

99 FERC ¶ 61, 102
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, Linda Breathitt,
and Nora Mead Brownell.

National Grid USA Docket No. EL01-80-003

Alliance Companies Docket No. EL02-65-000

Ameren Services Company
On behalf of:

Union Electric Company
Central Illinois Public Service Company

American Electric Power Service Corporation
On behalf of:

Appalachian Power Company
Columbus Southern Power Company
Indiana Michigan Power Company
Kentucky Power Company
Kingsport Power Company
Ohio Power Company
Wheeling Power Company

Dayton Power and Light Company

Exelon Corporation
On behalf of:

Commonwealth Edison Company
Commonwealth Edison Company
of Indiana, Inc.

FirstEnergy Corporation
On behalf of:

American Transmission Systems, Inc.
Cleveland Electric Illuminating Power Company
Ohio Edison Company
Pennsylvania Power Company
Toledo Edison Company

Illinois Power Company

Northern Indiana Public Service Company

and

National Grid USA

Alliance Companies

Docket No. RT01-88-016

Ameren Services Company

On behalf of:

Union Electric Company
Central Illinois Public Service Company

American Electric Power Service Corporation

On behalf of:

Appalachian Power Company
Columbus Southern Power Company
Indiana Michigan Power Company
Kentucky Power Company
Kingsport Power Company
Ohio Power Company
Wheeling Power Company

Consumers Energy Company and
Michigan Electric Transmission Company

Dayton Power and Light Company

Exelon Corporation

On behalf of:

Commonwealth Edison Company
Commonwealth Edison Company
of Indiana, Inc.

FirstEnergy Corporation

On behalf of:

American Transmission Systems, Inc.
Cleveland Electric Illuminating Power Company
Ohio Edison Company
Pennsylvania Power Company
Toledo Edison Company

Illinois Power Company

Northern Indiana Public Service Company

Virginia Electric and Power Company

ORDER GRANTING REHEARING

(Issued April 25, 2002)

In this order the Commission grants the request for rehearing of Northeast Utilities Service Company (NUSCO) of the Commission's order in this proceeding dated December 20, 2001,¹ and explains that it did not, in that order, decide the question of whether National Grid USA (National Grid) is a market participant with respect to the New England and New York markets. This action benefits customers by making clear that the Commission has not prematurely decided questions that were not before it.

Background

National Grid wished to become the managing member of the Alliance Regional Transmission Organization (Alliance RTO or Alliance), located in the Midwestern United States. It requested a declaratory order from the Commission finding that

¹National Grid USA, 97 FERC ¶ 61,329 (2001) (December 20 Order).

National Grid would not be deemed a market participant, and so would be eligible to serve as managing member of Alliance. In its December 20 Order, the Commission ruled that "we find that, given the specific circumstances of this case, National Grid has demonstrated that it is not a market participant with respect to its last resort sales and other obligations in New York and New England."²

NUSCO has requested rehearing of that order. It states that National Grid is a market participant in New England and New York by virtue of National Grid's significant commercial and economic interests in the New England and New York wholesale and retail markets. NUSCO states that these interests stem from National Grid's current and future retail service obligations, generation and distribution assets and interests, and power supply obligations and power purchase contracts. NUSCO states that these interests would be significantly affected by the actions or decisions of an RTO serving New England and New York, so that National Grid, as a participant in the New England and New York markets, should not be eligible for an active role in any RTO operating in those regions.

NUSCO also states, however, that "if the Commission merely intended to hold that National Grid's status in New York and New England does not disqualify it from operating the Alliance RTO, and clarifies that it did not intend to make any findings with respect to National Grid's market participant status in New York and New England as it would affect National Grid's ability to take an active role in the management or operation of a New York or New England RTO, then the Commission need not address the substantive issues raised in this rehearing."³

National Grid filed an answer to NUSCO's rehearing request stating that, when it sought declaratory relief from the Commission, it asked for a declaration that National Grid would not be deemed a market participant solely "with respect to the region served by the Alliance RTO."⁴ National Grid therefore views the December 20 Order as limited to the question of whether National Grid could become the managing member of Alliance.

Discussion

²Id. at 62,563.

³NUSCO request for rehearing at 2.

⁴National Grid answer at 1, emphasis deleted.

Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2001), a party may not file an answer to a request for rehearing unless the decisional authority so orders. We will accept National Grid's answer because it provides additional material, re-emphasizing the limited scope of its original request, which has been useful to us in our resolution of this matter.

We will grant NUSCO's request for rehearing. While in retrospect our language was not as precise as it could have been, our determination in the December 20 Order that National Grid was not a market participant was intended to be limited solely to the circumstances of that case, which involved the appropriateness of National Grid's serving as the managing member of an RTO in the Midwest. Questions as to whether National Grid was a market participant with respect to markets in New England and New York, and National Grid's ability to participate as a managing member of a New England or New York RTO, were not before us, and we therefore have as yet made no determination on those questions.

The Commission orders:

NUSCO's request for rehearing is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Linwood A. Watson, Jr.,
Deputy Secretary.