

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

New York Independent System Operator) Docket No. ER01-1740-000

**MOTION TO INTERVENE AND COMMENTS
OF THE NATIONAL ENERGY MARKETERS ASSOCIATION**

This Motion to Intervene and Comments is filed by the National Energy Marketers Association (NEM) pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), and the Notice of Filing issued on April 10, 2001, in the above-referenced proceeding. NEM requests that this Motion be granted for the reasons set forth below.

I.

Communications and correspondence concerning this Motion should be directed to the following:

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II.

The National Energy Marketers Association (NEM) is a national, non-profit trade association representing both wholesale and retail marketers of energy and energy-related products, services, information and technologies throughout the United

States. NEM's membership includes: small regional marketers, large traditional international wholesale and retail energy suppliers (as well as wind and solar power), billing and metering firms, Internet energy providers, energy-related software developers, risk managers, energy brokerage firms, information technology providers and both manufacturers and suppliers of advanced distributed generation. Our membership has both affiliated and unaffiliated companies.

This regionally diverse, broad-based coalition of energy and technology firms have come together under the NEM auspices to forge consensus and to help eliminate as many issues as possible that would delay competition. NEM is committed to working with representatives of state and federal governments, large and small consumer groups and utilities to devise fair and effective ways to implement restructuring of natural gas and electricity markets. NEM and its members appear before state Public Utility Commissions, the Federal Energy Regulatory Commission and legislative bodies throughout the nation. NEM members urge lawmakers and regulators to implement:

- a. Laws and regulations that open markets for natural gas and electricity;
- b. Rates, tariffs, interconnection rules, and operating procedures that lower the cost of energy;
- c. Standards of conduct that protect consumers;
- d. Rules to permit competition on the basis of price and quality of service; and
- e. Policies that encourage new technologies, including the integration of energy, telecommunications and Internet services.

III.

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 electricity markets, both nationwide and on the NYISO system. As electricity marketers and providers of energy-related services and technologies, various NEM members intend to provide service to customers in the electricity markets served by the NYISO system. The ability of NEM members to compete fairly in these markets 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 from or through the NYISO system, (3) its current and past participation in restructuring proceedings in FERC and state jurisdictions on similar and related issues, and (4) the substantial business interests of its members in the development of viable electricity markets in the NYISO system.

As such, the interests of NEM and its members 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 it leave to intervene in this proceeding.

IV.

On April 5, 2001, the New York Independent System Operator (NYISO) tendered for filing revisions to its Market Administration and Control Area Services Tariff (Services Tariff) and Open Access Transmission Tariff in order to implement an Incentivized Day-Ahead Economic Load Curtailment Program (Program). NYISO submitted the Program pursuant to Section 205 of the Federal Power Act. By the terms of the Program, Demand Side Resources located in the New York Control Area, including certain curtailable loads and "behind the fence" generators, will be able to submit day-ahead demand reduction bids. Pursuant to the Program, qualified Demand Reduction Providers can submit bids to indicate their willingness to reduce demand at a certain price level. The bids are to include a minimum run time and a Curtailment Initiation Cost. NYISO's Security Constrained Unit Commitment software will consider the bids and select bids when it will result in a reduction in total Bid Protection Costs. Bidders that are selected will be paid the greater of the day-ahead Locational Based Marginal Price (LBMP) or their Demand Reduction Bid, including their Curtailment Initiation Costs. Additionally, bidders that actually curtail load will be paid an incentive equal to the day-ahead LBMP for an amount of energy equal to the amount of demand they reduce, but not in excess of that which they scheduled day-ahead. This incentive payment is set to expire on October 31, 2003, and will not be paid to Demand Production Providers that reduce demand by activating local generators. The costs of the incentive payments paid to Demand Reduction

Providers will be allocated to Load Serving Entities on a zonal basis in proportion to the benefits received.

NYISO requests the Commission to accept the Program and allow it to become effective on May 1, 2001.

V.

NEM supports NYISO's efforts to devise aggressive demand response measures to mitigate congestion, increase throughput of energy supplies to increase energy supply in the short term, and to reduce demand thereby mitigating potential supply shortfalls and price spikes in the NYISO system. NEM has urged the Commission in its Comments on the PJM Economic and Emergency Load Response Programs¹ and the energy markets in the western U.S.² to consider such measures in other areas of the country that face congestion, bottlenecks and potential energy shortfalls. The Commission itself has recognized the importance of demand response programs.³ NEM asserts that in order to bring true price competition to

¹ Comments of the National Energy Marketers Association on PJM Interconnection, LLC, Docket No. ER01-1671-000 dated April 19, 2000.

² Comments of the National Energy Marketers Association on Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States, Docket No. EL01-47-000, dated March 29, 2001, available on the NEM Website at: http://www.energymarketers.com/Documents/NEM_Cmts_on_EL01-47.pdf.

³ Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States, Docket No. EL01-47-000, Order Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States and Requesting Comments on Further Actions to Increase Energy Supply and Decrease Energy Consumption, issued March 14, 2001. The Commission noted that: "It is widely accepted that dropping even a few megawatts off the system at peak periods is more efficient and economical than the incremental cost of generating them. Demand reduction offers a short-term and cost-effective means to provide additional resources during times of scarcity. Therefore, the Commission will allow, effective on the date of this order, retail customers, as permitted by state laws and regulations, and wholesale customers to reduce consumption for the purpose of reselling their load reduction at wholesale. By providing additional load resources when generating resources are scarce, these "negawatts" should help maintain the reliability of the grid." Id. at page 10.

the markets, consumers must be able to respond to price signals, and the NYISO Program will encourage such price responsive demand.

NEM supports the immediate implementation of aggressive market-based economic conservation measures, rebates and conservation incentive rates. Although demand response programs cannot solve all of our country's long-term supply problems, such programs will provide the time to find and implement viable longer-term solutions.

VI.

WHEREFORE, NEM respectfully requests that the Commission permit it to intervene in the above-referenced proceeding and be made a party for all purposes. NEM urges the Commission to approve and implement demand response measures that allow consumers to respond to market price signals at the earliest possible time. NYISO's Program will provide an important and necessary element to ensuring price competition in energy markets.

Sincerely,

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Counsel for The National Energy Marketers Association

Dated: April 25, 2001.

CERTIFICATE OF SERVICE

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

Dated: April 25, 2001.

Stacey L. Rantala
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