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February 22, 1999

Hon. David P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

FILED
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FEDERAL ENERGY REGULATORY COMMISSION
SECRETARY

RE: *New England Power Pool*
Docket Nos. OA97-237-000,
ER97-1079-000, ER9-3574-000,
OA97-608-000, ER97-4421-000
and ER98-499-000

Dear Secretary Boergers:

Please accept for filing in the above-referenced dockets an original and 14 copies of the "Motion for Leave to Intervene Out of Time of Southern Energy New England, L.L.C., Southern Energy Kendall, L.L.C. and Southern Energy Canal, L.L.C." Enclosed are two extra copies; please date/time stamp the same and provide them to the courier in attendance.

Any questions regarding this filing should be directed to the undersigned. Thank you for your anticipated cooperation regarding this matter.

Very Truly Yours,

Jeffrey M. Jakubiak

Attorney for Southern Energy New England, L.L.C.
Southern Energy Kendall, L.L.C. and
Southern Energy Canal, L.L.C.

cc: Hon. Lawrence Brenner, Presiding Administrative Law Judge (2 copies)
All Parties

FERC DOCKETED

FEB 22 1999

ORIGINAL

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

FILED
OFFICE OF THE SECRETARY
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New England Power Pool _____)
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Docket Nos. OA97-237-000;
ER97-1079-000,
ER97-3574-000,
OA97-608-000,
ER97-4421-000 and
ER98-499-000

**MOTION FOR LEAVE TO INTERVENE OUT OF TIME
OF SOUTHERN ENERGY NEW ENGLAND, L.L.C., SOUTHERN
ENERGY KENDALL, L.L.C. AND SOUTHERN ENERGY CANAL, L.L.C.**

To: The Honorable Lawrence Brenner
Presiding Administrative Law Judge

I. COMMUNICATIONS

Pursuant to Rules 212 and 214(d) of the Federal Energy Regulatory Commission's ("FERC" or the "Commission") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 & 385.214(d) (1998), Southern Energy New England, L.L.C. ("SENE"), Southern Energy Kendall, L.L.C. ("Southern Kendall") and Southern Energy Canal, L.L.C. ("Southern Canal") (collectively, the "Southern Entities") jointly file this Motion for Leave to Intervene Out of Time ("Motion for Leave to Intervene") in the above-referenced proceedings and, in support, state as follows:

The persons to whom correspondence, pleadings and other papers regarding these proceedings should be addressed and whose names are to be placed on the Commission's official service list on behalf of the Southern Entities are designated as follows, in accordance with Rule 203, 18 C.F.R. § 385.203:

FERC DOCKETED

FEB 22 1999

Henry T. Coolidge
President
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II. DESCRIPTION OF THE PARTIES

SENE is a Delaware limited liability company engaged in the marketing and brokering of electric energy and capacity as a power marketer. SENE is a subsidiary of SEI New England Holding Corp. ("SEI New England Holding") and SEI New England, Inc. ("SEI New England"), which each own a direct 50% membership interest in SENE. SEI New England Holding and SEI New England are indirect, wholly-owned subsidiaries of Southern Energy, Inc., a Delaware corporation, which in turn is a wholly-owned subsidiary of The Southern Company ("Southern"), a registered holding company under the Public Utility Holding Company Act of 1935 ("PUHCA").

Southern Kendall is a Delaware limited liability company with a direct 100% ownership interest in a 113 MW oil/gas-fired generating facility and certain related equipment located in Cambridge, Massachusetts. Southern Kendall acquired this facility from Cambridge Electric Light Company, a subsidiary of Commonwealth Energy System, on December 30, 1998. A direct 99% membership interest in Southern Kendall is owned by SENE. The remaining 1% membership interest is owned by SEI New England Holding.

Southern Canal is a Delaware limited liability company with a direct 100% ownership interest in the following facilities: (1) a two-unit oil/gas-fired generating facility with an installed capacity of 1131 MW located in Sandwich, Massachusetts and (2) two diesel-fired generating

facilities with an installed capacity of 13.8 MW located on Martha's Vineyard, Massachusetts. Southern Canal also owns a 1.4325% interest (equaling approximately 8.9 MW per year of installed capacity) in the William F. Wyman Unit 4 generating facility located in Yarmouth, Maine. Southern Canal acquired these assets from subsidiaries of Commonwealth Energy System and from Montaup Electric Company, a subsidiary of Eastern Utility Associates, on December 30, 1998. A direct 99% membership interest in Southern Canal is owned by SENE. The remaining 1% membership interest is owned by SEI New England Holding.

The Southern Entities have been granted market rate authority by the Commission. See *Cambridge Electric Light Company, et al.*, 85 FERC ¶ 61,217 (1998). They are members of the New England Power Pool ("NEPOOL") and their generation and transmission activities are subject to the control of ISO New England, Inc. ("ISO-NE"). See *New England Power Pool*, 79 FERC ¶ 61,374 (1997).

III. MOTION FOR LEAVE TO INTERVENE OUT OF TIME

On December 31, 1996, and supplemented several times thereafter, NEPOOL filed with FERC, under Sections 205 and 206 of the Federal Power Act, a Thirty-Third Amendment to the NEPOOL Agreement, which includes a comprehensive proposal to restructure NEPOOL in compliance with FERC's Open Access Rule.¹ On May 8, 1998, Presiding Administrative Law Judge Liebman adopted a Procedural Schedule in this matter. Dates under this schedule, as modified, which have not passed are (1) those for FERC staff and intervenors to file prehearing briefs, and witness and exhibit lists, (2) that for holding a prehearing conference, and (3) that for

¹ *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*; Order No. 888, 61 Fed. Reg. 21,540 (1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 Fed. Reg. 12,274 (1997), FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998).

holding a formal hearing before Hon. Lawrence Brenner (the current Presiding ALJ for these proceedings).

The Southern Entities jointly move to intervene in these proceedings and submit that good cause exists to grant this motion. First and foremost, the Southern Entities are members of NEPOOL, and they possess assets subject to ISO-NE oversight and transmit power over lines subject to control of ISO-NE. As a result, the Southern Entities' interests will be directly impacted by the outcome of these proceedings. Second, the Southern Entities acquired their interests in the aforementioned facilities only after the various deadlines for submission of timely motions to intervene had passed. Thus, their direct interest in the proceedings' outcome did not accrue until after the filing deadlines.

The Southern Entities' interests in the proceedings cannot be adequately represented by any other party. The Southern Entities are prepared to accept the record and abide by the procedural schedule in these proceedings as they now stand. Granting the Southern Entities' Motion for Leave to Intervene in these proceedings will neither disrupt the proceedings nor will it result in any prejudice to the other parties to the proceedings. Furthermore, granting the Southern Entities late intervention at this stage will not unduly delay the proceedings.

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