

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-1027**September Term, 2021****FERC-ER22-355-000****FERC-ER22-355-001****Filed On: May 10, 2022**

NTE Connecticut, LLC,

Petitioner

v.

Federal Energy Regulatory Commission,

Respondent

ISO New England Inc. and New England
Power Generators Association, Inc.,
Intervenors

BEFORE: Katsas, Rao, and Walker, Circuit Judges

ORDER

Upon consideration of the motion to dismiss, the responses thereto, and the reply, it is

ORDERED that the motion be granted. Petitioner challenges orders of the Federal Energy Regulatory Commission (“FERC”) terminating the capacity supply obligations of Killingly Energy Center (“Killingly”), an energy-generating facility being developed by petitioner. However, petitioner does not dispute that it has defaulted on its financial-assurance obligations under the operative Tariff, nor does it dispute that this default provides a separate basis for terminating Killingly’s capacity supply obligations. Consequently, petitioner has not demonstrated that a favorable decision from this court would redress its claimed injury, and petitioner therefore lacks Article III standing. See Lujan v. Defenders of Wildlife, 504 U.S. 555, 560–61 (1992); Kaspersky Lab, Inc. v. U.S. Dep’t of Homeland Sec., 909 F.3d 446, 465 (D.C. Cir. 2018). Although petitioner asserts that a favorable decision from this court will increase the likelihood that FERC will grant petitioner discretionary relief from its financial-assurance default, petitioner has not demonstrated a relationship between the challenged FERC orders and the ultimate relief sought similar to the “formal legal relationship” that this court

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found sufficient to establish redressability in National Parks Conservation Ass'n v. Manson, 414 F.3d 1, 6–7 (D.C. Cir. 2005).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Scott H. Atchue
Deputy Clerk