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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: Mirant Energy Trading, LLC
ER09-1347-000

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

and

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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”)³ include requirements and deadlines for resources to qualify and participate in the FCM. When the most recent summer Seasonal Claimed Capability of an Existing Generating Capacity Resources is below the resource’s summer Qualified Capacity, Tariff Section III.13.1.2.2.4 requires Lead Market Participants to make an election prior to the Existing

³ 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 Qualification Deadline. Specifically, Tariff Section III.13.1.2.2.4(c) allows the Lead Market Participant:

[T]o submit a critical path schedule . . . describing the measures that will be taken and showing that the Existing Generating Capacity Resource will be able to provide an amount of capacity consistent with the summer Qualified Capacity . . . by the start of the relevant Capacity Commitment Period; and to have the Existing Generating Capacity Resource's summer Qualified Capacity remain . . . for the Forward Capacity Auction.

For the third Forward Capacity Auction ("FCA"), elections under Tariff Section III.13.1.2.2.4 needed to be made February 3, 2009, the Existing Capacity Qualification Deadline for the third FCA. If no election is made, or any associated requirements are not met, the Existing Generating Capacity Resource will have its capacity set to the most recent summer Seasonal Claimed Capability as of the fifth business day in October.

Mirant's affiliate, Mirant Canal LLC, ("Mirant Canal") owns and operates two diesel-fired generating facilities⁴ on Martha's Vineyard in Massachusetts ("Vineyard Diesels"). Mirant failed to make an election by February 3, 2009 for the Vineyard Diesels. Therefore, pursuant to Tariff Section III.13.1.2.2.4, the Vineyard Diesels Qualified Capacity was set to the resources' most recent summer Seasonal Claimed Capability, which as explained in the Waiver Request, is zero. On June 24, 2009, Mirant filed the Waiver Request with the Commission. Mirant requests that the Commission grant a limited waiver of the February 3, 2009 Existing Capacity Qualification Deadline so that Mirant may make an election for the Vineyard Diesels under Tariff Section III.13.1.2.2.4(c) so that the resources may participate in the third FCA at a combined Qualified Capacity of 13.5 MW. The Waiver Request states that absent a waiver, the Vineyard Diesels will not be qualified to participate in the third FCA.

⁴ The Vineyard Diesels are comprised of the Oak Bluffs and West Tisbury generating facilities.

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 this proceeding. 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 Mirant's Waiver Request. If the Commission grants the Waiver Request by August 7, 2009,⁵ the ISO can qualify the Vineyard Diesels to participate in the third FCA at a combined FCA Qualified Capacity amount of 13.5 MW.⁶

While the ISO takes no position on the Waiver Request, the ISO notes that significant time has passed since the February 3, 2009 Existing Capacity Qualification Deadline. 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 Tariff.

⁵ This date provides the ISO sufficient time to finalize the inputs for the auction.

⁶ In accordance with the waiver requested by Mirant, the Oak Bluffs generating resource summer and winter Qualified Capacity values would be 8 MW and 8.25 MW, respectively. The West Tisbury generating resource summer and winter Qualified Capacity values would be 5.5 MW and 5.475 MW, respectively.

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 7th day of July 2009.

/s/ Sherry A. Quirk
Sherry A. Quirk

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