

states and stakeholders reasonably reliable cost estimates upon which states and stakeholders can base decisions, with particular attention accorded to consumer cost impacts.

I. COMMUNICATIONS

Pursuant to Rule 203, 18 C.F.R. § 385.203 (2012), 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. BACKGROUND

Prior to issuing the solicitation that is the subject of this proceeding, ISO-NE, joined by the New England Power Pool (“NEPOOL”) Participants Committee, filed with the Commission proposed Tariff² revisions to implement the out-of-market procurement of demand response resources and generating units providing oil inventory services, among other components of an overall program (the “Winter Reliability Program”).³ After commencing an initial solicitation that resulted in “insufficient bids to meet the objectives of the Winter Reliability Program,” ISO-NE filed emergency amendments with the Commission to modify program provisions relating to “penalties, regulatory risk, and program flexibility.”⁴

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

³ ISO New England Inc., Winter 2013-2014 Reliability Program, Docket No. ER13-1851-000 (filed June 28, 2013) (“Winter Reliability Program Filing”).

⁴ ISO New England Inc., Emergency Amendments to Pending Filing Regarding the Winter 2013-14 Reliability Program, Docket Nos. ER13-1851-001 and ER13-1851-002 (filed

ISO-NE initiated a subsequent solicitation incorporating program changes reflected in the Emergency Winter Amendments Filing. The Results Filing sets forth ISO-NE’s evaluation process for bids received and the bids selected, subject to the Commission’s review.⁵ As detailed in the Results Filing, ISO-NE received bids totaling 2.29 million MWh (96% of the maximum procurement target) at an offer price of approximately \$114 million.⁶ ISO-NE proposes to accept 1.995 million MWh (83.1% of the targeted level), at the price of \$78.8 million.⁷ ISO-NE states that such a procurement “appropriately balances concerns about reliable operations” for next winter with consumer costs.⁸

ISO-NE also states that it undertook a comparison of bids received through the initial solicitation—i.e., the bidding round that preceded the Emergency Winter Amendments Filing—against bids received in the subsequent procurement. According to ISO-NE, in the aggregate, the per unit bid price decreased in the second solicitation, with a \$39/MWh per unit cost compared to \$43/MWh in the initial procurement.⁹

III. 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-NE

Aug. 9, 2013) (“Emergency Winter Amendments Filing”), at 2-3. Both the Winter Reliability Program Filing and the Emergency Winter Amendments Filing are currently pending before the Commission.

⁵ Results Filing at 2.

⁶ *Id.* at 2-3.

⁷ *Id.* at 3. Demand response resources total 3,780 MWh of the bids ISO-NE proposes to select, with oil generating units, both dual fuel and oil only, comprising the remaining amount.

⁸ *Id.* at 4. *See also id.* at 2.

⁹ *Id.* at 3.

administers.¹⁰ NESCOE's mission is to represent the interests of the citizens of the New 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.

Like related Docket No. ER13-1351, where NESCOE filed a timely motion to intervene, the instant 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. COMMENTS

In comments on the Winter Reliability Program, NESCOE stated that ISO-NE acted appropriately in proposing an interim solution to system operational challenges identified for the coming winter.¹¹ Critical to NESCOE's acceptance of the Winter Reliability Program were key program features establishing parameters around the proposed solution, including limiting this particular program that was not open to all resources to a single winter and minimizing consumer costs.¹² NESCOE underscored the need for the proposed procurement to be competitive to maintain total program costs, and highlighted the importance of strong participation both in comments on the Winter Reliability Program Filing and, later, in its pleading supporting the

¹⁰ *ISO New England Inc.*, 121 FERC ¶ 61,105 (2007).

¹¹ New England States Committee on Electricity, Motion to Intervene and Comments of the New England States Committee on Electricity, Docket No. ER13-1851-000 (filed July 19, 2013) ("NESCOE Winter Reliability Program Comments"), at 2-3.

¹² *Id.* at 3-4.

Emergency Winter Amendments.¹³ NESCOE stated that it expected ISO-NE to exercise its discretion to purchase less than the target amount if the solicitation ultimately proved uncompetitive.¹⁴

ISO-NE's proposed bid selection is acceptable to NESCOE under the circumstances, where a more resource-neutral approach was constrained given the timeframe. NESCOE appreciates that ISO-NE canceled the initial solicitation when it failed to attract a sufficient level of competition. Following ISO-NE's program modifications, made through its emergency amendments, the second solicitation drew a greater degree of interest and resulted in bids representing a total of 96% of ISO-NE's target procurement amount. The effect of this increased level of program participation is borne out in ISO-NE's description of its bid evaluation: ISO-NE established a "cut-off point" after reviewing bids, rejecting offers that fell within the steeper portion of the supply curve.¹⁵ Accordingly, ISO-NE proposes to accept 1.995 million MWh (83.1% of the targeted amount) at a price of \$78.8 million, again appropriately exercising its discretion to reject bids that are not competitive. By comparison, in the initial solicitation, ISO-NE received bids totaling just over 1.4 million MWh (roughly 60% of the target amount) at a price of approximately \$60 million.¹⁶ In exercising its discretion, ISO-NE appropriately weighed the procurement objectives against consumer cost impacts. Such balancing was especially critical in this case where ISO-NE's resource needs assessment was not conducted with the rigor

¹³ *Id.* at 2, 8-9; New England States Committee on Electricity, Comments of the New England States Committee on Electricity, Docket No. ER13-1851-001 (filed Aug. 19, 2013) ("NESCOE Winter Amendment Comments"), at 3.

¹⁴ NESCOE Winter Reliability Program Comments at 8; NESCOE Winter Amendment Comments at 4.

¹⁵ *See* Results Filing at 3.

¹⁶ *See* Emergency Winter Amendments Filing at 2.

that should precede a decision to require consumers to fund incremental resources in the name of enhanced reliability.¹⁷

However, the material difference between the cost estimate that ISO-NE provided to states and stakeholders for the Winter Reliability Program and the program's actual price is alarming. ISO-NE provided a cost analysis that placed program costs between the estimated range of \$16 and \$43 million.¹⁸ As stated above, ISO-NE's proposed bid selection has an associated price of almost \$79 million, over \$35 million greater than the high end of the cost estimate, before even accounting for other program costs such as compensation for dual fuel unit testing. Further, the estimate assumed procurement of the full 2.4 million MWh and a program design that included more exacting penalties to ensure performance.

While recognizing that an estimate is just that, and should not be conflated with a cost ceiling, NESCOE stated in earlier comments that ISO-NE's ability to maintain program costs within the range of the estimate provided will increase confidence in this short-term Winter Reliability Program and in other comprehensive ISO-NE long-term market rule change proposals.¹⁹ The delta between estimated costs and the costs that consumers will ultimately bear under the proposed bid selection raises serious questions about ISO-NE's capacity to define the consumer cost implications of its proposal with reasonable accuracy. If ISO-NE's cost estimate did not include risk premium and profit margin, as ISO-NE stated after actual costs emerged,

¹⁷ NESCOE raised this issue in its comments on the Winter Reliability Program: "The level and quality of needs analysis in this case is not representative of the level and quality of needs analyses upon which resource investments have been or should be made in order to secure adequate resources. More time must be allotted in the future for states and stakeholders to analyze, question, understand, and have a higher level of confidence in the needs assessment that underlies proposed costly reliability measures." NESCOE Winter Reliability Program Comments at 11.

¹⁸ Winter Reliability Program Filing at n. 68.

¹⁹ NESCOE Winter Reliability Program Comments at 8, 11.

ISO-NE did not indicate to states and stakeholders the omission of these key components in the cost analysis during the stakeholder process or in the Winter Reliability Program Filing.²⁰

Whether in the context of interim, short-term solutions or longer-term proposals with lasting consumer cost implications, ISO-NE's cost estimates need to be reasonably reliable and ISO-NE needs to be explicit in real time about what is not included in the cost estimates, paying particular attention to consumer costs impacts. Without reasonably accurate cost estimates, states and stakeholders cannot make informed judgments about ISO-NE proposals and whether what ISO-NE proposes to require consumers to fund falls within a reasonable range in light of the objectives or whether there are more cost-effective ways to achieve the same end.

V. 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.

²⁰ In an Answer in Docket No. ER13-1851-000, ISO-NE noted that it “has stated that it expects bids to be based on the costs estimated by The Analysis Group, plus a competitive profit margin and risk premium.” ISO New England Inc., Motion for Leave to Answer and Answer of ISO New England Inc., Docket No. ER13-1851-000 (filed Aug. 6, 2013), at 8, citing to Joint Testimony of Robert Ethier and Peter Brandien on Behalf of ISO New England Inc. (“Ethier/Brandien Testimony”) at 29-30 (attached to the Winter Reliability Program Filing). Prior to this clarification, ISO-NE's description of the cost analysis did not specify that these components were excluded, and it is not evident from either the Ethier/Brandien Testimony or other aspects of the Winter Reliability Program Filing that profit and risk premium were not included.

Respectfully submitted,

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Date: September 9, 2013

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 Boston, Massachusetts this 9th day of September, 2013.

Respectfully submitted,

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