

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

New England Power Generators Association, Inc.)	
)	
)	Docket No. ER17-2153-000
v.)	ER17-2153-001
)	
ISO New England Inc.)	

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

Pursuant to Rule 602(f) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”), 18 C.F.R. § 385.602(f) (2016), the New England States Committee on Electricity (“NESCOE”) submits these reply comments on the Offer of Settlement filed by the New England Power Generators Association, Inc. (“NEPGA”), NESCOE, the Retail Energy Supply Association (“RESA”), the New England Power Pool (“NEPOOL”) Participants Committee, Exelon Corporation, H.Q. Energy Services (U.S.) Inc., Eversource Energy Service Company (“Eversource”), Dominion Resources Services, Inc., Entergy Nuclear Power Marketing, LLC, Cogentrix Energy Power Management, LLC, and NRG Power Marketing LLC (collectively, the “Parties”) on July 28, 2017, in the above captioned proceeding (the “Settlement”).¹

I. BACKGROUND

On August 17, 2017, NESCOE filed comments supporting the Settlement and urging the Commission to approve it as fair and reasonable and in the public interest.² Also filing

¹ 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 Comments of the New England States Committee on Electricity (Aug. 17, 2017) (“NESCOE Comments”).

comments in support of the Settlement were NEPGA,³ NEPOOL⁴ and Eversource.⁵ Both ISO-NE⁶ and Commission Trial Staff⁷ filed comments noting non-opposition to the Settlement.

Although the Parties to the Settlement agreed on a revised methodology for the Peak Energy Rent (“PER”) mechanism, the Parties did not agree on the application of the Settlement PER methodology—the Adjusted Hourly PER Strike Price—to the Capacity Commitment Period for Forward Capacity Auction (“FCA”) 9. The Settlement (Provision 10) gives Parties an opportunity to share their views on this question with the Commission. NESCOE’s Comments urged the Commission to ensure that the Settlement PER methodology is applied solely within the period that the Commission specified in setting the complaint for settlement and hearing procedures, *i.e.*, part of the Capacity Commitment Period for FCA 7 and the Capacity Commitment period for FCA 8.

II. REPLY COMMENTS

The Commission should reject the position advocated by NEPGA in its Comments that the agreed-upon Adjusted Hourly Strike Price as defined in the Settlement should extend beyond May 31, 2018.⁸ NEPGA’s argument is premised on a mistaken conclusion, *i.e.*, that “[i]n granting NEPGA’s Complaint, the Commission found that the PER Adjustment is unjust and unreasonable”⁹—period. What the Commission expressly found in granting the complaint, in part, was that “NEPGA has shown that, *for the period at issue in NEPGA’s complaint*

³ Comments of the New England Power Generators Association, Inc. (Aug. 17, 2017) (“NEPGA Comments”).

⁴ Comments of the New England Power Pool in Support of Offer of Settlement (Aug. 17, 2017) (“NEPOOL Comments”).

⁵ Comments of Eversource Energy Service Company (Aug. 16, 2017).

⁶ ISO New England Inc., Comments On Peak Energy Rent Settlements (Aug. 16, 2017) (“ISO-NE Comments”).

⁷ Comments of the Commission Trial Staff on Offer of Settlement (Aug. 17, 2017).

⁸ *See* NEPGA Comments at 5.

⁹ *Id.*

(September 30, 2016 – May 31, 2018), the PER mechanism has become unjust and unreasonable as a result of the interaction between the PER mechanism and the higher Reserve Constraint Penalty Factors.”¹⁰ And the Commission set for hearing “the method by which ISO-NE calculates the PER Strike Price as set forth in ISO-NE Tariff section III.13.7.2.7.1.1.1 *for the relevant portion of Capacity Commitment Period 7 and all of Capacity Commitment Period 8*, as discussed in the body of this order.”¹¹ There is nothing ambiguous about the Commission’s language in the order setting NEPGA’s complaint for hearing. As ISO-NE succinctly put it, “the Commission found the existing PER mechanism to be unjust and unreasonable through May 31, 2018.”¹²

Given the Commission’s express statement setting for hearing the modified strike price formula through the end of FCA 8, NEPGA’s suggestion that a party seeking “to extinguish the applicability of the Adjusted Hourly Strike Price beginning on June 1, 2018...may do so pursuant to a Section 206 filing with the Commission”¹³ is an inappropriate shifting of the Federal Power Act section 206 burden, is illogical and should be rejected. As NESCOE explained in its Comments, the scope of the January 2017 Order was appropriately limited to the time period coinciding with the end of FCA 8 because “*for the time period in question [i.e., September 30, 2016 through May 31, 2018]*, capacity resources were unable to anticipate a future increase in Reserve Constraint Penalty Factors, and accordingly, were unable to reflect a

¹⁰ *New England Power Generators Ass’n, Inc. v. ISO New England Inc.*, 158 FERC ¶ 61,034, at P 48 (2017) (“January 2017 Order”) (emphasis added). *See also id.* at P 13 (noting that NEPGA’s complaint sought relief from the PER Adjustment for a portion of the Capacity Commitment Period for FCA 7 and all of the Capacity Commitment Period for FCA 8).

¹¹ *Id.* at Ordering Paragraph B (emphasis added).

¹² ISO-NE Comments at 2. ISO-NE asked the Commission to “resolve” the parties’ disagreement “about how the Average Monthly Peak Energy Rent will be calculated on and after June 1, 2018.” *Id.* Similarly, NEPOOL requested that, with respect to this issue, “the Commission provide parties and stakeholders with the necessary clarity and certainty as soon as possible.” NEPOOL Comments at 5.

¹³ NEPGA Comments at 5.

corresponding increase in their capacity offers.”¹⁴ The auction for the FCA 9 Capacity Commitment Period was held in February 2015, *after* the Reserve Constraint Penalty Factors were increased;¹⁵ therefore, resources participating in FCA 9 had the opportunity to reflect in their supply offers an increase for the monthly application of the PER mechanism based on the existing Strike Price and its interaction with the higher Reserve Constraint Penalty Factors.

NEPGA’s complaint initiating this proceeding recognized as much: “When ISO New England administered Forward Capacity Auctions 5-8, however, the Commission had not yet ordered an increase in RCPFs.”¹⁶ To expand the application of the Settlement Adjusted Hourly PER Strike Price Methodology into the FCA 9 Capacity Commitment Period would create the potential for unjust and unreasonable capacity prices. Just as the Commission was concerned about “the expectations of the parties at the time of FCAs 7 and 8,”¹⁷ so too should the Commission be concerned about unsettling the expectations of parties in FCA 9.

Accordingly, NESCOE respectfully requests that concurrent with any approval of the Settlement, the Commission direct ISO-NE to develop a compliance filing with Tariff language that appropriately limits the application of the Settlement Adjusted Hourly PER Strike Price methodology to the relevant period of FCA 7 and all of FCA 8 (*i.e.*, September 30, 2016 to May 31, 2018), without any effect on the calculation of the PER adjustment beginning on June 1, 2018.

¹⁴ January 17 Order at P 51 (emphasis added).

¹⁵ *See id.* at P 1 (explaining that the capacity suppliers that clear the FCA receive capacity supply obligations that commit them to provide capacity for the year-long Capacity Commitment Period that runs from June 1, three years after the FCA, through the following May 31); and *id.* at P 5 (noting that the Reserve Constraint Penalty Factor increases became effective on December 3, 2014).

¹⁶ *New England Power Generators Ass’n v. ISO New England Inc.*, Complaint of the New England Power Generators Association, Docket No. EL16-120-000 (Sept. 30, 2016), at 19, citing *ISO New England Inc.*, 147 FERC ¶ 61,172 (2014).

¹⁷ January 2017 Order at P 51.

III. CONCLUSION

For the reasons stated herein, NESCOE respectfully requests that the Commission approve the Settlement and direct ISO-NE submit a compliance filing of revised Tariff provisions that implement the Settlement and specify that the Settlement Adjusted Hourly PER Strike Price methodology will “sunset” on June 1, 2018, thus having no effect on Forward Capacity Market settlements beginning June 1, 2018.

Respectfully Submitted,

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Dated: August 28, 2017

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 Washington, DC this 28th day of August, 2017.

Respectfully submitted,

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