO New England Inc.

Attachment

cc: Official Service List

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

NextEra Energy Power Marketing, LLC     )  
  )  
  )                     **Docket No. ER09-1344-000**

**MOTION TO INTERVENE AND COMMENTS OF  
ISO NEW ENGLAND INC.**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission”),<sup>1</sup> ISO New England Inc. (the “ISO”)<sup>2</sup> moves to intervene and submit comments in the above-captioned proceeding regarding the “Motion of NextEra Energy Power Marketing, LLC Requesting Limited Waiver of Forward Capacity Qualification Rules” (the “Waiver Request”) filed on June 23, 2009 by NextEra Energy Power Marketing, LLC (“NextEra”), on behalf of NextEra Energy Seabrook, LLC (and the other joint owners of the Seabrook Nuclear Generating Station (“Seabrook”). The ISO takes no position on whether the Commission should grant the requested waiver; however, **if the Commission grants the Waiver Request by August 7, 2009**, the ISO can qualify Seabrook to participate in the third FCA at the level sought in the Waiver Request.

**I. COMMUNICATIONS**

Correspondence and communications regarding this filing should be addressed to the undersigned as follows:

Raymond W. Hepper  
Kevin W. Flynn \*  
ISO New England Inc.  
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<sup>1</sup> 18 C.F.R. §§ 385.212 and 385.214 (2008).

<sup>2</sup> Capitalized terms used but not defined are intended to have the same meaning given to such terms in the ISO’s Transmission, Markets and Services Tariff (“Tariff”).

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## **II. IDENTITY OF THE ISO**

The ISO is a private, non-profit entity that serves as the regional transmission organization (“RTO”) for New England. The ISO administers the New England energy markets and operates the New England bulk power system pursuant to the ISO New England Inc. Transmission, Markets and Services Tariff and the Transmission Operating Agreement with the New England Transmission Owners. In its capacity as the RTO for New England, the ISO has the responsibility to protect the short term reliability of the control area as well as to provide oversight and fair administration of the New England markets.

## **III. BACKGROUND**

Provisions in the Tariff governing the ISO’s administration of the Forward Capacity Market (“FCM”)<sup>3</sup> include requirements and deadlines for resources to qualify and participate in the FCM. Tariff Section III.13.1.2.2 sets forth the process for establishing an Existing Generating Capacity Resource’s summer and winter Qualified Capacity. In short, the Qualified

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<sup>3</sup> The rules governing the Forward Capacity Market (“FCM Rules”) are primarily contained in Section III.13 of the Tariff, but also may include other provisions, including portions of Section III.12 (Calculation of Capacity Requirements) and portions of Section III.1.3.2 (Definitions).

Capacity of an Existing Generating Capacity Resource is equal to the median of the Existing Generating Capacity Resource's Claimed Capability ratings over the most recent five years.<sup>4</sup>

Pursuant to Tariff Section III.13.1.2.3, the ISO provides the Lead Market Participant the Existing Generating Capacity Resource's summer and winter Qualified Capacity values 15 Business Days prior to the Existing Capacity Qualification Deadline. Under Tariff Section III.13.1.2.3, Lead Market Participants may challenge the ISO's determination of the resource's Qualified Capacity. In order to challenge the ISO determined Qualified Capacity value, however, the Tariff requires the Lead Market Participant to inform the ISO of the challenge within 5 Business Days of receipt of the resource's Qualified Capacity amount. Specifically, Tariff Section III.13.1.2.3 states in pertinent part:

For each Existing Generating Capacity Resource, no later than 15 Business Days before the Existing Capacity Qualification Deadline, the ISO will notify the resource's Lead Market Participant of the resource's summer Qualified and winter Qualified Capacity...If the Lead Market Participant believes that an ISO-determined summer Qualified Capacity or winter Qualified Capacity for an Existing Generating Capacity Resource does not accurately reflect the determination described in Section III.13.1.2.2, the Lead Market Participant must notify the ISO within 5 Business Days of receipt of the Qualified Capacity notification.

In late 2006, NextEra Seabrook completed a capacity up-rate project which increased the capacity of Seabrook to 1245.463 MW for summer and 1245.425 MW for winter. In the previous auctions, NextEra successfully challenged the calculation of Seabrook's Qualified Capacity based on the capacity up-rate. On January 12, 2009, the ISO informed Existing Generating Capacity Resources of the Qualified Capacity amounts. The determination of Qualified Capacity for Seabrook was based on the facility's pre-upgrade capacity values. Pursuant to Tariff Section III.13.1.2.3, the due date for challenging the Qualified Capacity amount was January 20, 2009. NextEra, however, did not challenge the ISO's calculation for

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<sup>4</sup> See Tariff Sections III. 13.1.2.2.1.1 (summer Qualified Capacity) and III.13.1.2.2.1.2 (winter Qualified Capacity).

Seabrook for the third Forward Capacity Auction (“FCA”). On June 23 2009, NextEra filed the Waiver Request with the Commission. NextEra requests that the Commission grant a limited waiver of the challenge deadline under Tariff Section III.13.1.2.3 for Seabrook so that the facility may participate in the third FCA at its full up-rated amount.

#### **IV. REQUEST TO INTERVENE**

As the entity charged with administering the third FCA to which the Waiver Request pertains, the ISO has an interest that may be directly affected by the outcome of these proceedings. The ISO is concerned with the fair and efficient operation of the markets in New England in general, and the FCA in particular. The ISO respectfully requests that the Commission grant the ISO’s motion to intervene.

#### **V. COMMENTS**

The ISO takes no position as to whether the Commission should grant NextEra’s Waiver Request. If the Commission grants the Waiver Request by August 7, 2009,<sup>5</sup> the ISO can qualify Seabrook to participate in the third FCA at the facility’s upgraded Qualified Capacity amounts of 1245.463 MW for summer and 1245.425 MW for winter.

While the ISO takes no position on the Waiver Request, the ISO notes that significant time has passed since the January 20, 2009 deadline for challenging Qualified Capacity values. Strict enforcement of the FCM deadlines is critical to the orderly administration of the FCM. If the Commission grants the Waiver Request, the ISO asks that the Commission explicitly provide that the waiver is limited to the specific and unique facts presented here and does not constitute established precedent that would allow Market Participants to avoid these or other terms and conditions set forth in the ISO’s Tariff.

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<sup>5</sup> This date provides the ISO sufficient time to finalize the inputs for the third FCA.

## VI. CONCLUSION

Wherefore, for the foregoing reasons, the ISO respectfully requests that it be permitted to intervene in, and be made a party to, the subject proceeding, with all the rights thereto. In addition, the ISO respectfully requests that the Commission accept and consider its comments as discussed above.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §385.2010 (2008), upon each person designated on the official service list in this proceeding as compiled by the Secretary of the Federal Energy Regulatory Commission.

Dated at Washington, D.C., this 7<sup>th</sup> day of July 2009.

/s/ Sherry A. Quirk  
Sherry A. Quirk