121 FERC ¶ 61,041
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

PSEG Power Connecticut, LLC — Docket Nos. ER05-231-005, ER05-231-006

ORDER DENYING REHEARING AND REJECTING COMPLIANCE FILING

(Issued October 18, 2007)

1. On June 15, 2007, Richard Blumenthal, Attorney General for the State of Connecticut (Connecticut Attorney General),[1] filed a request for rehearing of the Commission's May 18, 2007 order[2] approving in part, and rejecting in part, the contested Joint Offer of Settlement (Settlement Agreement) filed by the Settling Parties[3] in this proceeding. On June 18, 2007, the Settling Parties filed a separate request for rehearing of the May 18 Order, and submitted a compliance filing pursuant to the Commission's directive in the May 18 Order.[4] For the reasons discussed below, we deny the rehearing requests and reject the compliance filing.

I. Background

2. On November 17, 2004, Power Connecticut submitted for filing two unexecuted Reliability Must Run (RMR) agreements between Power Connecticut and ISO-NE. The RMR agreements state that Power Connecticut will collect a fixed monthly payment,

[1] Although the Connecticut Attorney General's rehearing request is dated June 18, 2007, it was actually filed with the Commission on June 15, 2007.

[2] *PSEG Power Co., LLC*, 119 FERC ¶ 61,168 (2007) (May 18 Order).

[3] The Settling Parties are PSEG Power Company, LLC (Power Connecticut), PSEG Energy, Resources and Trade (PSEG ER&T) (PSEG ER&T and Power Connecticut, collectively "PSEG"), ISO New England Inc. (ISO-NE), the Connecticut Department of Public Utility Control (CT DPUC), and the Connecticut Office of Consumer Counsel (CT OCC).

[4] The Settling Parties have submitted a single filing in this proceeding, which they have styled a compliance filing and alternative request for rehearing. For the purposes of clear and efficient organization, we will treat both aspects of the filing separately, beginning with the Settling Parties' rehearing request.

based on its Annual Fixed Revenue Requirement (AFRR), for providing reliability services from its New Haven Harbor Generating Station (New Haven Unit) and Unit 2 of its Bridgeport Harbor Generating Station (Bridgeport Unit).

3. In *PSEG I*, the Commission accepted the RMR agreements for filing, suspended them for a nominal period, effective January 17, 2005, made them effective subject to refund, ordered hearing and settlement judge procedures, and directed a compliance filing.[5] The Commission also held the hearing in abeyance pending the outcome of settlement discussions. In *PSEG II*, the Commission accepted the RMR agreements for filing, as modified by the compliance filing, granted rehearing in part and denied rehearing in part, and revised the RMR agreements to become effective November 18, 2004. The Commission denied further requests for rehearing in *PSEG III*.

4. On April 21, 2006, as amended on May 26, 2006, Power Connecticut filed the Settlement Agreement, which purported to resolve all issues in this proceeding, including those raised in a petition for review before the United States Court of Appeals for the District of Columbia Circuit. The Connecticut Attorney General contested the Settlement Agreement.[6]

5. The Connecticut Attorney General challenged the Settling Parties' proposal to add section 9.5.3 to the RMR agreements.[7] Section 9.5.3 stated that the Commission would review modifications or amendments to the RMR agreements sought by the Commission or non-signatories under the "public interest" standard of review.[8] Similarly, the Connecticut Attorney General opposed section 8 of the Settlement Agreement because it applied the public interest standard of review to all proposed modifications of the Settlement Agreement, whether raised by the Commission on its own motion or by a non-signatory under section 206 of the Federal Power Act (FPA).[9]

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[5] *PSEG Power Connecticut LLC*, 110 FERC ¶ 61,020 (2005) (*PSEG I*), *order on reh'g*, *PSEG Power Connecticut LLC*, 110 FERC ¶ 61, 441 (*PSEG II*), *reh'g denied*, 113 FERC ¶ 61,210 (*PSEG III*) (2005), *appeal pending sub nom. Connecticut Department of Public Utility Control v. FERC*, No. 06-1044 (D.C. Cir.).

[6] The Connecticut Municipal Electric Energy Cooperative (CMEEC) also contested the Settlement Agreement, but has not filed for rehearing.

[7] The proposal to add section 9.5.3 was contained in section 5(t) of the Settlement Agreement.

[8] *See United Gas Pipe Line Co*. v. *Mobile Gas Serv. Corp*., 350 U.S. 332, 344-45 (1956) (*Mobile*); *FPC* v. *Sierra Pacific Power Co*., 350 U.S. 348, 353-55 (1956) (*Sierra*).

[9] 16 U.S.C. § 824e (2000).

6. The Connecticut Attorney General also challenged Power Connecticut's eligibility for RMR treatment. Specifically, the Connecticut Attorney General argued that Commission approval of the Settlement Agreement would unfairly endorse the Commission's decision to allow Power Connecticut to "cherry pick" which generating units should receive RMR contracts, that the Commission improperly deferred to ISO-NE's conclusion that the New Haven and Bridgeport Units are needed for reliability, and that Power Connecticut should not be allowed to recover all of its fixed and variable costs. Additionally, the Connecticut Attorney General raised the possibility that, once Power Connecticut began receiving transition payments under the Forward Capacity Market Settlement, its financial condition would improve to the point that it would most likely fail to qualify for RMR treatment under the Commission's Facility Costs Test.[10]

II. The May 18 Order

7. In the May 18 Order, the Commission approved the Settlement Agreement in part, rejected the Settlement Agreement in part, and directed the Settling Parties to submit a compliance filing. The Commission held that the standard of review applicable to the Commission's review of the RMR agreements and to any challenges to the RMR agreements by the Commission or non-parties should be the just and reasonable standard of review.[11] Accordingly, the Commission directed the Settling Parties to submit a compliance filing within 30 days of the May 18 Order replacing provisions specifying the use of the public interest standard of review with provisions specifying the use of the just and reasonable standard of review.[12]

8. The Commission also rejected section 5(d) of the Settlement Agreement because it would have added section 2.2.6[13] to the RMR agreements; section 2.2.6 would have allowed Power Connecticut to unilaterally terminate the proposed RMR agreements prior to the end of their terms. The Commission determined that this provision would have allowed Power Connecticut to switch between RMR treatment and market-based rates at will, depending on which regime produced higher income,[14] and stated that it recently

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[10] *See Bridgeport Energy, LLC*, 112 FERC ¶ 61, 077, at P 35, *reh'g denied*, 113 FERC ¶ 61,311 (2005) (*Bridgeport Energy*), *order rejecting reh'g*, 114 FERC ¶ 61,265 (2006).

[11] May 18 Order, 119 FERC ¶ 61,168 at P 25.

[12] *Id*. P 26, 46, Ordering Paragraph (B).

[13] In the original Explanatory Statement filed with the Settlement Agreement (Explanatory Statement), Power Connecticut mistakenly identified section 2.2.6 as section 2.2.7. *See* Settling Parties' Compliance Filing and Alternative Request for Rehearing at n.11 (Settling Parties' Filing).

[14] May 18 Order, 119 FERC ¶ 61,168 at P 42.

rejected a similar provision in *Bridgeport*[15] because of the potential for such abuse. Accordingly, the Commission directed the Settling Parties to submit a compliance filing within 30 days of the May 18 Order removing all language that would allow Power Connecticut to unilaterally terminate the RMR agreements.[16]

9. The Commission also found that, with the exception of the transition payments issue, the Commission had previously decided each issue raised by the Connecticut Attorney General.[17] Accordingly, the Commission dismissed these previously-rejected arguments as impermissible collateral attacks on prior Commission orders.[18]

10. With respect to the transition payments issue, the Commission held that, although it had not previously been addressed, it was outside the scope of the instant proceeding because it was not relevant to whether the Settlement Agreement was just and reasonable.[19] The Commission distinguished this proceeding from *Bridgeport*, where the Commission ordered the Presiding Judge to consider the impact of the transition payments on Bridgeport's RMR eligibility.[20] The Commission explained that, unlike Power Connecticut, Bridgeport had never demonstrated its threshold eligibility for RMR treatment—that is, Bridgeport had not shown that it was eligible for RMR treatment before it started collecting transition payments—and, as such, the Commission remanded the issue of Bridgeport's threshold RMR eligibility to the Presiding Judge. Because the hearing on Bridgeport's threshold RMR eligibility would take place after Bridgeport began to collect the transition payments, and the Connecticut Attorney General raised the issue of Bridgeport's continuing RMR eligibility—that is, Bridgeport's RMR eligibility in light of the transition payments—the Commission directed the Presiding Judge to evaluate Bridgeport's continuing RMR eligibility as part of the hearing into its threshold RMR eligibility.

11. In contrast, the Commission stated that Power Connecticut had already demonstrated its threshold RMR eligibility, making any challenge to its continuing eligibility beyond the scope of the instant proceeding. The Commission further noted that Power Connecticut is not entitled to retain any transition payments above its AFRR under the terms of the Settlement Agreements, since such payments will be credited against the Monthly Fixed Cost Charge it collects under the RMR agreements.[21] The

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[15] *Bridgeport Energy LLC*, 118 FERC ¶ 61,243 (2007) (*Bridgeport*).

[16] May 18 Order, 119 FERC ¶ 61,168 at P 42, 46, Ordering Paragraph (B).

[17] *See Id*. P 37 & nn.92, 93, 94.

[18] *Id*. P 37.

[19] *Id*. P 38-40.

[20] *Bridgeport*, 118 FERC ¶ 61,243 at P 62.

[21] May 18 Order, 119 FERC ¶ 61,168 at P 40.

Commission further stated that if the Connecticut Attorney General has evidence indicating that the transition payments will render Power Connecticut financially ineligible for RMR treatment, he may file a separate section 206 complaint proceeding.[22]

III. Settling Parties' Request for Rehearing and Compliance Filing

A. Rehearing Request

12. The Settling Parties request rehearing of the Commission's directive that they remove all language in the Settlement Agreement that would allow Power Connecticut to unilaterally terminate the RMR agreements. The Settling Parties challenge the Commission's reading of the RMR agreements, claiming that the Commission erred in comparing section 5(d) of the Settlement Agreement to the unilateral termination provision the Commission rejected in *Bridgeport*.[23] The Settling Parties claim that if the Commission had approved section 5(d), and thus permitted the original version of section 2.2.6 to be added to the RMR agreements, Power Connecticut would be prohibited from switching between RMR treatment and market-based-rates under section 5(c) of the Settlement Agreement. The Settling Parties contend that section 5(c) modified section 2.1.1 of the RMR agreements to "make clear" that Power Connecticut is prohibited from switching back to RMR treatment during the remainder of the RMR agreements' terms.[24] Section 2.1.1 states:

> To the extent that this Agreement terminates for any reason other than pursuant to sections 2.2.5 and 2.2.6, nothing in this Agreement shall prejudice the Owner's or Agent's [Power Connecticut] right to seek a new COS agreement for the Resource if it satisfies the then-applicable requirements.

13. The Settling Parties further argue that retaining the unilateral right to terminate the RMR agreements, as mitigated by section 2.1.1, is consistent with the Settling Parties' intent, facilitates the Commission's objective of eliminating RMR treatment by permitting Power Connecticut to take advantage of market opportunities as they arise, and benefits Connecticut ratepayers by reducing "the market-distorting impact" of RMR agreements.[25] Moreover, the Settling Parties state that they have provided the Connecticut Attorney General with advance copies of their filing and it has not objected to the Settling Parties' request.

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[22] *Id*. P 39.

[23] Settling Parties' Filing at 6.

[24] *Id*. at n.11 (citing Explanatory Statement).

[25] *Id*. at 8

B. Compliance Filing

14. In their compliance filing, the Settling Parties have revised section 8 of the Settlement Agreement and section 9.5.3 of the RMR agreements to provide that the Commission shall apply the just and reasonable standard of review when acting on proposed modifications or challenges to the RMR agreements either on the Commission's own motion or on a request or complaint by non-signatories pursuant to section 206 of the FPA.

15. Consistent with their rehearing request, the Settling Parties have also revised the Settlement Agreement and sections 2.2.5[26] and 2.2.6[27] of the RMR agreements "to further

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[26] In their compliance filing, the Settling Parties propose to revise section 2.2.5 by adding the language in italics:

> Owner or Agent [Power Connecticut] shall have the right to terminate this COS Agreement upon thirty (30) days notice to ISO [ISO-NE] if either the [CT DPUC] or the [CT OCC] request that the Commission set the Resource's entire AFRR for settlement or hearing procedures pursuant to section 9.5.2.2 of this COS Agreement. A notice to terminate under this section shall be concurrently sent to the CT DPUC and the CT OCC. *Upon termination pursuant to this section 2.2.5, Owner or Agent shall not be permitted to file for a new COS agreement until the earlier of the end of the operating hour beginning at 11:00 p.m. on the day before: (1) June 1, 2011; or (2) the first day of the first Commitment Period of a Forward Capacity Market as described in the LICAP Settlement Agreement.*

[27] In their compliance filing, the Settling Parties propose to revise section 2.2.6 by adding the language in italics:

> The Owner or Agent [Power Connecticut] may unilaterally terminate this COS Agreement prior to the end of the Term, provided that, unless terminated or shut down earlier pursuant to sections 2.2.1, 2.2.2, 2.2.4, 2.2.5 or 5.2.2(f), the Resource will remain a Listed Resource until the earlier of the end of the operating hour beginning at 11:00 p.m. on the day before: (1) June 1, 2011; or (2) the first day of the first Commitment Period of the Forward Capacity Market described in the LICAP [Locational Installed Capacity] Settlement Agreement and as accepted by the Commission. *Upon termination pursuant to this section 2.2.6, Owner or Agent shall not be permitted to file for a new COS agreement until the earlier of the end of the operating hour beginning at 11:00 p.m. on the day before: (1) June 1, 2011; or (2) the first day of` the first Commitment Period of a Forward Capacity Market as described in the LICAP Settlement Agreement.*

clarify that should Power Connecticut choose to unilaterally terminate either of those RMR [a]greements, it would be prohibited from seeking a new RMR agreement for what would have been the remaining [t]erm of the RMR [a]greement."[28] The Settling Parties acknowledge that they have not removed the unilateral termination provisions in their compliance filing , but argue that their revisions adequately address what the Settling Parties identify as the Commission's objection; namely, the potential for Power Connecticut to switch between cost-of-service and market-based rates.[29] The Settling Parties request a June 19, 2007 effective date.

C. Notice of Compliance Filing and Responsive Pleadings

16. Notice of the Settling Parties' compliance filing was published in the *Federal Register*,[30] with interventions and protests due on or before July 9, 2007. No protests or interventions were filed.

D. Commission Determination

1. Rehearing Request

17. We deny rehearing. In the May 18 Order, the Commission rejected the Settling Parties' proposal to add section 2.2.6 as originally drafted to the RMR agreements because it would have created an opportunity for abuse by allowing Power Connecticut to switch between cost-of-service and market-based rates during the terms of the RMR agreements. On rehearing, the Settling Parties claim that the Commission erred in concluding that section 2.2.6 would permit this result. The Settling Parties argue that section 2.1.1 modified the RMR agreements to "make clear" that Power Connecticut is prohibited from engaging in such abuse. In other words, the Settling Parties claim that the Commission has misread the Settlement Agreement and misunderstood its impact on the RMR agreements.

18. We disagree. Contrary to the Settling Parties' assertion, section 2.1.1 does not directly address Power Connecticut's rights in the event of a unilateral termination under section 2.2.6. Rather, section 2.1.1 merely provides that Power Connecticut is not prohibited from seeking new RMR agreements if the instant RMR agreements terminate "*for any reason other than pursuant to [s]ections 2.2.5 and 2.2.6*." In other words, section 2.1.1 directly addresses Power Connecticut's post-termination rights only when Power Connecticut has not terminated the RMR agreements by exercising its unilateral termination power; it provides no direct guidance about Power Connecticut's post-termination rights when Power Connecticut has terminated the RMR agreements by

[28] Settling Parties' Filing at 6.

[29] *Id*. at 7.

[30] 72 Fed. Reg. 35,454 (2007).

exercising its unilateral termination power.[31] Consequently, we find that section 2.1.1 is subject to multiple interpretations and is, therefore, ambiguous at best with respect to its impact on Power Connecticut's post-unilateral termination rights. Moreover, we are not persuaded that section 2.1.1 negates the possibility that Power Connecticut may abuse its unilateral termination power, or that the Commission erred in concluding that section 2.2.6 would permit such abuse. Accordingly, we deny rehearing.

2. Compliance Filing

19. In the May 18 Order, the Commission directed the Settling Parties to submit a compliance filing removing all language that would allow Power Connecticut to unilaterally terminate the RMR agreements and replacing provisions specifying the use of the public interest standard of review with provisions specifying the use of the just and reasonable standard of review. While the Settling Parties have revised the Settlement Agreement and section 9.5.3 to specify the use of the just and reasonable standard of review, they have, as they expressly acknowledge,[32] failed to remove the unilateral termination provisions. Accordingly, we reject the compliance filing and direct the Settling Parties to submit a new compliance filing within 30 days of the date of this order removing all language that would allow Power Connecticut to unilaterally terminate the RMR agreements. Our rejection of the compliance filing, however, is without prejudice to Power Connecticut submitting its unilateral termination provisions and the revisions proposed in its compliance filing, in a separate FPA section 205 filing.[33]

IV. Connecticut Attorney General's Request for Rehearing

A. Rehearing Request

20. The Connecticut Attorney General argues that the Commission should grant rehearing of the May 18 Order because it adopts and reaffirms prior Commission rulings

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[31] The Settling Parties' assertion that section 2.1.1 directly addresses Power Connecticut's post-unilateral termination rights appears to be based on induction—that because section 2.1.1 allows Power Connecticut to seek RMR treatment if the RMR agreements are terminated for some reason other than Power Connecticut unilaterally terminating them, it follows as a necessary consequence that section 2.1.1 prohibits Power Connecticut from seeking new RMR agreements if the RMR agreements are terminated because Power Connecticut unilaterally terminated them. This reasoning is unsound because it implies a necessary connection where none exists. At the least, it neglects the obvious possibility that section 2.1.1, as drafted, simply has no bearing on Power Connecticut's right to seek new RMR agreements if the RMR agreements are terminated because Power Connecticut unilaterally terminated them.

[32] Settling Parties' Filing at 7.

[33] 16 U.S.C. § 824d (2000).

that are in error.[34] To that end, the Connecticut Attorney General raises on rehearing the same arguments that were raised in comments opposing the Settlement Agreement and at earlier stages in this proceeding.

21. First, the Connecticut Attorney General argues that Commission approval of the Settlement Agreement unfairly endorses the Commission's previous decisions to allow Power Connecticut to "cherry pick" which generating units should receive RMR contracts.[35] The Connecticut Attorney General asserts that the Commission was unable to make a fair determination about Power Connecticut's eligibility for the RMR agreements because Power Connecticut's revenue analysis only included information for the New Haven and Bridgeport Units; that is, it failed to consider revenue and financial information for Power Connecticut's other Connecticut generating stations, including Bridgeport Harbor Unit 3 (Unit 3), which the Connecticut Attorney General claims is a significant part of Power Connecticut's overall financial operations in Connecticut.[36] The Connecticut Attorney General speculates that, if the Commission examined Power Connecticut's entire portfolio, it would find that the revenues from Power Connecticut's other units would offset Power Connecticut's losses and eliminate the need for the RMR agreements.[37] The Connecticut Attorney General further claims that the Commission's decision to exclude Unit 3's revenues and expenses from its analysis ignores that RMR agreements are intended to ensure that generators which are losing money, but are necessary for reliability, are able to receive the financial support to continue operations. Moreover, the Connecticut Attorney General alleges that the Commission's acceptance of Power Connecticut's piecemeal approach permits Power Connecticut to "game the regulatory process" by extracting windfall profits from its unit-by-unit analysis.[38]

22. Next, the Connecticut Attorney General argues that the Commission has failed to make an independent determination that the New Haven and Bridgeport Units are needed for reliability, that the Commission improperly delegated whatever authority it has to make reliability determinations to ISO-NE, and that the Commission is obligated to independently verify that the New Haven and Bridgeport Units meet the Commission's reliability and financial requirements for an RMR agreement.[39] The Connecticut

[34] Connecticut Attorney General's Request for Rehearing at 2.

[35] *Id*. at 5.

[36] *Id*. at 6.

[37] *Id*.

[38] *Id*. at 7.

[39] *Id*. at 8-10.

Attorney General argues that the Commission recognized its obligation to conduct an independent review of ISO-NE's reliability determinations in *Bridgeport Energy*,[40] where it set the matter for hearing, but did not do so in the May 18 Order.

23. The Connecticut Attorney General also argues that Power Connecticut should not be entitled to recover all of its fixed and variable costs under the RMR agreements. The Connecticut Attorney General claims that the fundamental purpose of RMR agreements is to guarantee reliability, not guarantee that generators will fully recover their sunk costs, and that any payments above what is necessary to avoid shutting down would be "a tacit abandonment of competitive markets and a return to a fully regulated regime."[41] In the Connecticut Attorney General's view, the Commission should limit any RMR cost recovery to going-forward costs or require a form of levelized costs that emulates the recovery of a merchant generator in a competitive market.

24. Finally, the Connecticut Attorney General argues that the Commission has not determined that Power Connecticut is eligible for RMR treatment since Power Connecticut began collecting transition payments. The Connecticut Attorney General speculates that because of these transition payments, Power Connecticut will most likely fail to qualify for RMR agreements under the Commission's Facility Costs Test.[42] The Connecticut Attorney General claims that the Commission has an obligation to review Power Connecticut's continuing RMR eligibility in light of these revenues.

B. Commission Determination

25. We deny rehearing. In the May 18 Order, the Commission found that, with the exception of the transition payments issue, each issue raised by the Connecticut Attorney General had been previously addressed by the Commission in *PSEG I*, *PSEG II*, and *PSEG III* and decided against the Connecticut Attorney General. Accordingly, the Commission rejected the Connecticut Attorney General's arguments on whether Power Connecticut was "cherry picking" which generating units should receive RMR contracts, whether the Commission should have relied on ISO-NE's reliability determination, and whether Power Connecticut should be allowed to recover all of its fixed and variable costs under the RMR agreement as impermissible collateral attacks on prior Commission orders.

26. On rehearing, the Connecticut Attorney General has not challenged the Commission's ruling that these previously-rejected arguments are impermissible collateral attacks on prior Commission orders. Rather, the Connecticut Attorney General merely repeats his previous arguments without addressing the Commission's finding in

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[40] *See Bridgeport Energy*, 113 FERC ¶ 61,311 at P 10.

[41] Connecticut Attorney General's Request for Rehearing at 11.

[42] *Id*.

the May 18 Order. Accordingly, we remain convinced that these arguments are impermissible collateral attacks on prior Commission orders, and as such, deny rehearing.[43]

27. Similarly, the Connecticut Attorney General's rehearing request does not actually contest the Commission's holding on the transition payments issue. In the May 18 Order, the Commission held that the effect of the transition payments on Power Connecticut's continuing RMR eligibility was outside the scope of this proceeding. The Commission distinguished this case from *Bridgeport*, where the Commission set Bridgeport's continuing RMR eligibility for hearing. On rehearing, the Connecticut Attorney General has neither disputed the Commission's determination that this issue is outside the scope of this proceeding, nor alleged that the Commission erred in distinguishing this case from *Bridgeport*. Rather, the Connecticut Attorney General has merely repeated his unsubstantiated claim that the transition payments will make it "quite unlikely" that Power Connecticut will continue to qualify for RMR treatment.[44] In doing so, the Connecticut Attorney General has failed to challenge, or even address, the Commission's reasons for holding that this issue is outside the scope of this proceeding. Moreover, the Connecticut Attorney General has failed to address the Commission's statement that Power Connecticut is not entitled to retain any transition payments under the terms of the Settlement Agreement since such payments will be credited against the Monthly Fixed Cost Charge it collects under the RMR agreements. Accordingly, we remain convinced that this issue is outside the scope of this proceeding, and therefore we deny rehearing.[45]

The Commission orders:

(A) The Settling Parties' request for rehearing is hereby denied.

(B) The Settling Parties' compliance filing is hereby rejected.

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[43] We note that the Connecticut Attorney General identifies his general objection to the May 18 Order as the fact that the Commission "explicitly adopted and reaffirmed its prior rulings . . . which the Connecticut Attorney General has opposed and believes are in error." Connecticut Attorney General's Request for Rehearing at 2. The Connecticut Attorney General had the opportunity to, and in fact did, seek rehearing of these rulings. As we have noted, the Commission denied the Connecticut Attorney General's rehearing requests in *PSEG II and PSEG III*. *See supra* note 16.

[44] Connecticut Attorney General's Request for Rehearing at 11.

[45] We also repeat our statement from the May 18 Order that, if the Connecticut Attorney General has evidence indicating that the transition payments will render Power Connecticut financially ineligible for RMR treatment, such evidence should be offered in a separate section 206 complaint.

(C) The Settling Parties are hereby directed to submit a new compliance filing within 30 days of the date of this order, as directed in the body of this order.

(D) The Connecticut Attorney General's request for rehearing is hereby denied.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.