

145 FERC ¶ 61,203  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Constellation Energy Commodities Group, Inc.

Docket No. IN12-7-001

ORDER DISMISSING REQUEST FOR CLARIFICATION  
AND REHEARING AS MOOT

(Issued December 6, 2013)

1. This order dismisses as moot New Hampshire Electric Cooperative, Inc.'s (NHEC) request for clarification or, in the alternative, rehearing of the Commission's March 9, 2012 order<sup>1</sup> approving the Stipulation and Consent Agreement (Consent Agreement) between the Office of Enforcement (Enforcement) and Constellation Energy Commodities Group, Inc. (CCG).

**Background**

2. As stated in the March 9, 2012 Order, the Consent Agreement resolved the investigation into whether CCG violated the Commission's Anti-Manipulation Rule, 18 C.F.R. § 1c.2, and the Commission's regulation prohibiting the submission of inaccurate information, 18 C.F.R. § 35.41(b).<sup>2</sup> Relevant here, the Consent Agreement provided for the creation of a disgorgement fund for the "benefit of electric energy consumers" in the affected states of the ISO New England Inc. (ISO-NE).<sup>3</sup>

3. On April 9, 2012, NHEC submitted a request for clarification or, in the alternative, rehearing of the March 9, 2012 Order. Specifically, NHEC requests that the Commission clarify or find anew that the customers of consumer-owned utilities are among the

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<sup>1</sup> *Constellation Energy Commodities Group, Inc.*, 138 FERC ¶ 61,168 (2012) (March 9, 2012 Order).

<sup>2</sup> *Id.* PP 1, 11-17, 18-20.

<sup>3</sup> *Id.* P 22. Consent Agreement at 8.

“electric energy consumers” that are to benefit from apportionment of the disgorgement funds.

### **Discussion**

4. Deputy Chief Judge Bobbie J. McCartney (Judge McCartney) was appointed to preside over the apportionment phase of the proceeding for purposes of determining the appropriate allocation of the disgorgement fund, in accordance with the Consent Agreement.

5. During the apportionment phase, on September 10, 2012, the New England Parties<sup>4</sup> submitted a Joint Settlement Agreement Regarding Allocation and Distribution (Joint Settlement) of their portion of the disgorgement fund to Judge McCartney for approval. The Joint Settlement provided that the disgorgement fund be used for the benefit of all customers, regardless of the status of the utility (consumer-owned or investor-owned utility) through which the customers receive service,<sup>5</sup> and in that way addressed NHEC’s concern.

6. Subsequently, on October 18, 2012, Judge McCartney approved the Joint Settlement, and, on November 16, 2012, the New England Parties filed a request for disbursement<sup>6</sup> stating that ISO-NE will receive for further disbursement the portion of the funds intended for all load serving entities in New England (except for the Massachusetts Municipal Wholesale Electric Company and Vermont Electric Power Company, who will

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<sup>4</sup> The New England Parties include: Connecticut Public Utilities Regulatory Authority; the Connecticut Office of Consumer Counsel; George Jepsen, Attorney General for the State of Connecticut; the State of Maine Public Utilities Commission; the Massachusetts Department of Public Utilities; Martha Coakley, Attorney General of the Commonwealth of Massachusetts; the New Hampshire Public Utilities Commission; Peter F. Kilmartin, Attorney General of the State of Rhode Island; the Rhode Island Division of Public Utilities and Carriers; the Vermont Department of Public Service; the Massachusetts Municipal Wholesale Electric Company; the Eastern Massachusetts Consumer-Owned Systems; Groveland Municipal Light Department; and Merrimac Municipal Light Department.

<sup>5</sup> In the request for final disbursement of the funds, NHEC is to receive 6.9996 percent of the state of New Hampshire’s allotted portion. *See* Attachment B of the New England Parties’ Joint Request for Disbursement (November 16, 2012).

<sup>6</sup> A previous request for disbursement was submitted by the Massachusetts Municipal Wholesale Electric Company on October 22, 2012, but it subsequently, submitted a request for deferral of said request on October 25, 2012.

receive direct disbursement from the Commission). Judge McCartney's October 18, 2012 Order required protests to the request for disbursement to be submitted within 15 days from the date the request for disbursement was filed; absent protests, disbursement could proceed. No protests were filed.

7. Given the resolution of NHEC's concerns in the apportionment phase of this proceeding, and, specifically, the allocation of funds to the customers of consumer-owned and other utilities in New England, NHEC's request for clarification and rehearing of the March 9, 2012 Order is moot.

The Commission orders:

NHEC's request for clarification or, in the alternative, rehearing is hereby dismissed as moot, as discussed in the body of the order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.