

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

New England Power Pool)	Docket Nos. ER14-1050-000
ISO New England Inc.)	ER14-1050-001
)	
)	

**MOTION TO INTERVENE AND LIMITED COMMENTS OF
THE NEW ENGLAND STATES COMMITTEE ON ELECTRICITY**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), the Commission’s January 17, 2014 Notice of Filings #2, and the Commission’s January 23, 2014 Notice of Extension of Time, the New England States Committee on Electricity (“NESCOE”) hereby files this motion to intervene and limited comments in the above-captioned proceeding.¹

On January 17, 2014, ISO New England Inc. (“ISO-NE”) and the New England Power Pool Participants Committee (“NEPOOL”) jointly filed alternative sets of tariff revisions related to the Forward Capacity Market (“FCM”) rules.² The ISO-NE alternative, called FCM Pay-for-Performance (“PfP” or “ISO-NE Proposal”), focuses on the FCM with a re-defined capacity product and leaves the other wholesale electricity markets relatively unchanged.³ The NEPOOL alternative (“NEPOOL Proposal”) would increase administrative price adders in the energy

¹ 18 C.F.R. §§ 385.212 and 385.214 (2012).

² Capitalized terms not defined in this filing are intended to have the meaning given to such terms in the ISO New England Inc. Transmission, Markets and Services Tariff (“Tariff”).

³ In the NEPOOL Technical Committee stakeholder process, the ISO-NE Proposal was alternately referred to as “Pay-for-Performance” and “Performance Incentives.”

market during periods of scarcity, replaces the capacity availability metric and associated financial incentive structure, and otherwise maintains the existing capacity product and FCM mechanics.⁴ The New England states, through NESCOE, have no collective position regarding support for one alternative versus the other. However, NESCOE provides below limited comments on certain aspects of the ISO-NE proposal.

I. Communications

Pursuant to Rule 203,⁵ the person to whom correspondence, pleadings, and other papers in regard to this proceeding should be addressed and whose name is to be placed on the Commission's official service list is designated as follows:

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II. Motion to Intervene

NESCOE is the Regional State Committee for New England. It is governed by a board of managers appointed by the Governors of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont and is funded through a regional tariff that ISO New England administers.⁶ NESCOE's mission is to represent the interests of the citizens of the New

⁴ NRG Energy Inc. sponsored the proposal that served as the basis for the NEPOOL Proposal.

⁵ 18 C.F.R. § 385.203 (2012).

⁶ *ISO New England, Inc.*, 121 FERC ¶ 61,105 (2007).

England region by advancing policies that will provide electricity at the lowest reasonable cost over the long term, consistent with maintaining reliable service and environmental quality.

This proceeding concerns, among other things, the rules governing the FCM, New England's resource adequacy market. This proceeding has system reliability, consumer cost, and environmental implications. NESCOE has a direct, immediate, and substantial interest in this proceeding, which will not be adequately represented by any other party. In addition, NESCOE's participation in this proceeding as the representative of the New England Governors will serve the public interest. NESCOE respectfully requests leave to intervene in this matter.

IV. Limited Comments

Throughout the stakeholder process leading up to this proceeding, the New England states were actively engaged with ISO-NE, NEPOOL market participants, and others regarding the proposed FCM reforms. While NESCOE takes no position in support of, or in opposition to, the ISO-NE or NEPOOL alternative proposals in their entirety, NESCOE submits these limited comments regarding certain aspects of the ISO-NE proposal. NESCOE's comments are confined to the "no exemptions" feature and the magnitude of the performance payment rate element of the ISO-NE proposal, in the event that it is implemented, to assist the Commission's consideration of these issues in this proceeding.

A. The ISO-NE Proposal Should Incorporate an Exemption for Transmission Outages

Under the ISO-NE Proposal, *all* capacity suppliers are financially obligated to provide energy and reserves during reserve shortage conditions *with no exceptions*. ISO-NE's rationale for its proposal's "no exemptions" feature is that: (1) the FCM should enforce a linkage between resource performance and capacity payments and (2) exemptions are incompatible with sound

market design.⁷ Further, ISO-NE contends that capacity suppliers are in a better position to affect resource performance than electricity customers, which ultimately bear the risk of non-performance when capacity suppliers are provided *any* exemptions. While this may be theoretically accurate, electricity customers also pay the risk premiums associated with providing capacity in a market *with or without* exemptions.

Not including a transmission outage exemption in the ISO-NE Proposal provides no foreseeable benefit and will likely cause considerable expense to electricity customers. In the event that a transmission outage occurs, capacity suppliers are physically incapable of providing energy and reserves. In an unbundled electricity market, it is unclear how an existing *capacity supplier* would take physical measures to reduce the probability and shorten the duration of a *transmission* outage.⁸ The most logical way for a capacity supplier to address the financial risk associated with non-performance during a transmission outage under ISO-NE's proposal is for that resource to inflate its risk premium and pass the risk through to electricity consumers. If capacity suppliers are incapable of taking physical measures to ensure performance in this limited circumstance and are likely to inflate capacity prices as a result, it is unclear how the "no exemptions" feature enhances resource performance even though consumers are paying more for those resources. On balance, having all capacity resources include a truly uncontrollable risk in their offers would not succeed in shifting the risk of non-performance to capacity suppliers, but would have significant material consumer cost implications.

NEPOOL market participants supported an exemption for transmission outages. At the November 13-14, 2013 NEPOOL Markets Committee meeting, an amendment that would

⁷ Performance Incentives Filing, *Testimony of Matthew White on Behalf of ISO New England Inc.* ("White Testimony"), at 24 and 26.

⁸ In theory, a new capacity supplier could choose to physically locate their resource on a node of the network with lower risk of transmission outages.

provide such an exemption (the so-called “Brookfield Amendment #3”) was supported by 71.77% of market participants.⁹ At the December 6, 2013 NEPOOL Participants Committee meeting, an amendment by another market participant (the so-called “NU Amendment #1”) to include an exemption for transmission outages passed by a show of hands.¹⁰ While NESCOE takes no position on whether the ISO-NE or NEPOOL proposal should be approved, it joins a majority of market participants in supporting an exemption from the ISO-NE Proposal for transmission outages.

B. The ISO-NE Proposal’s Performance Payment Rate Should Not Be Altered

The magnitude of the performance payment gradually increases over time under the ISO-NE proposal. The so-called Performance Payment Rate (“PPR”) is an important factor in the payments that well-performing capacity resources will receive and poor-performing resources will pay under the ISO-NE Proposal.¹¹ ISO-NE proposes to phase-in the magnitude of the PPR over the course of six annual auctions, beginning with \$2,000/MWh in the first year of the FCM PpP and eventually reaching \$5,455/MWh in the seventh year.¹² In the NEPOOL stakeholder process, some market participants advocated for setting the PPR at \$5,455/MWh at the outset.¹³

⁹ See ISO New England Memo, *Actions of the Markets Committee* (November 15, 2013) (“November 2013 Actions of the Markets Committee”), at 6, available at: http://www.iso-ne.com/committees/comm_wkgrps/mrks_comm/mrks/actions/2013/mc_actions_13111314.doc.

¹⁰ See Noticed Actions of the NEPOOL Participants Committee (December 10, 2013) (“December 2013 Actions of the Participants Committee”), at 4, available at: http://www.nepool.com/uploads/NPC_NOA_20131206.pdf.

¹¹ The other important factor is the load level at the time of the shortage condition relative to the resource adequacy target, the so-called Balancing Ratio.

¹² White Testimony, at 112.

¹³ At the November 13-14, 2013 NEPOOL Markets Committee meeting and the December 6, 2013 NEPOOL Participants Committee meeting, NextEra Energy Resources sponsored an amendment that would, among other things, eliminate the PPR phase-in and set the PPR at \$5,455/MWh. This amendment only garnered support from 12.15% of market

For the reasons explained below, NESCOE urges the Commission, if it adopts the ISO-NE proposal, not to change the PPR and phase-in schedule of the ISO-NE Proposal.

ISO-NE's rationale for phasing-in the PPR is to "smooth the transition to the new [PFP] paradigm".¹⁴ Under the ISO-NE Proposal, capacity suppliers' offers in the FCM will be influenced by the anticipated frequency and duration of shortage conditions. Since capacity market participants have relatively little experience forecasting these types of events at this time, capacity suppliers are likely to include a substantial risk premium in their offers to address the uncertainty associated with potential payments for under-performance. Implementing the ISO-NE proposal with the \$5,455/MWh will increase the size of the risk premium that will be included in resources' offers into the FCM.

III. Conclusion

For the reasons stated herein, NESCOE respectfully requests that the Commission (i) grant its Motion to Intervene, and (ii) consider the above comments in this proceeding.

Respectfully submitted,

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Date: February 12, 2014

¹⁴ participants. See November 2013 Actions of the Markets Committee, at 5, and December 2013 Actions of the Participants Committee, at 4. White Testimony, at 113.

CERTIFICATE OF SERVICE

In accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day served by electronic mail a copy of the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Longmeadow, Massachusetts this 12th day of February, 2014.

Respectfully submitted,

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