

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

ISO New England Inc.

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Docket No. ER16-307-001

**MOTION FOR LEAVE TO ANSWER AND 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”) hereby files this Motion for Leave to Answer and Answer to the Rehearing Request filed by the NRG Companies (“NRG”) on February 8, 2016 in the above captioned proceeding (the “Rehearing Request”). The Rehearing Request challenges the Commission’s January 8, 2016 *Order Accepting Filing*, 154 FERC ¶ 61,008 (2016) (the “ICR Order”), where the Commission considered and rejected NRG’s protest and other protests to ISO New England Inc.’s (“ISO-NE”) proposed Installed Capacity Requirement (“ICR”) and other values for the 2019/2020 Capacity Commitment Period.<sup>1</sup>

**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.<sup>2</sup> However, the Commission has exercised discretion in accepting such answers if they assist the Commission in its decision-making

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<sup>1</sup> 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”).

<sup>2</sup> 18 C.F.R. § 385.713(d)(1) (2015).

process.<sup>3</sup> NESCOE's Answer meets this standard. The Answer clarifies mischaracterizations in the Rehearing Request and explains why NRG has failed to identify legal errors warranting rehearing of the ICR Order. Accordingly, NESCOE respectfully requests that the Commission accept this Answer.

## II. ANSWER

At core issue to NRG is ISO-NE's reflection in the ICR of the solar photovoltaic ("PV") forecast, which serves as an input into the load forecast that is used to calculate the region's resource adequacy needs.<sup>4</sup> The Rehearing Request claims that the Commission improperly accepted ISO-NE's proposed ICR by failing to require Tariff changes related to the solar PV forecast and in finding that ISO-NE engaged in a sufficient stakeholder process.<sup>5</sup>

The Commission has wholly addressed the issues that NRG raises and should reject the Rehearing Request. In the ICR Order, the Commission explained that ISO-NE's adjustment to the ICR to account for increased behind-the-meter solar PV penetration is entirely consistent with the process set forth in the Tariff.<sup>6</sup> The Commission also recounted the process for stakeholder and state review and challenge to inputs into the ICR, a process that NRG employed in protesting the ICR calculations.

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<sup>3</sup> 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).

<sup>4</sup> As NESCOE described in its comments in this proceeding, ISO-NE divided solar PV resources into four separate categories: (1) solar PV resources participating in the Forward Capacity Market ("FCM"), (2) Settlement Only Resources, which participate in the energy market but have not undertaken a commitment through the FCM, (3) Behind-the-meter ("BTM") solar PV resources that are already embedded in load (*i.e.*, installed PV resources currently captured in historical load data that is input into the future load forecast), and (4) BTM solar PV resources not embedded in load. This last category captures resources that are not reflected in historical load data but are expected to be installed before the relevant Capacity Commitment Period. ISO-NE adjusted the load forecast to reflect these BTM solar PV resources not embedded in load. See Comments of the New England States Committee on Electricity, Docket No. ER16-307-000 (filed Dec. 1, 2015) ("NESCOE Comments"), at 5-6.

<sup>5</sup> Rehearing Request at 1.

<sup>6</sup> ICR Order at PP 31, 33.

NRG misreads the ICR Order in asserting that there was a Commission conclusion “that the impact of ISO-NE’s changes to the ICR was not large enough to warrant a tariff change[.]”<sup>7</sup> Such a contention inaccurately characterizes the Commission’s determination. Rather, the Commission’s finding was principally grounded in the Tariff provisions governing the adjustment of inputs into the ICR calculation.<sup>8</sup> The Commission explained that it “has not previously required tariff revisions under section 205 [of the Federal Power Act] each time ISO-NE revised the methodology used to calculate the ICR, and the existing tariff provisions recognize that those revisions may require ISO-NE to have sufficient flexibility to update its assumptions as necessary.”<sup>9</sup> The Commission continued by describing the process that market participants and others can use to challenge inputs into the ICR.<sup>10</sup> While NRG would apparently have the Commission establish a new standard for evaluating changes to the ICR—based on an undefined monetary impact—such a request is beyond the scope of this proceeding and the Commission appropriately and meaningfully responded to claims regarding tariff revisions.

Moreover, despite NRG’s attempt to shift the debate to a narrow focus on supplier revenues,<sup>11</sup> the Commission already dismissed that argument as misplaced.<sup>12</sup> The Commission explained that the ICR calculation “is not intended to establish a particular price in the [Forward Capacity Auction].”<sup>13</sup> Instead, the “purpose of the ICR . . . is to ensure that ISO-NE procures sufficient resources to meet” the region’s resources adequacy requirement.<sup>14</sup> Simply stated, the

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<sup>7</sup> Rehearing Request at 7.

<sup>8</sup> ICR Order at PP 31, 33.

<sup>9</sup> *Id.* at P 31 (footnote omitted).

<sup>10</sup> *Id.*

<sup>11</sup> Rehearing Request at 6.

<sup>12</sup> ICR Order at P 36.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

Commission recognized what NRG fails to acknowledge in viewing the proceeding through an unyieldingly narrow lens: consumers should not be forced to pay for resources that ISO-NE has determined are not needed for resource adequacy and the system must reflect these changed conditions.<sup>15</sup>

NRG also claims that incorporating the solar PV forecast into the ICR calculations will decrease clearing prices by approximately \$700 million annually.<sup>16</sup> However, it is impossible to identify precisely how the inclusion of the solar PV forecast might affect future auction clearing prices. For example, NRG assumes a worst case pricing effect and fails to take into account other market actions such as the retirement of resources or the level of low cost supply. In fact, the recently concluded tenth Forward Capacity Auction demonstrates that a robust supply curve would mitigate the worst case pricing outcome that NRG describes. In any event, to the extent that the solar PV forecast impacts clearing prices, “the incorporation of those resources into the load forecast more accurately defines the state of the system and prevents ISO-NE from over-procuring capacity resources.”<sup>17</sup>

Continuing its line of attack, NRG asserts that the Commission erred by finding that the Tariff allows for inclusion of the solar PV forecast as an input into the ICR.<sup>18</sup> NRG makes much of the fact that the relevant Tariff language fails to explicitly reference the ability to adjust the load forecast for behind-the-meter solar PV resources. That argument misses the Commission’s overarching point: the Tariff provides ISO-NE with “sufficient *flexibility* to update its

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<sup>15</sup> *Id.* at P 35.

<sup>16</sup> Rehearing Request at 6.

<sup>17</sup> ICR Order at P 35. Furthermore, NRG’s claim ignores the load reduction effect that solar PV resources—reflected in the forecast—will have once they are installed. As NESCOE has explained, incorporating the solar PV forecast into the ICR “merely eliminates the lag that exists due to the timing of a resource placed in service and historical load calculations catching up to that resource’s output.” NESCOE Comments at 7.

<sup>18</sup> Rehearing Request at 7-9.

assumptions as necessary.”<sup>19</sup> Similarly, NRG’s attempt to cast the ICR Order as shifting the burden to parties protesting the calculation overlooks the Commission’s explanation of the established process for reviewing and challenging the ICR calculation.<sup>20</sup> The Commission explained that, with flexibility in mind, ISO-NE and the New England Power Pool (“NEPOOL”) sought, and the Commission approved, the process whereby (i) the Tariff sets forth the procedure for calculating the ICR, including providing for stakeholder and state review of inputs and assumptions, and (ii) ISO-NE’s annual filing includes the inputs and values used to calculate the ICR, which is subject to challenge in that proceeding.<sup>21</sup> The Commission has answered NRG’s arguments.

In addition, NRG’s attempt to revive arguments regarding the Commission’s “rule of reason” does not justify rehearing. The Commission explained in the ICR Order that in applying the rule of reason, it “has previously determined that it is not ‘appropriate to deprive utilities of the flexibility to manage their operations by introducing delay and layered decision-making[.]’”<sup>22</sup> The Commission rejected arguments in the current proceeding that it should impose such a burden on ISO-NE to make a separate filing to integrate the solar PV forecast into the ICR calculation. The Commission squarely addressed these challenges, distinguishing among FERC proceedings and emphasizing that the Commission exercises discretion in applying the rule of reason.<sup>23</sup> Nothing in NRG’s Rehearing Request questions the Commission’s ability to exercise

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<sup>19</sup> ICR Order at P 31 (emphasis supplied).

<sup>20</sup> Rehearing Request at 10.

<sup>21</sup> ICR Order at P 31.

<sup>22</sup> *Id.* at P 32, quoting *PacificCorp*, 127 FERC ¶ 61,144 at P 11 (2009) (citing *Town of Easton, Maryland v. Delmarva Power & Light Co.*, 24 FERC ¶ 61,251 at 61,531 (1983)).

<sup>23</sup> ICR Order at P 33.

its discretion in requiring tariff filings. It merely disagrees with how the Commission has exercised that discretion in this case.

Finally, NRG provides no support for its claim that ISO-NE failed to sufficiently discuss the ICR changes with stakeholders.<sup>24</sup> The Rehearing Request offers conclusory assertions about the process that ISO-NE followed, which are plainly rebutted in the record. For example, as NESCOE discussed in its comments in this proceeding, “ISO-NE identified a range of potential market and operational issues” including “concerns about double counting resources, the ability to obtain accurate information, treating different resource types consistently, and encouraging solar PV resources to participate in the market to the extent practical to ‘improve visibility and operational awareness.’”<sup>25</sup> There were numerous opportunities for stakeholders to discuss ISO-NE’s proposal and to identify concerns, which the Commission summarized in the ICR Order.<sup>26</sup> NRG’s contention that there was a “lack of discussion on market impacts and operational issues” and that ISO-NE “failed to truly evaluate” these impacts and issues or “demonstrate” a sufficient stakeholder process is unsupported, cursory, and contrary to the record.<sup>27</sup> In fact, as ISO-NE noted, the New England Power Generators Association discussed market impacts arising from incorporation of the PV forecast on three occasions, beginning as early as March 2015.<sup>28</sup> Even absent that discussion, it seems implausible that a company such as NRG would not understand the potential market impacts of the proposed change.

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<sup>24</sup> Rehearing Request at 10-12.

<sup>25</sup> NESCOE Comments at 8, *quoting* ISO-NE, Use of the Solar Photovoltaic Forecast to Modify the Long-Term New England Load Forecast, NEPOOL Reliability Committee Meeting, Feb. 17, 2015, at Slide 4.

<sup>26</sup> ICR Order at P 37. *See also* Motion for Leave to File Answer and Answer of ISO New England Inc., Docket No. ER16-307-000 (filed Dec. 16, 2015) (“ISO-NE Answer”), at 4-5 (rebutting protesters’ assertions that the stakeholder process failed to sufficiently vet the proposed incorporation of the solar PV forecast into the ICR).

<sup>27</sup> Rehearing Request at 11.

<sup>28</sup> ISO-NE Answer at 4-5.

The ICR Order reflects the Commission's careful consideration of the issues raised in the Rehearing Request. None of NRG's arguments require that the Commission provide any additional explanation of its finding, and the Commission should deny the Rehearing Request.

### **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 Answer in this proceeding.

Respectfully submitted,

*/s/ Jason Marshall*

Jason Marshall  
General Counsel  
New England States Committee  
on Electricity  
655 Longmeadow Street  
Longmeadow, MA 01106  
Tel: (617) 913-0342  
Email: [jasonmarshall@nescoe.com](mailto:jasonmarshall@nescoe.com)

Date: February 26, 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 26th day of February, 2016.

*/s/ Jason Marshall* \_\_\_\_\_

Jason Marshall  
General Counsel  
New England States Committee  
on Electricity  
655 Longmeadow Street  
Longmeadow, MA 01106  
Tel: (617) 913-0342  
Email: [jasonmarshall@nescoe.com](mailto:jasonmarshall@nescoe.com)