

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

Offer Caps in Markets Operated by)	
Regional Transmission Organizations)	Docket No. RM16-5-000
And Independent System Operators)	
)	

**COMMENTS OF
THE NEW ENGLAND STATES COMMITTEE ON ELECTRICITY**

Pursuant to the Federal Energy Regulatory Commission’s (“Commission”) January 21, 2016 Notice of Proposed Rulemaking (“NOPR”),¹ the New England States Committee on Electricity (“NESCOE”) hereby files these comments on the Commission’s proposed reform to energy offer cap rules in centralized energy markets. Through this proceeding, the Commission proposes to cap incremental energy offers at the higher of \$1,000/MWh or a resource’s verified cost-based incremental energy offer in markets administered by regional transmission organizations (“RTO”) and independent system operators (“ISO”). NESCOE generally supports the proposed rule for the reasons discussed below.

I. Description of the Commenter

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 (“ISO-NE”) administers.² 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

¹ 81 Fed. Reg. 23 (Feb. 4, 2016) (“NOPR”), at 5951-5965.

² *ISO New England, Inc.*, 121 FERC ¶ 61,105 (2007).

lowest reasonable cost over the long term, consistent with maintaining reliable service and environmental quality.

II. Communications

NESCOE requests that the individual identified below be placed on the Commission's official service list in this proceeding and that all communications concerning this filing and future filings in this proceeding should be directed to:

Benjamin S D'Antonio
Counsel & Analyst
New England States Committee
on Electricity
655 Longmeadow Street
Longmeadow, MA 01106
Tel: (603) 828-8977
Email: BenDAntonio@nescoe.com

III. Comments

NESCOE appreciates the Commission's continued focus on price formation issues. In considering reforms to offer cap rules, NESCOE agrees with comments preceding the NOPR that such rules must consider the potential for market power abuses.³ At the same time, NESCOE recognizes the Commission's interest in remedying price formation challenges and addressing seams issues that can arise when neighboring regions employ varying offer caps.⁴ The proposed rule appears to achieve an appropriate balance between these objectives and, importantly, allows for regional variation in implementing consumer protection mechanisms.

In fact, as discussed below, New England already has a process in place for enabling cost-based offers to set locational marginal prices ("LMP"), and that process could be utilized for any offers above the cap. Any Final Rule should recognize, as the NOPR does, that it is

³ See NOPR at PP 25-26.

⁴ *Id.*, at PP 4, 7.

appropriate, in the first instance, to provide regions with flexibility in developing approaches to verifying cost-based offers.

A. New England Already Has a Resource Consultation Process

Under the Commission’s proposal, cost-based offers in excess of the offer cap must be verified before becoming eligible to set the LMP. In addition, the NOPR explains that the market participant that seeks to submit such an offer “must provide appropriate documentation to the Market Monitoring Unit” to enable such verification.⁵ The RTO/ISO “should then have a before-the-fact verification process that would allow for timely cost verification.”⁶ These are critical components of the proposed rule: resources have the obligation to provide sufficient information to enable the market monitor to verify the accuracy of an offer before it sets the clearing price.

Largely in response to regional gas-electric coordination issues in recent years, New England has already established a process for enabling cost-based offers to set LMP.⁷ As described in the NOPR, resources in ISO-NE can contact the Market Monitoring Unit to update a “cost-based incremental energy offer (e.g., due to a change in fuel prices).”⁸ New England could also use this, or a similar, provision for offers *above* the cap to comply with any Final Rule establishing the structure set forth in the NOPR.⁹ Of course, ISO-NE should be required to work

⁵ NOPR, at P 60.

⁶ *Id.*

⁷ ISO New England Transmission, Markets and Services Tariff, Market Rule 1, § III.A.7.5. *See also, ISO New England Inc. and New England Power Pool* 147 FERC ¶ 61,073 (2014).

⁸ NOPR, at P 58.

⁹ The NOPR notes that ISO-NE and some overseeing other markets have questioned whether the \$1,000/MWh offer cap would ever be exceeded given resource marginal costs in those regions. NOPR, at P 22.

closely with states and stakeholders in developing any subsequent rule to comply with the Commission's directives.

B. The Proposal Permits Regional Variation in Implementation

The Commission's proposal accommodates regional variation in two critical aspects: (1) implementing the verification requirement, and (2) treatment of cost-based offers that cannot be verified before market clearing processes commence. This flexibility allows regions to tailor mechanisms, consistent with their structure and market rules, to address the potential for uncompetitive outcomes arising from the exercise of market power. Such flexibility is important, as a practical matter, to ensure that the proposal can be implemented. Any Final Rule should incorporate these features of the proposal.

In the NOPR, the Commission proposes to allow RTOs/ISOs to adopt different approaches "to implement the cost-based incremental energy offer verification requirement."¹⁰ Consistent with the Commission's expectation, this flexibility would allow regions to "build upon existing procedures."¹¹ NESCOE agrees that this is an appropriate means to accommodate regional differences in market monitoring practices. As described above, New England already allows resources to submit cost-based offers and may not need to develop an entirely new mitigation process.

In addition, the Commission's proposal "would permit regional variation in the process for treating incremental energy offers above \$1000/MWh that the Market Monitoring Unit or RTO/ISO cannot verify prior to the start of the market clearing process."¹² NESCOE agrees with the Commission that "regional variation is acceptable here because incremental energy offers are

¹⁰ NOPR, at P 61.

¹¹ NOPR, at P 60.

¹² NOPR, at P 66.

currently subject to existing RTO/ISO mitigation procedures that vary across RTOs/ISOs to appropriately account for regional differences.”¹³ As stated above, such regional variation would be an essential component to the efficacy of any Final Rule.

IV. Conclusion

For the reasons stated herein, NESCOE respectfully requests that the Commission consider these comments as it determines how to proceed in implementing incremental energy offer caps in centralized markets administered by RTOs and ISOs.

Respectfully submitted,

**THE NEW ENGLAND STATES
COMMITTEE ON ELECTRICITY**

By its attorney,

_____/s/ Benjamin S D’Antonio

Benjamin S D’Antonio, Esq.
Counsel & Analyst
New England States Committee
on Electricity
655 Longmeadow Street
Longmeadow, MA 01106
Tel: (603) 828-8977
Email: BenDAntonio@nescoe.com

Date: March 4, 2016

¹³ *Id.*