

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

Constellation Mystic Power LLC)	
)	
v.)	Docket No. EL20-52-000
)	
ISO New England Inc.)	

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

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”), 18 C.F.R. § 385.211 (2020), and the Commission’s June 11, 2020 Notice of Complaint, the New England States Committee on Electricity (“NESCOE”)¹ files this protest in response to the complaint that Constellation Mystic Power, LLC (“Mystic”) filed against ISO-NE on June 10, 2020 (the “Complaint”).²

I. BRIEF BACKGROUND

In 2018, Mystic submitted Retirement De-List Bids for several electric generation units located just outside Boston, including its Mystic 8 and 9 natural gas-fired facilities (“Mystic 8 & 9”).³ Instead of accepting the retirement bid for Mystic 8 & 9, ISO-NE retained the two units for

¹ On June 16, 2020, NESCOE filed a doc-less motion to intervene in this proceeding. 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 Inc. (“ISO-NE”) administers. 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 possible price over the long term, consistent with maintaining reliable service and environmental quality.

² Complaint and Request for Shortened Answer Period and Fast Track Processing of Constellation Mystic Power, LLC, Docket No. EL20-52-000 (filed June 10, 2020). 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.

³ Complaint, Exhibit No. MYS-0001, Affidavit of William B. Berg and Steven M. Kirk on Behalf of Constellation Mystic Power, LLC, at 3-4 (“Mystic Testimony”); see *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at P 7 (2018) (“December 2018 Order”).

fuel security and entered into a two-year cost-of-service agreement with Mystic and another corporate subsidiary of Exelon Corporation beginning on June 1, 2022 and terminating on May 31, 2024.⁴ That termination date is the end of the Capacity Commitment Period (“CCP”) corresponding with the fourteenth Forward Capacity Auction. The subsequent CCP, running from June 1, 2024 through May 31, 2025, corresponds with the fifteenth Forward Capacity Auction (“FCA 15”).

The Complaint challenges ISO-NE’s recent changes to Planning Procedure No. 10 (“PP-10”). PP-10 details “procedures for [ISO-NE’s] administration of planning activities associated with the Forward Capacity Market.”⁵ ISO-NE proposed changes to Section 7.5 of PP-10 to (i) better align reliability reviews in connection with rejected de-list bids with the competitive transmission solution process, (ii) describe how ISO-NE may account for responses to competitive transmission solicitations in reviewing rejected de-list bids, and (iii) “prevent unnecessarily retaining a resource for reliability if transmission responses in the competitive solicitation process address the reliability need and meet certain conditions[.]”⁶ ISO-NE has underscored that the PP-10 changes guard against excessive consumer costs. Early in the process of presenting the changes, ISO-NE explained that if transmission solutions in response to a competitive solicitation are not accounted for when ISO-NE reviews whether a resource seeking to retire is needed for reliability, “consumers could end up paying twice in a given year to resolve the same reliability concern – once to retain the retiring resource and again for the

⁴ Mystic Testimony at 3; *see* 2018 Order at PP 1, 11 and n. 25.

⁵ Complaint, MYS-0014, May 22, 2020 Letter from ISO-NE Responding to Exelon’s May 1, 2020 Letter (“May 22 Letter”), at 1.

⁶ Complaint, MYS-0009, April 22, 2020 ISO-NE Presentation to Reliability Committee: Incorporating the Competitive Transmission Solution Process in De-List Reliability Reviews: Planning Procedure No. 10, at Slide 7.

Order 1000 transmission project.”⁷ ISO-NE described that result as “neither efficient nor cost-effective.”⁸

Mystic states, *inter alia*, that the PP-10 revisions have implications regarding whether Mystic 8 & 9 will be retained for transmission security in the CCP corresponding with FCA 15 “and thus whether Mystic will be entitled to a rate to compensate it for the reliability services provided.”⁹ Mystic complains that “[i]n the immediate future,” the PP-10 revisions “will change how ISO-NE conducts its FCA 15 transmission security review, and thus will affect whether or not Mystic will be asked to continue operating past its current anticipated retirement date.”¹⁰ Mystic accuses ISO-NE of jeopardizing reliability through the PP-10 changes.¹¹ The Complaint also challenges ISO-NE’s administration of its first competitive transmission solicitation, the Boston 2028 request for proposals (“Boston RFP”).¹² ISO-NE issued the Boston RFP “to address reliability concerns associated with the upcoming retirement” of Mystic 8 & 9.¹³

II. PROTEST

The Commission should reject Mystic’s lone attempt to obstruct ISO-NE’s pragmatic, timely, and necessary changes to PP-10. Along with more than 99% of the New England Power Pool (“NEPOOL”) Participants Committee—all but Mystic’s parent company¹⁴—NESCOE

⁷ Complaint, MYS-0008, April 13, 2020 ISO-NE Letter to NEPOOL Participants re Revision to Planning Procedure No. 10, at 3.

⁸ *Id.*

⁹ Complaint at 49.

¹⁰ *Id.*

¹¹ *See, e.g., id.* at 2, 7, 18, 22, 36, 49-50.

¹² *See id.* at 30-35, 49.

¹³ Complaint, MYS-0002, ISO-NE December 20, 2019 RFP Announcement, at 1.

¹⁴ *See* Noticed Actions on the NEPOOL Participants Committee, June 5, 2020, at 2, available at http://nepool.com/uploads/NPC_NOA_20200604.pdf; Minutes of the June 4, 2020 NEPOOL Participants Committee Meeting, at Attachment 2, available at http://nepool.com/uploads/Minutes_NPC_2020_0604.pdf (Attachment 2 is at pp. 21-22 of the document). Three NEPOOL participants abstained from voting.

supports these recent enhancements to PP-10 to align ISO-NE's reliability review process for retirement de-list bids with the new competitive transmission process that it administered for the first time late last year. Given that ISO-NE's first competitive transmission solicitation, the Boston RFP, is now in process, the alignment achieved through the PP-10 revisions is appropriately timed. In addition, because the changes apply to all future capacity obligation-related reliability reviews, PP-10 will now ensure that ISO-NE accounts for all competitive transmission processes going forward. NESCOE supports ISO-NE's rational approach to modeling needs beginning with the next capacity auction and expects that PP-10 will serve as a protection for all New England consumers.

Mystic appears to be alone among regional stakeholders in expressing worry that better aligning these processes amounts to ISO-NE putting reliability at risk. ISO-NE has already addressed those specious claims, directing Mystic to its obligations as a Regional Transmission Organization and a NERC-designated reliability coordinator.¹⁵ Nothing in the PP-10 changes impedes ISO-NE's ability to carry out its responsibilities to maintain system reliability.¹⁶

Mystic's expression of concern about system reliability diverts from the primary reason for the PP-10 changes: consumers must be insulated from paying for assets that ISO-NE determines are *not* needed to meet reliability needs. Without the PP-10 enhancements, consumers are exposed to unwarranted charges. Consumers could be made to pay for a costly out-of-market contract to retain a generation unit for transmission security that ISO-NE would not have determined is needed for reliability following its review of responses to a competitive

¹⁵ May 22 Letter at 1.

¹⁶ *See id.* (stating that ISO-NE's exercise of discretion under PP-10 "would be contingent on our judgment that the transmission need will be satisfied before the retirement at issue, and the requirement that the Backstop Transmission Solution is among the timely solutions.").

transmission solicitation. Moreover, given the timely reliability need involved, it is unlikely that work on the long-term transmission or other preferred solution would abruptly stop during the out-of-market contract period. NESCOE expects that ISO-NE would require that the long-term solution be placed in service or become operational before the out-of-market contract terminates. Consumers should not be forced to pay for two assets when only one is needed for reliability. The PP-10 changes are a sensible way to prevent this irrational, and unjust and unreasonable, outcome.

NESCOE's support for the PP-10 enhancements does not represent, and should not be interpreted to be, an endorsement of ISO-NE's review of Phase One proposals in response to the Boston RFP or as taking a position on the merits of Mystic's claims regarding the Boston RFP process. At the time of this filing, ISO-NE is, consistent with the Boston RFP process, accepting feedback on its report detailing the evaluation it conducted with respect to Phase One proposals.¹⁷ NESCOE is assessing the analysis in that report and expresses no opinion about it in this filing.

¹⁷ See Complaint, MYS-0016, ISO-NE Initial Review of Phase One Proposals, as Revised June 9, 2020, at Slide 51 (listing a July 2, 2020 comment deadline following timely posting of the report).

III. CONCLUSION

For the reasons stated herein, NESCOE respectfully requests that the Commission reject the Complaint.

Respectfully Submitted,

/s/ Jason Marshall _____

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Date: June 30, 2020

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 Cambridge, Massachusetts this 30th day of June, 2020.

/s/ Jason Marshall _____

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