

“reserved issue” of whether, “based on the agreed-upon facts in the Joint Stipulation and any other facts or considerations deemed relevant by the Commission, the Commission should direct the NYISO to correct the NYISO’s invoices to market participants in certain NYSEG and National Grid subzones that were affected by the metering errors identified in the Joint Stipulation.” (Explanatory Statement in Support of Settlement Agreement by Settling Parties at page 4). The Settling Parties requested that the Commission permit late interventions in this proceeding and also set a procedural schedule allowing for comments on the Settlement Agreement and briefs on the reserved issue. The Commission adopted this approach in subsequent Notices.

The National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies. NEM members are committed to helping federal and state lawmakers and regulators implement a consumer-focused, value-driven transition to a transparent, reliable, price and technology competitive wholesale and retail marketplace for energy-related products, services, information and innovative electrical applications and technologies.

NEM, as a representative of a diverse group of providers of energy and energy-related services, has an interest to advocate the implementation of rates, tariffs, operating procedures, standards of conduct, rules, and policies that will ensure the development and maintenance of efficient and reliable competitive electric markets, both nationwide and on the NYISO system. The ability of NEM members to compete fairly in this market will be specifically affected by the outcome of this proceeding.

Even if other trade associations or individual marketers intervene in this matter, NEM's interests and position are significant and unique given (1) its industry diversity, (2) its interest in serving customers who take service on the NYISO system in both the NYSEG and National Grid service territories, and (3) its current and past participation in restructuring proceedings in Commission and State jurisdictions on similar and related issues. As such, the interests of NEM in this proceeding cannot be adequately represented by any other party hereto.

Under all of these circumstances, NEM submits that good cause exists to grant its late motion to intervene given the nature of its interest. NEM submits that there is an absence of any undue prejudice or delay on any other party to the proceeding. Indeed, the Settling Parties themselves requested that late interventions be accepted in this matter. Moreover, the Commission has indicated it will accept late interventions up until thirty days from the date of the October 13, 2009, Notice of Filing, issued in the instant case.

II. COMMUNICATIONS AND CORRESPONDENCE

NEM requests that the following individuals be added to the official service list in this proceeding and receive all pleadings, communications, documents and correspondence concerning this case:

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CONCLUSION

WHEREFORE, NEM respectfully requests that the Commission grant its motion to intervene out of time in the above-referenced proceeding and be made a party for all purposes.

Respectfully Submitted,

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Dated: November 12, 2009.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 12th day of November 2009.

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