

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-1011**September Term, 2021****FERC-ER22-355-000****Filed On: March 2, 2022**

In re: NTE Connecticut, LLC,

Petitioner

ISO New England Inc. and New England
Power Generators Association, Inc.,
Intervenors**BEFORE:** Tatel, Wilkins, and Rao, Circuit Judges**ORDER**

Upon consideration of the emergency motion to lift stay, the responses thereto, and the reply, it is

ORDERED that the temporary stay entered by the court on February 4, 2022, be lifted. ISO New England has demonstrated that, due to changed circumstances, the stay is no longer equitable. Cf. Franklin Twp. Sewerage Auth. v. Middlesex Cnty. Utils. Auth., 787 F.2d 117, 121 (3d Cir. 1986). Since our stay order, the Federal Energy Regulatory Commission (“FERC”) has issued an order on rehearing, addressing some of the deficiencies in its earlier termination order. See In re NTE Conn., LLC, No. 22-1011, 2022 WL 552060, at *4–6 (D.C. Cir. Feb. 24, 2022); ISO New England Inc., 178 FERC ¶ 61,130 (2022). Moreover, it is undisputed that NTE has defaulted on its financial assurance obligations under the ISO-NE Tariff, which default provides an independent ground for terminating the Killingly plant’s capacity supply obligation. In light of these developments, our stay of FERC’s termination order is no longer equitable.

Per Curiam**FOR THE COURT:**
Mark J. Langer, ClerkBY: /s/
Manuel J. Castro
Deputy Clerk