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September 30, 2009

**VIA ELECTRONIC FILING**

The Honorable Mark J. Langer  
Clerk of the Court  
United States Court of Appeals  
for the District of Columbia Circuit  
E. Barrett Prettyman U.S. Courthouse  
Room 5423  
333 Constitution Ave., NW  
Washington, D.C. 20001

Re: *Braintree Electric Light Department, Hingham Municipal  
Lighting Plant, Hull Municipal Lighting Plant, Mansfield  
Municipal Electric Department, Middleborough Gas & Electric  
Department, and Taunton Municipal Light Plant v. Federal  
Energy Regulatory Commission, Case No. 09-1231, Motion of  
ISO New England Inc. for Leave to Intervene*

Dear Mr. Langer:

In accordance with Rules 15 and 27 of the Federal Rules of Appellate Procedure and the Rules of this Court, ISO New England Inc. submits for filing the enclosed Motion of ISO New England Inc. for Leave to Intervene. If there are any questions concerning this filing, please call me at (202) 661-2212.

Respectfully submitted,

/s/ Daniel R. Simon  
Daniel R. Simon, Esq.  
Counsel for ISO New England Inc.

**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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Braintree Electric Light Department,	)	
Hingham Municipal Lighting Plant,	)	
Hull Municipal Lighting Plant,	)	
Mansfield Municipal Electric Department,	)	
Middleborough Gas & Electric Department, and	)	
Taunton Municipal Light Plant,	)	
Petitioners,	)	Case No. 09-1231
	)	
v.	)	
	)	
Federal Energy Regulatory Commission,	)	
Respondent.	)	
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**MOTION OF ISO NEW ENGLAND INC. FOR LEAVE TO INTERVENE**

Pursuant to Rule 15(d) of the Federal Rules of Appellate Procedure and D.C. Circuit Court Rule 15(b), ISO New England Inc. (“ISO-NE”) hereby moves for leave to intervene in the above-captioned matter. ISO-NE seeks intervention in support of the respondent Federal Energy Regulatory Commission (“FERC”).

ISO-NE is the private, non-profit entity that serves as the regional transmission organization (“RTO”) for New England. ISO-NE operates the New England bulk power system and administers New England’s organized wholesale electricity markets pursuant to the ISO-NE New England Inc. Transmission, Markets and Services Tariff, and the Transmission Operating Agreement with the New England Participating Transmission Owners. In its capacity as an RTO, ISO-

NE has the responsibility to protect the short-term reliability of the New England Control Area and to operate the system according to reliability standards established by the Northeast Power Coordinating Council (“NPCC”) and the North American Electric Reliability Council (“NERC”).

ISO-NE has a direct and substantial interest in this proceeding. The petition for review challenges the following two orders by respondent FERC: *Braintree Electric Light Department, et al. v. ISO New England Inc.*, Order On Complaint, 124 FERC ¶ 61,061 (2008); *Braintree Electric Light Department, et al. v. ISO New England Inc.*, Order On Rehearing, 128 FERC ¶ 61,008 (2009). In these orders, FERC generally denied a complaint by Braintree Electric Light Department, *et al.* (“Petitioners”) against ISO-NE. Among other things, the complaint asked FERC to find that: (i) ISO-NE violated its tariff by allocating to Petitioners costs incurred for dispatching the Canal generating units out-of-merit for reliability needs as Local Second Contingency Protection Resources (“LSCPR”) because the dispatch of the resources was not “necessary”; or, in the alternative, (ii) if the tariff permitted ISO-NE to characterize the Canal dispatch costs as LSCPR charges that are paid by all customers located in the Southeastern Massachusetts load zone, then the tariff was unjust and unreasonable.

Any decision concerning this matter could have a substantial impact on ISO-NE’s responsibility to protect the short-term reliability of the New England Control

Area role as well as its responsibilities as administrator of the markets and bulk power system for New England. Therefore, the interests of ISO-NE in this proceeding cannot be adequately represented by any other party. Furthermore, intervention by ISO-NE will not prejudice any party, nor will it delay this proceeding.

For the foregoing reasons, ISO-NE respectfully requests that the Court grant its motion for leave to intervene in this proceeding.

Respectfully submitted,

/s/ by consent

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*/s/ by consent*

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Theodore J. Paradise, Esq.

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COUNSEL FOR ISO NEW ENGLAND  
INC.

Dated: September 30, 2009

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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Braintree Electric Light Department,	)	
Hingham Municipal Lighting Plant,	)	
Hull Municipal Lighting Plant,	)	
Mansfield Municipal Electric Department,	)	
Middleborough Gas & Electric Department, and	)	
Taunton Municipal Light Plant,	)	
Petitioners,	)	Case No. 09-1231
	)	
v.	)	
	)	
Federal Energy Regulatory Commission,	)	
Respondent.	)	
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**ORDER**

Based on the Motion to Intervene filed in this proceeding by ISO New England Inc., any opposition thereto, and the record herein, it is this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ORDERED,

that the Motion to Intervene of ISO New England Inc. is granted.

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**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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Braintree Electric Light Department,	)	
Hingham Municipal Lighting Plant,	)	
Hull Municipal Lighting Plant,	)	
Mansfield Municipal Electric Department,	)	
Middleborough Gas & Electric Department, and	)	
Taunton Municipal Light Plant,	)	
Petitioners,	)	Case No. 09-1231
	)	
v.	)	
	)	
Federal Energy Regulatory Commission,	)	
Respondent.	)	

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**DISCLOSURE STATEMENT OF ISO NEW ENGLAND INC.**

Pursuant to Circuit Rule 26.1, counsel for ISO New England Inc. hereby certifies that: ISO New England Inc. is a private, not-for-profit corporation organized under the laws of the State of Delaware that is responsible for operation of New England's bulk power system. The New England region controlled by ISO New England Inc. encompasses Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. ISO New England Inc. has no corporate parents and no publicly held company owns a 10% or more interest in ISO New England Inc.

Respectfully submitted,

/s/ by consent

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COUNSEL FOR ISO NEW ENGLAND  
INC.

Dated: September 30, 2009



## **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Motion for Leave to Intervene, Corporate Disclosure Statement, and Entries of Appearance of ISO New England Inc. are being served electronically to all current parties to this proceeding, either through the CM/ECF system maintained by the U.S. Court of Appeals for the District of Columbia Circuit, or by e-mail as explicitly consented by counsel.

Dated in Washington, D.C. this 30<sup>th</sup> day of September, 2009.

/s/ Daniel R. Simon

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