

**ELECTRICITY
CONSUMERS
RESOURCE
COUNCIL**

John A. Anderson
Executive Director



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ORIGINAL

June 14, 2001

By Hand

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
Dockets Room, Room 1A
888 First Street, N.E.
Washington, D.C. 20426

Re: National Grid USA; Docket No. EL01-80-000

Dear Secretary Boergers:

Enclosed for filing please find an original and fourteen (14) copies, and an electronic version on diskette, of the Industrial Consumers' motion to intervene and protest the National Grid USA's Motion for Declaratory Order.

We ask that one copy of this document be date-stamped and returned for our records. Thank you for your assistance.

Sincerely,

John P. Hughes
Director - Technical Affairs

Enclosures

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C.

FILED
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FEDERAL ENERGY
REGULATORY COMMISSION

Petition for Declaratory Order
("National Grid USA")

Docket No. EL01-80-000

**Motion to Intervene and Protest of
The Electricity Consumers Resource Council (ELCON),
The American Iron and Steel Institute (AISI), and
The American Chemistry Council (ACC)
("Industrial Consumers")**

The Electricity Consumers Resource Council (ELCON), the American Iron and Steel Institute (AISI), and the American Chemistry Council (ACC) (collectively "Industrial Consumers") hereby move to intervene and protest National Grid USA's (National Grid) May 15, 2001 petition seeking an order declaring that National Grid will not be deemed a "market participant" as defined in Section 35.34(b) of the Commission's regulations with respect to the region served by the Alliance RTO. With such an order, National Grid would be eligible to be a candidate for the Managing Member of the Alliance RTO. The Alliance RTO, which has been conditionally approved by the Commission, will be an independent transmission company controlled and managed by the Managing Member. FERC's Order 2000 rulemaking stipulates that an RTO be independent of any market participant.

National Grid is a wholly owned subsidiary of The National Grid Group, a company based in the United Kingdom. The National Grid Group intends to be a "world

leader in the management of electricity delivery systems.”¹ The parent company has begun a major expansion in the U.S. market and has already acquired (or is about to acquire) the New England Electric System (NEES), Eastern Utilities Associates (EUA), and Niagara Mohawk Power Holdings. National Grid will divest itself of generation assets and become a “wires” only utility. To date, all of National Grid’s assets are located in the northeast section of the Eastern Interconnection.

In section 35.34(b), FERC defines a market participant as:

- (i) Any entity that, either directly or through an affiliate, sells or brokers electric energy, or provides transmission or ancillary services to the Regional Transmission Organization, unless the Commission finds that the entity does not have economic or commercial interests that would be significantly affected by the Regional Transmission Organization’s actions or decisions; and
- (ii) Any other entity that the Commission finds has economic or commercial interests that would be significantly affected by the Regional Transmission Organization’s actions or decisions.

Industrial Consumers believe that, under this definition, National Grid is a market participant by virtue of its ownership of significant transmission assets within the Eastern Interconnection. National Grid would both own transmission assets and manage transmission assets within the same interconnection (although it would not own and manage the same assets). We believe that this combination creates a powerful economic incentive to use its operational management of one part of the interconnection to promote its business in another part of the interconnection and, therefore, National Grid has “economic or commercial interests that would be significantly affected by the Regional Transmission Organization’s actions or decisions.” For example, as the Managing Member of the Alliance RTO, it would be in a strategic position to influence the

¹ http://www.nationalgrid.com/usa/company_overview/index.shtml

interregional operational protocols for congestion management and, in effect, “send business” to its assets in New York or New England.

As a general principle, Industrial Consumers believe that a transmission owner should be considered a market participant throughout the interconnection where the assets are situated. Thus National Grid would not be eligible to operate or manage transmission in any interconnection in which it also owns transmission, but it may be eligible in any interconnection in which it does not also own transmission, or is not otherwise a market participant as defined under section 35.34(b). This rule also has the added benefit of mitigating undue concentration of ownership and control of essential facilities that might result if entities such as National Grid were allowed to own and operate significant assets within the same regional market.

Industrial Consumers also believe that FERC oversight, including the market monitoring function of the RTO itself, is inadequate to check this potential abuse because of the “regulatory gap” created by the absence of government oversight of the North American Electric Reliability Council (NERC). The Operating Policies and commercial practices developed by NERC are among the many tools available to a transmission operator to affect the market. To date, NERC refuses to take any action that would ensure that those organizations who perform reliability service functions do not realize a commercial advantage in providing those services.²

Respectfully submitted,
The Electricity Consumers Resource Council (ELCON)
The American Iron and Steel Institute (AISI)
The American Chemistry Council (ACC)

Dated: June 14, 2001

² See, for example, the debate on “independence” associated with NERC’s development of a new Reliability Model at <http://www.nerc.com/~filez/cactfminutes.html>.

Description of Intervenors

ELCON is an association of industrial consumers of electricity organized to promote the development of coordinated and rational federal and state policies that will assure an adequate, reliable and efficient electricity supply for all users at competitive rates. ELCON member companies produce a wide range of products, including: steel, aluminum, chemicals, petroleum, motor vehicles, industrial gases, machinery, glass, agricultural and food products, computer chips, paper and electronics. The member companies of ELCON consume approximately five percent of all electricity in the United States.

AISI is the principal trade association of the North American steel industry. Its member companies account for about seventy percent of the raw steel production in the United States. The steel industry is one of the most energy-intensive sectors in the United States; the cost of electricity for AISI members may constitute as much as twenty percent of the manufacturing cost of a steel mill product.

ACC is a nonprofit trade association whose member companies represent more than ninety percent of the productive capacity of basic industrial chemicals in the United States. The manufacturing processes of many ACC member companies are highly energy-intensive. In addition, the chemical industry uses a substantial amount of self-generated electricity. Total electricity used by the industry, purchased plus self-generated, represents approximately eighteen percent of industrial electricity consumption in the U.S. and approximately six percent of national electricity consumption.

Notices and Communications

Notices and communications should be addressed to:

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The Electricity Consumers Resource Council
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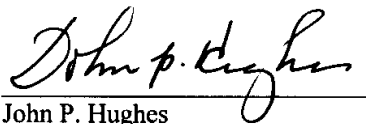
James D. Schultz
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American Iron and Steel Institute
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Washington, D.C. 20036-4700

Thomas B. Choman
American Chemistry Council
1300 Wilson Boulevard
Arlington, VA 22209

Certificate of Service

I hereby certify that a copy of the foregoing Motion to Intervene and Protest of Industrial Consumers were today mailed to parties on the service list of this proceeding by U.S. mail, postage prepaid.

Dated at Washington, D.C., this 14th day of June, 2001.



John P. Hughes
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