

145 FERC ¶ 61,183
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

PSEG Long Island LLC
Long Island Electric Utility Servco LLC
Long Island Power Authority
Long Island Lighting Company

Docket No. EL13-81-001

ORDER DISMISSING REQUEST FOR REHEARING

(Issued November 27, 2013)

1. On October 31, 2013, Mr. Irving Like submitted what he describes as a request for rehearing of the Commission's October 2, 2013 order¹ that granted a petition for declaratory order (Petition) disclaiming jurisdiction over PSEG Long Island LLC (PSEG LI) and Long Island Electric Utility Servco LLC (Servco). In this order, the Commission dismisses the request for rehearing.

I. Background and Request for Rehearing

2. On August 1, 2013, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure,² PSEG LI, Servco, the Long Island Power Authority (the Authority), and Long Island Lighting Company (LILCO) (the Authority and LILCO together, LIPA) (collectively, the Petitioners)³ filed the Petition—which was unopposed—requesting that

¹ *PSEG Long Island LLC, et al.*, 145 FERC ¶ 61,010 (2013) (October 2, 2013 Order).

² 18 C.F.R. § 385.207 (2013).

³ Petitioners explained that the Authority is a municipal instrumentality of New York State and LILCO is a wholly-owned subsidiary of the Authority; they operate the transmission and distribution system in Nassau and Suffolk Counties and the Rockaways

(continued...)

the Commission disclaim jurisdiction over PSEG LI and Servco under section 201(e) of the Federal Power Act (FPA).⁴ Petitioners explained that PSEG LI is a wholly-owned indirect subsidiary of Public Service Enterprise Group Incorporated and was created specifically for the purpose of providing services to LIPA under an operations services agreement first signed in 2011 (2011 Agreement), and Servco is a newly-created, wholly-owned subsidiary of PSEG LI, created for the same purpose. Petitioners stated that LIPA has historically used third-party contractors for operation of its transmission and distribution systems and for operational participation in the wholesale markets, and that on January 1, 2014, PSEG LI will, pursuant to the 2011 Agreement, take over roughly the same service contractor role that National Grid currently occupies. Petitioners explained that amendments to the 2011 Agreement to expand the roles of PSEG LI and Servco, as authorized in the LIPA Reform Act passed after Superstorm Sandy, had not been finalized but that one of the conditions precedent to the effectiveness of the amended agreement was a Commission order disclaiming jurisdiction over PSEG LI and Servco.

3. On October 2, 2013, the Commission issued an order granting the request for a declaratory order disclaiming jurisdiction over PSEG LI and Servco.⁵ The Commission found that, in light of the representations in the Petition, PSEG LI and Servco will not own and will not have “control and decisionmaking authority concerning the operation of” jurisdictional facilities and, therefore, will not, by virtue of their work for LIPA, be public utilities subject to the jurisdiction of the Commission under section 201(e) of the FPA.⁶

portions of Queens on Long Island, New York. Petitioners stated that LIPA’s transmission, distribution, and load-serving functions are subject to oversight and authorization by the Authority’s Board of Trustees, and that LIPA is exempt from Commission regulation as an agent or instrumentality of the State of New York.

⁴ 16 U.S.C. § 824(e) (2012).

⁵ October 2, 2013 Order, 145 FERC ¶ 61,010 at P 11.

⁶ *Id.* P 13.

4. On October 31, 2013, Mr. Irving Like filed a document that he states is a request for rehearing of the October 2, 2013 Order, on behalf of non-profit entities he describes as including LIPA's residential and business ratepayers and taxpayers and individual rate payers of the LIPA service area.⁷

5. On November 14, 2013, PSEG LI, Servco, and LIPA filed a motion to dismiss Mr. Like's filing, arguing that the filing must be rejected because neither Mr. Like nor the entities he represents are parties to the proceeding and no rehearing request was actually submitted because the only document filed was a cover letter.

II. Commission Determination

6. We dismiss Mr. Like's request for rehearing.⁸ Neither Mr. Like nor the entities on whose behalf he filed are parties to this proceeding. Therefore, both he and those entities lack standing to seek rehearing of the October 2, 2013 Order under the Federal Power Act,⁹ the Commission's Rules of Practice and Procedure,¹⁰ and Commission precedent.¹¹

⁷ Subsequent to the Commission's acting, on October 10, 2013, Ms. Rose Van Guilder submitted certain documents, including emails regarding LIPA Trustee Meetings. We reject Ms. Van Guilder's submission both because it was submitted out of time and because Ms. Van Guilder is not a party to this proceeding.

⁸ Even if Mr. Like or the entities on whose behalf he filed were parties to this proceeding, the pleading—as submitted—would be rejected for failing to meet the Commission's filing requirements for rehearing requests. The pleading does not meet the requirements of Rule 713, which governs the content of requests for rehearing. 18 C.F.R. § 385.713 (2013).

⁹ 16 U.S.C. § 8251(a) (2012) (providing that only a party to a proceeding may seek rehearing).

¹⁰ 18 C.F.R. § 385.713(b) (2013) (providing that only a party to a proceeding may seek rehearing). *See also* 18 C.F.R. § 385.214(a)(3) (2013) ("Any person seeking to intervene to become a party, other than the entities specified in paragraphs (a)(1) and (a)(2) of this section, must file a motion to intervene.").

¹¹ *E.g., Southern Co. Servs., Inc.*, 92 FERC ¶ 61,167, at 61,566 (2000); *Midwest Indep. Transmission System Operator, Inc.*, 138 FERC ¶ 61,248, at P 20 (2012).

The Commission orders:

The request for rehearing is hereby dismissed, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.