UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England Inc. and New England Power Pool Participants Committee	))	Docket No. ER14-1639-005

MOTION FOR LEAVE TO ANSWER AND LIMITED ANSWER OF THE NEW ENGLAND STATES COMMITTEE ON ELECTRICITY

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission's ("Commission" or "FERC") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213 (2015), the New England States Committee on Electricity ("NESCOE")[1] hereby files this Motion for Leave to Answer and Answer to the Request for Rehearing filed by the NextEra Energy Resources, LLC ("NextEra"), the PSEG Companies ("PSEG"), and the NRG Companies ("NRG") (collectively, the "Litigants") on May 9, 2016 in the above captioned proceeding (the "Rehearing Request"). The Rehearing Request challenges the Commission's April 8, 2016 *Order on Remand*, 155 FERC ¶ 61,023 (2016) (the "Remand Order"), where the Commission affirmed "that the renewables exemption from the minimum offer price rule is just and reasonable, and not unduly discriminatory or preferential."[2] NESCOE provides this Limited Answer to clarify certain factual assertions in the Rehearing Request.[3]

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1 On April 22, 2014, NESCOE filed a timely motion to intervene and comments in this proceeding. Capitalized terms not defined in this filing are intended to have the meaning given to such terms in the ISO New England Inc. ("ISO-NE") Transmission, Markets and Services Tariff (the "Tariff"). Market Rule 1 is Section III of the Tariff.

2 Remand Order at P 2.

3 In recognizing the Commission's rules relative to answers to rehearing requests, and with an objective to confine this response to a limited number of issues, NESCOE does not address every factual assertion in the Rehearing Request. NESCOE's silence regarding any fact or argument should not be construed as agreement on that fact or argument, and NESCOE reserves the right to provide additional factual and legal responses.

More generally, NESCOE is disappointed that the Litigants persist in challenging a reasonable and narrowly drawn market rule designed to protect consumers against an over-procurement of capacity. The exemption garnered broad regional support, from a cross-section of industry, as part of a package of interrelated changes implementing a system-wide demand curve. It reflects a number of trade-offs among parties, and the final language reflects the culmination of significant collaborative work among NESCOE, ISO-NE, market participants, and other stakeholders. As the Commission stated, the exemption strikes "an appropriate balance of competing interests[.]"[4]

The New England states support the wholesale markets and, where possible, are interested in implementing state energy and environmental policies through mechanisms working within those markets. At the same time, many states have a legal—indeed, a constitutional—obligation to execute their energy and environmental laws. That is common knowledge. Indeed, NextEra recently touted for investors revenue opportunities related in part to continued state actions supporting renewable energy: ". . . we continue to believe that the regulatory trend in North America will continue to be towards supporting more renewable energy. We expect resource planning activities for increasingly stringent environmental rules and potential carbon emissions regulations (whether at the state or federal level) will help further support demand. For these reasons, we expect some of our potential customers to be motivated not only by the

[4] Remand Order at P 36. *See also id.* at P 34, *quoting New England Power Generators Assoc., Inc. v. ISO New England Inc.*, 146 FERC ¶ 61,039 at P 52 (2014) ("[T]he Commission 'must strike a reasonable balance between, on the one hand, setting a price that will retain enough existing resources to maintain reliability and, on the other hand, protecting consumers from overpaying for that capacity and minimizing price volatility that could undermine both investor and consumer confidence in the market.").

economics of new renewables, but also by the consideration of current or potential future environmental compliance obligations . . . ."[5]

Consequently, along with constructive participants in the stakeholder process, states have sought to identify market mechanisms that can reasonably accommodate state policies. As NESCOE has stated in the past, a market that fails to recognize resources developed pursuant to state requirements will not be sustainable in the long-term.[6] NESCOE believes that there is an increasing recognition of this fact among stakeholders more broadly, as well as a shared desire in New England to develop workable solutions in the nearest possible term. NESCOE is committed to working with those generating entities and other regional market participants who recognize the need to reasonably accommodate policies in markets rather than allocate resources toward litigating every attempt to strike a sensible balance.[7]

I. MOTION FOR LEAVE TO ANSWER

Answers to rehearing requests are generally prohibited under Rule 713(d)(1) of the Commission's Rules of Practice and Procedure.[8] However, the Commission has exercised discretion in accepting such answers if they assist the Commission in its decision-making

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5 John Ketchum, Executive Vice President and Chief Financial Officer, NextEra, First Quarter 2016 Earnings Conference Call (Remarks), April 28, 2106 ("NextEra Investor Report"), at 15, *available at* http://www.investor.nexteraenergy.com/phoenix.zhtml?c=88486&p=irol-EventDetails&EventId=5223728.

6 *See, e.g.,* Statement of Jeffrey W. Bentz, New England States Committee on Electricity, FERC Technical Conference on Centralized Capacity Markets in Regional Transmission Organizations and Independent System Operators, Docket No. AD13-7-000, Sept. 25, 2013, at 2-3.

7 For example, NESCOE hopes that PSEG's recent announcement to investors that its focus on "[a]dvocacy of constructive market rules - Capacity markets and environmental regulations" indicates a shift toward proposing solutions to achieve a balance between markets and policies and away from the adversarial posture that has thus far marked its approach to the renewables exemption. Daniel Cregg, Executive Vice President and Chief Financial Officer, PSEG, *PSEG Strategy: Growing a High-Quality, Low-Risk Energy Infrastructure Company*, American Gas Assoc. 2016 Financial Forum, May 16, 2016 ("PSEG Investor Report"), at Slide 16, *available at* http://investor.pseg.com/sites/pseg.investorhq.businesswire.com/files/doc_library/file/AGA-SHOW-FINAL-051616.pdf.

8 18 C.F.R. § 385.713(d)(1) (2015).

process.[9] NESCOE's Answer meets this standard. The Answer clarifies certain factual assertions in the Rehearing Request and, therefore, provides the Commission with a more complete record upon which to base its determination. Accordingly, NESCOE respectfully requests that the Commission accept this Answer.

II. ANSWER

The Litigants include various factual assertions in the Rehearing Request, a number of which require clarification:

- The Litigants claim that "the Commission's suggestion that the exemption is not intended to lower prices makes no sense" and that "it is beyond dispute that the intent of the renewable exemption is purely economic."[10]
  - *Clarification*: The primary purpose of the renewables exemption is economic. However, the objective is not to suppress prices but to achieve "the Commission's statutory mandate by protecting consumers from paying for redundant capacity."[11] As ISO-NE has stated, "ignoring these [renewable] resources would be costly and inefficient."[12]

- The Litigants assert that the exemption "creates new 'missing money,' and . . . this new missing money renders the capacity market incapable of 'attract[ing] and retain[ing] sufficient capacity to maintain ISO-NE's Installed Capacity Requirement.'"[13]
  - *Clarification*: The Litigants' assertion contradicts their trade organization, the New England Power Generators Association ("NEPGA"), which has stated that "[t]he open, competitive market in New England is . . . driving investments to keep power supplies in the region competitively priced and

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[9] *See, e.g., Cal. Indep. Sys. Operator Corp.*, 129 FERC ¶ 61,241 at P 16 (2009); *PJM Interconnection, L.L.C.*, 127 FERC ¶ 61,188 at P 6 (2009); *Missouri Interstate Gas, LLC et al.*, 127 FERC ¶ 61,011 at P 8 (2009).

[10] Rehearing Request at 3.

[11] Remand Order at P 33.

[12] ISO New England Inc., *The Importance of a Performance-Based Capacity Market to Ensure Reliability as the Grid Adapts to a Renewable Energy Future: Revised Discussion Paper*, October 2015, at 14, *available at* http://www.iso-ne.com/static-assets/documents/2015/10/iso-ne_discussion_paper_--_capacity_market_and_renewable_energy_future_--_revised_version_--_10-30-2015.pdf.

[13] Rehearing Request at 4 (citation omitted). The Rehearing Request later asserts that there is no record evidence showing that Forward Capacity Auctions ("FCAs") 9 and 10 reflected a "'deep pool of competitive entrants.'" *Id.* at 17. The Litigants also claim that ". . . clearing prices even a little bit below the long-term average cost of new entry will inevitably lead to out-of-market payments for existing resources, like reliability must-run agreements, state contracts or state-sponsored entry, or premature retirements and resource churn." *Id.* at 27.

reliable."[14] NEPGA also recently expounded on the high level of competition in the Forward Capacity Market ("FCM"), stating that "[o]lder, more expensive methods for generating electricity are being driven from the market by more cost-effective, cleaner and efficient power stations."[15] NEPGA has additionally pointed to the competitive environment in FCA 10, stating that "nearly 1,500 MW of new plants cleared in the" last auction and that there are "nearly 7,000 MW of new plants competing to provide new capacity to the region."[16] PSEG likewise underscored to investors just last month that New England currently presents growth investment opportunities.[17] In fact, two of the three companies are currently investing in new resources in New England: (1) PSEG at over $500 million in connection with a new 485 MW power plant in Connecticut,[18] and (2) NRG's 333 MW natural gas-fired resource that recently cleared in FCA 10.[19] The FCM as it exists today, with the renewables exemption in place, is unquestionably attracting new investments.

In addition, the assertion that the FCM would be unable to attract or retain capacity is not borne out in the two FCAs, in which the renewables exemption has been applied. For FCA 9, ISO-NE concluded that the auction "attracted significant competition" and secured "more than 1,400 megawatts of new capacity," including three new power plants at a combined 1,060 MW.[20] These resources helped the region make up shortfalls from generation retirements.[21] Similarly, for FCA 10, "40,131 MW of resources, including 6,700 MW of new resources, qualified to compete in the auction to provide the 34,151 MW Installed Capacity Requirement (ICR) for 2019-2020."[22]

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14 New England Power Generators Assoc. and the COMPETE Coalition, Press Release, *New England Governors and Canadian Premiers Meet as Energy Prices Hit Historic Lows*, Aug. 31, 2015, *available at* http://nepga.org/2015/08/nepgacompete-release-on-historic-2015-wholesale-electricity-market/.

15 Dan Dolan, President, New England Power Generators Association, *Keep our energy clean*, The Recorder, May 18, 2016.

16 Statement of Dan Dolan, President, New England Power Generators Association, U.S. Department of Energy, Quadrennial Energy Review, Boston, MA, April 15, 2016, at 2, *available at* http://energy.gov/sites/prod/files/2016/04/f30/Panel%201%20Remarks%20by%20Dan%20Dolan%2C%20President%2C%20New%20England%20Power%20Generators%20Association.pdf.

17 PSEG Investor Report at Slide 7 (listing Bridgeport Harbor 5 generating plant as part of PSEG's "[p]ower capital program focusing on growth investments").

18 *Id.* at Slide 12.

19 NRG, *NRG Canal 3 Project Clears ISO-NE Capacity Auction: 333 MW Peaker will provide flexible, fast-start capacity*, News Release, Feb. 11, 2016, *available at* http://investors.nrg.com/phoenix.zhtml?c=121544&p=irol-newsArticle&ID=2137738.

20 ISO New England Inc., *Annual Forward Capacity Market Auction Acquires Major New Generations Resources for 2018-2019: Auction attracts investment in new resources needed to address New England's resource shortage*, Feb. 2015, at 1, *available at* http://www.iso-ne.com/static-assets/documents/2015/02/fca9_initialresults_final_02042015.pdf.

21 *Id.*

22 ISO New England Inc., *ISO-NE Capacity Auction Secures Sufficient Power System Resources, At a Lower Price, for Grid Reliability in 2019-2010: 2016 auction clearing price is 25% lower than last year's auction*,

ISO-NE's Chief Executive Officer stated that "[c]ompetition was robust" in the auction.[23] In fact, ISO-NE recently characterized the last two auctions as reflecting "a surge of recent new investment in the region," explaining that "[i]n the last two auctions alone . . . the FCA cleared multiple new generating facilities, replaced close to 10 percent of the generating fleet, and the Interconnection Queue for new capacity has more than doubled (from 6 GW to over 12 GW) since 2014."[24]

Furthermore, regarding the upcoming FCA 11, following the April 22, 2016 close of the show of interest window, ISO-NE's Chief Operating Officer recently stated that there was similar "robust" interest.[25] Lastly, retirement de-list bids for FCA 11 were a meager 27.262 MW,[26] hardly evidence that existing suppliers deem the exemption as a reason to leave the New England marketplace.

- The Litigants argue that "the Commission further errs because it provides generators no ability to recover the 'new missing money'". . . and that "[c]learing prices will be lower than they would be without the renewables' price suppression . . . ."[27] The Litigants repeat these assertions at several later points in the Rehearing Request.[28]
    - *Clarification*: The Litigants do not and cannot know as a matter of fact that clearing prices would be lower because of the exemption. The Litigants'

Feb. 2016, at 1, *available at* http://www.iso-ne.com/static-assets/documents/2016/02/20160211_fca10_initialresults_final.pdf.

23 *Id.*

24 *Motion for Leave to Answer and Answer of ISO New England Inc.*, Docket No. ER16-1434-000 (filed May 27, 2016), at 13-14 (footnotes omitted), *available at* http://www.iso-ne.com/static-assets/documents/2016/05/answer_re_demand_curve.pdf.

25 Preliminary Minutes of the May 6, 2016 NEPOOL Participants Committee Meeting, June 3, 2016 Meeting, Agenda Item #2 (*Marked to Show Changes from Earlier Draft Circulated*), at 3629 ("NEPOOL Meeting Minutes") ("Turning to FCA 11, Dr. Chadalavada reported that the Show of Interest window closed on April 22, with a robust show of interest across all resource categories (in aggregate, exceeding 15,000 MW)"), *available at* http://www.iso-ne.com/static-assets/documents/2016/05/npc_20160603_supplemental.pdf.

26 *See* ISO New England Inc., *Assumptions for Calculating the Installed Capacity Requirement (ICR) Values for the 2020-2021 Forward Capacity Auction (FCA11)*, May 26, 2016, PSPC Meeting, at Slide 8, *available at* http://www.iso-ne.com/static-assets/documents/2016/05/PSPC_05262016_ICR_Resource_Load_Assumption_A5_2.pdf.

27 Rehearing Request at 4. *See also id.* at 3 ("A market designed to clear on average over time at the cost of new entry cannot do so when any new resource is allowed to clear below cost . . . .").

28 *Id.* at 6 ("A demand curve will never conjure up missing money caused by artificial price suppression."), 10 ("No one disputes that the renewables exemption *will* suppress prices" and "Whether the renewable exemption will suppress prices is not in question . . . .") (emphasis in original). *See also id.* at 11 (stating that "artificially cheap supply pushes the supply curve to the right and causes it to intersect the demand curve at a lower clearing price, thus lowering capacity revenues.") (footnote omitted). The Litigants additionally claim that it is "easy math" to quantify the effect of the exemption on the market, *id.* at 23, but such "easy math" ignores what is a more complex set of variables that intersect to affect the market price (*e.g.*, type, size, and volume of new entrants, retirements, non-rationable offers, steepness of the supply curve).

statement that the exemption "*will* suppress prices" is highly questionable.[29] In fact, it is doubtful that prices would have changed in FCA10 due to the objective of the capacity clearing engine to maximize social surplus. System conditions, location, type of new entrants, volume of new entrants, retirements, auction clearing rules, and numerous other variables (*e.g.*, natural gas price impacts in the energy market) are drivers of the clearing price. The Litigants neglect to discuss that it is also possible for a resource to over-recover costs if a bid accounts for lower expected energy rents than materialize in the future. Moreover, in their focus on maintaining the status quo, the Litigants fail to consider the consequence of eliminating the exemption, which the Commission has a statutory obligation to account for: absent the exemption, there would be no protection for consumers made to over-buy capacity.

- The Litigants criticize the Commission for "fail[ing] to acknowledge" that thousands of MW of coal and oil resources are at risk "in large part because of price formation concerns."[30]
    - *Clarification*: Such blame is misplaced. It ignores markets forces that are driving retirements. As NRG told investors recently, its east region, which includes New England, has "[c]apacity markets better reflecting true economics" and that "[u]neconomic units continue to retire."[31] NextEra told investors that "[p]otential coal-to-renewables switching [is] driven by low natural gas prices."[32] NextEra's statements to investors similarly indicate its view of what is causing coal retirements, and it has nothing to do with the exemption: "Lower natural gas prices and environmental regulation are expected to continue to pressure existing coal facilities, and renewables are well situated as the shift away from coal continues."[33]

      ISO-NE's Internal Market Monitor has made similar statements pointing to natural gas—and not the renewables exemption—as the driver for retirements, stating, for example, that "aging and declining fleet of oil- and coal-fired generators . . . are increasingly being displaced by more efficient gas-fired generators."[34] Indeed, more than 3,000 MW of coal, oil, and nuclear

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[29] *Id.* at 1-2 (emphasis in original).

[30] Rehearing Order at 5.

[31] NRG, First Quarter 2016 Results Presentation, May 5, 2016, at Slide 6, *available at* http://investors.nrg.com/phoenix.zhtml?c=121544&p=irol-EventDetails&EventId=5223390.

[32] NextEra, Earnings Conference Call: First Quarter 2016 (Presentation), April 28, 2016, at Slide 12, *available at* http://www.investor.nexteraenergy.com/phoenix.zhtml?c=88486&p=irol-EventDetails&EventId=5223728.

[33] NextEra Investor Report at 14.

[34] ISO New England Inc., Internal Market Monitor, 2014 Annual Markets Report, May 20, 2015, at 3, *available at* http://www.iso-ne.com/static-assets/documents/2015/05/2014-amr.pdf. *See also* ISO New England Inc., 2015 Annual Markets Report, May 25, 2015, at 17 ("Newer, cleaner and more efficient technology, combined with low natural gas prices, increasing emissions costs, and environmental regulations have contributed to more investment in new natural gas generators.") and 37 ("The old age of coal and oil generators coupled with the

resources announced retirements before the exemption was even implemented in FCA 9.[35] These retirements could not have had any connection to the renewables exemption. With the same market forces at play in New England, any causal connection between resource retirements and the approximately 72 MW of renewables clearing under the exemption is speculative at best.[36]

Moreover, price formation has been a significant focus of the Commission, with a number of potential reforms under active consideration and other changes expected.[37]

- The Rehearing Request adds the resources that qualified under the renewable exemption for FCA 9 (79 MW) to the resources that cleared in FCA 10 under the exemption to produce what the Litigants apparently claim to be the total MW that have cleared under the exemption for these two auctions, 150 MW. The Rehearing Request then states that "450 MW are now eligible for the renewable exemption in FCA 11."[38]
    - *Clarification*: These statements warrant correction. To *qualify* for the auction is not the same as *clearing* the auction and, in fact, only 72 MW of resources have actually cleared in total under the exemption for FCA 9 and FCA 10, making approximately 528 MW currently available for the exemption.[39] To state it another way, with a procurement of 35,567 MW for the 2019-2020 period (FCA 10), the 72 MW that have cleared under the exemption compose roughly *.2%* of the resources procured.

- The Litigants claim "there is compelling evidence that" state policies driving 1,600 MW of solar resources into the market will continue to increase price suppression and further state that "4,000 MW of wind is sitting in the ISO-NE interconnection queue waiting to be built."[40]
    - *Clarification*: These numbers provide dramatic effect. However, the 4,000 MW of wind in the queue must be viewed in the context of a 67% MW

aforementioned economic drivers have contributed to generator retirements"), *available at* http://www.iso-ne.com/static-assets/documents/2016/05/2015_imm_amr_final_5_25_2016.pdf.

35 *See* Gordon van Welie, President and CEO, ISO New England Inc., *Managing the Reliability of the Electric Grid While the Power Industry Undergoes Rapid Transformation*, Massachusetts Restructuring Roundtable, Sept. 19, 2014, at Slide 5, *available at* http://www.iso-ne.com/static-assets/documents/2014/09/ma_roundtable_9_19_14_gvw_final.pdf.

36 *See* ISO New England Inc., Forward Capacity Market*,* FCM Parameters: Quick view of parameters per individual capacity commitment period ("FCM Parameters") (listing 527.813 MW available under the exemption), *available at* http://www.iso-ne.com/markets-operations/markets/forward-capacity-market.

37 *See generally* FERC, Energy Price Formation, at http://www.ferc.gov/industries/electric/indus-act/rto/energy-price-formation.asp.

38 Rehearing Request at n. 15.

39 *See* FCM Parameters.

40 Rehearing Request at 6 (footnote omitted). *See also id.* at 44.

attrition rate for all projects since the queue has been operational.[41] In addition, as the Commission has noted, because of "the intermittent energy output of wind and solar resources, the capacity value of these resources is only a fraction of the nameplate capacity."[42] The Commission additionally explains that "ISO-NE qualifies wind and solar resources for capacity market participation at approximately 20 percent of their nameplate capacity" and, accordingly, "at least 1,000 MW of renewable resources" would need to clear to use up the renewables exemption.[43] Finally, irrespective of the growth rate of renewable resources entering the market, as discussed above, the exemption is narrowly tailored and reflects a balance between accommodating state policies and market impacts. Among the limitations in this market rule, the exemption is capped at 200 MW per year, is further restricted to resources defined as RPS-eligible as of January 1, 2014, and must "receive an out-of-market revenue source supported by a state- or federally-regulated rate, charge or other regulated cost recovery mechanism[.]"[44] In effect, for the Litigants' inference to be true at present, states would have to contract with every wind resource in the interconnection queue to enable those MW to qualify for the exemption.

- In citing to a likely increase in the coming years in amount of new renewable resources entering the market, the Rehearing Request then goes on to state that "the fact that I am currently only driving 75 mph in no way justifies a 200 mph speed limit . . . ."[45]
  - *Clarification*: The question of whether the renewables exemption should be expanded is not before the Commission. As explained above, the exemption is a narrowly tailored to satisfy specific statutory requirements. It has no relationship to the broad range of state public policy requirements that have to be implemented as a matter of law over time. The region needs to sort out mechanisms to accommodate those and will bring forward proposals for the Commission's consideration as appropriate. Parenthetically, if the Litigants consider resources equaling .2% of the total amount procured to be 75 mph, their speedometer is broken.

- The Litigants state that "[n]ow more than ever it is important for New England to *get the market right going forward* due to the significant challenges it faces," citing to retirements and difficulties with gas-electric coordination.[46]
  - *Clarification*: NESCOE agrees. The region has to identify workable solutions to accommodate the requirements of state laws rather than expend resources

41 *See* ISO New England Inc., 2015 Regional System Plan, at 78.

42 Remand Order at n. 70.

43 *Id.* at P 18.

44 Market Rule 1, Section III.13.1.1.1.7.

45 Rehearing Request at 6-7.

46 *Id.* at 26.

on protracted litigation that, should the Litigants prevail, will only serve to undermine the long-term sustainability of the market.

- Using a hypothetical example to illustrate its missing money claim, the Litigants state that if 200 MW of renewables enter the market under the exemption, "the market will clear at zero."[47]
  - *Clarification*: The example fails to take into account the price protection of the sloped demand curve as illustrated in Table 1 of the Rehearing Request, where the price does not drop to zero.[48] As noted above, there are many variables in determining the auction clearing price. In fact, adjusting the Litigants' example to reflect 225 MW at $6/kW-month instead of 125 MW at $6/kW-month, the clearing price would be $6/kW-month with or without the exemption (using the simple hypothetical example) and there would be no new "missing money."

- The Litigants suggest that a "competitive market" is one where the exemption does not exist and claim that "no one can compete with zero-priced entry" and that, with the exemption in place, there will be a "limit[ed] or "largely diminish[ed] . . . incentive for private developer to develop projects for the FCM."[49]
  - *Clarification*: This outlying view, which is contradicted by the facts in FCAs 9 and 10, the show of interest for FCA 11, and the statements and actions of the Litigants themselves and their trade organization, should not be given any weight. Both FCAs 9 and 10 reflected competitive outcomes and attracted significant interest from new resources.[50] The next auction, FCA 11, has also attracted robust interest.[51] Simply stated, private developers have not been deterred by the existence of the renewables exemption or the prospect of a detrimental effect on going-forward prices. In fact, as noted above, competition has been strong and prices have reflected that competition.

- The Rehearing Request labels the renewables exemption "a clumsy and unreasonable way of attempting" to encourage renewable resource development.[52] The Litigants also state that "the renewables exemption will send a clear signal to build up to 200 MW of renewables per year" and "[t]here is no justification in theory or practice to assert that market participants will ignore this signal."[53]

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47 *Id.* at 27.

48 *Id.* at 12.

49 *Id.* at 27-28.

50 *See supra* at 4-6.

51 NEPOOL Meeting Minutes at 3629.

52 Rehearing Request at 29. *See also id.* at 35 ("If additional resources beyond any exempt new renewables are needed to clear, this merely means that prices will not be *zero*, which is what they are likely to be if load growth is less than the amount of uneconomic renewable new entry each year.") (emphasis in original).

53 *Id.* at 43.

- *Clarification*: The exemption itself does not encourage renewable resource development. Rather, it is a mechanism to ensure that the capacity associated with certain resources built pursuant to state renewable energy requirements can clear in the capacity market, thereby preventing the over-procurement of capacity. The Litigants' statements regarding the "signal" to build have been proven to be false and, instead, underscore the Litigants' unwillingness to recognize the limited nature of the exemption and the function of state laws. NESCOE agrees that the exemption is imperfect. The resulting proposal was broadly supported by ISO-NE, the states, and a cross-section of industry, with trade-offs and compromises reflected in the final language. The exemption is narrow and modest and designed to accommodate only one category of state law requirements: renewable portfolio standards. There are certainly other approaches to integrating states' renewable policies into the market, such as PJM's more limited application of its minimum offer price rule, which is only applied to new gas-fired resources. Going forward, and in the near-term, some states will indeed require additional appropriate and cost-effective market design changes that balance competitive market outcomes with the need to integrate state policy objectives. NESCOE looks forward to working with market participants and others in the region to implement such market mechanisms.

- To the extent the Litigants imply that state officials pass laws encouraging renewable resource development to manipulate prices,[54] this blanket charge is recklessly inflammatory and unsubstantiated.

[54] *Id.* at 29-30 ("There are obvious reasons why state politicians would support lowering prices to load by uneconomic means. But uneconomic price manipulation for the benefit of buyers 'is contrary to the overall public's interest in a healthy and efficient economy that serves all consumers and their needs.'") (footnotes omitted).

III. CONCLUSION

For the reasons stated herein, NESCOE respectfully requests that the Commission (i) grant its Motion for Leave to Answer, and (ii) consider its Limited Answer in this proceeding.

Respectfully submitted,

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Date: June 3, 2016

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Cambridge, Massachusetts this 3rd day of June, 2016.

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