

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

New England Ratepayers Association

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Docket No. EL20-42-000

**JOINT MOTION TO INTERVENE BY THE COMMONWEALTH OF PENNSYLVANIA
BY AND FOR THE OFFICE OF ATTORNEY GENERAL AND DEPARTMENT
OF ENVIRONMENTAL PROTECTION**

Introduction

1. The Commonwealth of Pennsylvania (“Commonwealth”), by and for the Office of Attorney General and the Department of Environmental Protection (“Department”), files this Joint Motion for Intervention in the Notice of Petition for Declaratory Order published by the Federal Energy Regulatory Commission (“FERC”) on April 15, 2020, pursuant to Rule 214 of the Rules of Practice and Procedure before FERC, 18 CFR § 385.214.

2. On April 14, 2020, the New England Ratepayers Association (“NERA”), filed a petition for Declaratory Order requesting that FERC declare that there is exclusive federal jurisdiction over wholesale energy sales from generation sources located on the customer side of the retail meter, and order that the rates for such sales be priced in accordance with the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 *et seq.*, or the Federal Power Act, 16 U.S.C. §§ 791 *et seq.*

3. The Office of Attorney General, representing the Department, and on its own behalf, file this Motion for Intervention to oppose NERA’s Petition for Declaratory Order.

The Commonwealth, by and through its Office of Attorney General and the Department has a Right to Participate

4. The Commonwealth is entitled to intervene because both the Office of Attorney General and the Department, which serve as state agencies, are entitled to participate in this proceeding by filing a notice of intervention pursuant to Rule 214(a)(3) of the Rules of Practice and Procedure.

5. As agencies, the Office of Attorney General and the Department are each considered a “person” that are entitled to file a motion to intervene under Rule 214(a)(3).

6. The Office of the Attorney General and the Department each have significant and unique interests, as further detailed below, that cannot be adequately represented by other parties in the proceeding.

The Office of Attorney General’s Intervention is in the Public Interest

7. The Office of Attorney General has serious concerns about NERA’s request to eliminate state jurisdiction over critical aspects of net metering programs and the potential impacts of such a change on Pennsylvania’s regulatory scheme, ratepayers, renewable energy development, economic growth, and diversification of energy resources.

8. The Office of Attorney General’s participation in this matter will serve the public interest. 18 C.F.R. § 385.214(b)(2)(iii).

9. The Office of Attorney General has broad responsibilities to protect the public interest and, pursuant to the Commonwealth Attorney Act, to represent the Commonwealth in any action brought by the Commonwealth. 71 P.S. §§ 732-101 *et seq.*

The Department's Intervention is in the Public Interest

10. The Department's participation in the proceeding is in the public interest because the Department is fulfilling statutory duties to protect Pennsylvania's air resources and public health and welfare as required under Section 1901-A of the Administrative Code of 1929, 71 P.S. § 510-1, and Pennsylvania's Air Pollution Control Act, 35 P.S. § 4001 *et seq.* The Department, in addition to other duties conferred on it by law, is responsible for assisting in the implementation of the Pennsylvania Energy Development Authority and Emergency Powers Act, 71 P.S. § 720.1 *et seq.*

11. Under Pennsylvania's Alternative Energy Portfolio Standards Act, 73 P.S. §§ 1648.1—1648.8, the Department is required to work cooperatively with the Pennsylvania Public Utility Commission ("PA PUC") to monitor the performance of all aspects of this act, as well as establish health and safety standards to ensure uniform and proper compliance by owners and operators of facilities generating energy from alternative energy sources, and ensure that all qualified alternative energy sources meet applicable environmental standards.

12. Under section 1648.5 of the AEPS Act, 73 P.S. § 1648.5, the Pennsylvania Legislature directed the PA PUC to develop net metering interconnection regulations. These net metering regulations, 52 Pa. Code §§ 75.11—75.17, have become a key component in satisfying Pennsylvania's statutory goals established in the AEPS Act to increase electricity generation from alternative energy sources.

13. Net metering also plays a significant role in the Department's efforts to decrease greenhouse gas emissions and achieve an aspirational goal of 10% in-state solar generation by 2030.

14. These efforts are undertaken by the Department's Energy Programs Office, which is also Pennsylvania's State Energy Office. The Department is Pennsylvania's main contact to the U.S. Department of Energy, as well as the primary entity under the Governor's jurisdiction responsible for administration of State and Federally-funded energy financing and incentive programs which support the deployment of clean and alternative energy projects within Pennsylvania.

The Office of Attorney General, on behalf of the Commonwealth and the Department, represents interests that will be directly impacted by the outcome.

15. The outcome of this matter will have a direct impact on the Commonwealth's goals of the AEPS Act, which in turn will impact the energy policies implemented by the Commonwealth.

16. The outcome of this matter could also undermine the Commonwealth's progress toward meeting greenhouse gas reduction goals, thereby harming the air resources and the public health and welfare which the Commonwealth has a responsibility to protect.

17. The outcome of this matter could also negatively impact the Commonwealth's net metering regulations, which would harm Pennsylvania's interests in future expansion of solar technology and the environmental benefits to be obtained from that expansion.

18. Therefore, the Office of Attorney General, on its own behalf and on behalf of the Department, has a direct and substantial interest in FERC's ultimate decision. For these reasons, granting intervention is in the public interest and FERC should grant the Commonwealth of Pennsylvania by and through the Office of Attorney General and the Department leave to intervene with full rights as parties for both the Office of Attorney General and the Department.

Conclusion

18. For the foregoing reasons, the Commonwealth of Pennsylvania respectfully requests FERC to grant its Motion to Intervene to the Office of Attorney General and to the Department of Environmental Protection.

Respectfully submitted,

FOR THE COMMONWEALTH OF
PENNSYLVANIA

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Dated: June 15, 2020

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CERTIFICATE OF SERVICE

I hereby certify that I have this 15 day of June 2020, caused the foregoing document to be served upon each person designated on the official service list compiled by the Commission in this proceeding.

Respectfully submitted,

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Dated: June 15 2020