

160 FERC ¶ 62,016
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.

Docket No. ER17-1624-001

NOTICE DENYING MOTION TO INTERVENE
AND REJECTING REQUEST FOR REHEARING

(July 10, 2017)

On May 18, 2017, New York Independent System Operator, Inc. (NYISO), submitted to the Commission a notice of cancellation of a Small Generator Interconnection Agreement among NYISO, Niagara Mohawk Power Corporation (Niagara Mohawk), and Green Power Energy LLC (Green Power). Public notice of this filing was published in the Federal Register on May 18, 2017, with comments, interventions, and protests due on or before June 8, 2017.¹ No comments, interventions or protests were filed. On June 15, 2017, Commission staff issued a letter order accepting NYISO's notice of cancellation.² On June 20, 2017, as clarified on June 27, 2017, Green Power filed a motion to intervene out-of-time and a request for rehearing of Commission staff's delegated letter order.³

When late intervention is sought after the issuance of a dispositive order, the prejudice to other parties and burden upon the Commission of granting the late intervention may be substantial. Thus, movants bear a higher burden to demonstrate good cause for granting such late intervention.⁴ Green Power's late motion and explanation that

¹ 82 Fed. Reg. 23,802 (2017).

² *New York Independent System Operator, Inc.*, Docket No. ER17-1624-000 (June 15, 2017) (delegated letter order).

³ On July 5, 2017, Niagara Mohawk and NYISO each filed answers opposing Green Power's late intervention and responding to the request for rehearing. Niagara Mohawk's and NYISO's answers are rejected to the extent that the answers respond to Green Power's request for rehearing, 18 C.F.R. § 385.713(d) (2016).

⁴ See, e.g., *PJM Interconnection, LLC*, 132 FERC ¶ 61,265, at PP 18-20 (2010) (*PJM*); *Bridgeport Energy, LLC*, 114 FERC ¶ 61,265, at P 4 (2006) (*Bridgeport*); *American Elec. Power Serv. Corp.*, 111 FERC ¶ 61,372, at P 16 (2005) (*AEP*); *Midwest Indep. Transmission Sys. Operator, Inc.*, 102 FERC ¶ 61,250, at P 7 (2003),

it delayed filing its motion to intervene based on faulty legal advice does not meet the higher burden of justifying its late intervention. The Commission's public notice clearly stated that motions to intervene were due on or before June 8, 2017.⁵ Accordingly, Green Power's motion to intervene out-of-time is denied.

Under section 313(a) of the Federal Power Act (FPA), 16 U.S.C. 825l(a) (2012) and Rule 713(b) of the Commission's Rules and Regulations, 18 C.F.R. § 385.713(b) (2016), a request for rehearing may be filed only by a party to the proceeding.⁶ Green Power is not a party to this proceeding. Therefore, its request for rehearing is rejected.⁷

This notice constitutes final agency action. Requests for rehearing by the Commission of this notice must be filed within 30 days of the date of issuance of this notice pursuant to section 313(a) of the FPA, 16 U.S.C. 825l (2012), and section 385.713 of the Commission's regulations, 18 C.F.R. § 385.713 (2016).

Kimberly D. Bose,
Secretary.

Fla. Power & Light Co., 99 FERC ¶ 61,318 at 62,358 (2002); *Midwest Indep. Transmission Sys. Operator, Inc.*, 98 FERC ¶ 61,133, at 61,383 (2002) (*Midwest ISO*); *Pacific Gas & Elec. Co.*, 100 FERC ¶ 61,097, at P 5 (2002); *Garnet Energy LLC*, 99 FERC ¶ 61,165 at 61,672 (2002); *Edison Mission Energy*, 96 FERC ¶ 61,032 at 61,082-83 (2001) (*Edison Mission*).

⁵ See *AEP*, 111 FERC ¶ 61,372 at P 17; *Edison Mission*, 96 FERC ¶ 61,032 at 61,083.

⁶ See *PSEG Long Island LLC*, 145 FERC ¶ 61, 183, at P 6 & n.10 (2013); *Bridgeport*, 114 FERC ¶ 62,265 at P 8; *Duke Energy North America, L.L.C.*, 106 FERC ¶ 61,177, at P 5 (2002); *Midwest ISO*, 98 FERC ¶ 61,133, at 61,383; *Edison Mission*, 96 FERC ¶ 61,032 at 61,083.

⁷ The Commission has issued similar notices, denying late-filed interventions and rejecting requests for rehearing, in *Alabama Power Company*, 158 FERC ¶ 61,141 (2017); *South Carolina Electric and Gas Co.*, 145 FERC ¶ 61,084 (2013); *Bishop Tungsten Development, LLC*, 130 FERC ¶ 61,174 (2010).