

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

Martha Coakley, Attorney General of the Commonwealth of Massachusetts, <i>et al.</i>, Complainants,)	
)	Docket Nos. EL11-66-001
)	EL11-66-004
v.)	EL11-66-005
)	
Bangor Hydro-Electric Company, <i>et al.</i>, Respondents.)	

**RESPONSE OF THE NEW ENGLAND STATES COMMITTEE ON ELECTRICITY
TO THE MOTION OF THE IDENTIFIED PARTIES FOR CLARIFICATION
OR, IN THE ALTERNATIVE, RECONSIDERATION**

Pursuant to Rule 213(a)(3) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “the Commission”),¹ the New England States Committee on Electricity (“NESCOE”) hereby responds to the May 8, 2026, request by several parties, including state consumer advocates, state public utility commissions, consumer groups, and other consumer-aligned parties (collectively, the “Consumer-Aligned Parties”)² for clarification, or in the alternative, reconsideration (the “Motion”) of the Commission’s April 14, 2026 order granting an extension of time to the New England Transmission Owners (“NETOs”) and ISO-

¹ 18 C.F.R. § 385.213(a)(3).

² The Consumer-Aligned Parties are the Office of the Massachusetts Attorney General Andrea Joy Campbell, the Connecticut Public Utilities Regulatory Authority, the Massachusetts Department of Public Utilities, William Tong, Attorney General for the State of Connecticut, the Connecticut Office of Consumer Counsel, the Maine Office of the Public Advocate, the New Hampshire Office of the Consumer Advocate, the Rhode Island Division of Public Utilities and Carriers, Massachusetts Municipal Wholesale Electric Company, Associated Industries of Massachusetts, the Energy Consortium, Power Options, Inc., Industrial Energy Consumer Group, and New Hampshire Electric Cooperative, Inc.

NE to provide the refunds directed by the Commission in this docket. For the reasons described below, NESCOE supports the Motion and respectfully requests that the Commission grant it.

I. DESCRIPTION OF COMMENTER

NESCOE is the Regional State Committee (“RSC”) 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.³ 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.⁴ This Response represents the collective view of the six New England states.

II. BACKGROUND

On March 19, 2026, the Commission issued Opinion No. 594 (“Opinion No. 594”),⁵ which found that the NETOs’ base ROE was unjust and unreasonable and set the allowed base return on common equity (“ROE”) at 9.57 percent. In addition, the Order directed the New England Transmission Owners (“NETOs”) and ISO-NE to calculate and provide refunds for two distinct periods: (1) from October 1, 2011, through December 31, 2012, based on the statutory

³ *ISO New England Inc.*, 121 FERC ¶ 61,105 (2007).

⁴ *See* Sept. 8, 2006 NESCOE Term Sheet that was filed for information as Exhibit A to the Memorandum of Understanding among ISO-NE, the New England Power Pool (“NEPOOL”), and NESCOE (the “NESCOE MOU”). Informational Filing of the New England States Committee on Electricity, Docket No. ER07-1324-000 (filed Nov. 21, 2007). Pursuant to the NESCOE MOU, the Term Sheet is the binding obligation of ISO-NE, NEPOOL, and NESCOE.

⁵ *See Coakley v. Bangor Hydro-Elec. Co.*, Opinion No. 594, 194 FERC ¶ 61,208 (Mar. 19, 2026).

15-month refund period provided for in Section 206(b) of the Federal Power Act; and (2) from October 16, 2014, through March 19, 2026, based on the Commission’s broad remedial authority to correct legal error, directing that the NETOs provide refunds for the difference between the 9.57 percent base ROE, effective prospectively from October 16, 2014, and the 10.57 percent ROE that the NETOs have collected since that date.⁶ The Commission’s directive required the NETOs to complete all associated refunds within 30 days of the issuance of Opinion No. 594.⁷

On April 2, 2026, the NETOs and ISO-NE filed a joint motion seeking to extend the deadlines for completing refunds until December 13, 2027 (the “Motion to Extend”)—an extension of approximately 19 months. In support of the Motion to Extend, ISO-NE submitted the affidavit of Debra DiFiore, who serves as the Supervisor, Monthly Markets, in the Market Analysis & Settlements department at ISO-NE.⁸ In that affidavit, ISO-NE states that it and the NETOs have agreed to a schedule whereby the Filing Parties will begin providing refunds in September 2026 and will, each month thereafter, provide refunds to customers applicable to approximately one year of the refund period.⁹ Although much of the delay appears to be attributable to the NETOs compiling and calculating information necessary to calculate the refunds, the NETOs did not provide any affidavits in support that would provide detail as to the

⁶ Opinion No. 594 at PP 468, 474–76.

⁷ *See id.* at Ordering Paragraphs (B) and (C).

⁸ *See* Joint Motion of the New England Transmission Owners and ISO New England Inc. for an Extension of Time to Complete Refunds, Attachment A, Affidavit of Debra DiFiore, on Behalf of ISO New England, Inc. (“DiFiore Affidavit”), at ¶ 1.

⁹ *Id.*, at ¶ 7.

reasons for the length of time that they require or whether that time period could be shortened or not.¹⁰

The Eastern Massachusetts Consumer-Owned Systems (“EMCOS”) and the Consumer-Aligned Parties filed oppositions to the Motion to Extend. In the alternative to denying the Motion to Extend outright, EMCOS argued that a six-month extension would be more reasonable.¹¹ Similarly, the Consumer-Aligned Parties proposed a nine-month extension.¹²

On April 14, 2026, the Commission issued an order granting the Motion to Extend in part and denying it in part. Specifically, the Commission granted an extension to complete refunds until May 20, 2027—an approximately 12-month extension—and an extension to provide a refund report to June 4, 2027, an approximately 12-month extension. The Commission’s order is silent as to the NETOs’ and ISO-NE’s reporting obligations during the refund period.

On April 30, 2026, the Participating Transmission Owners Administrative Committee (“PTOAC”) made a filing pursuant to Section 205 of the Federal Power Act, which seeks to increase the ROE in New England from the 9.57 percent set in Opinion No. 594 to 11.39 percent. The PTOAC requests that the new ROE be put into effect as of June 30, 2026.

As described *supra*, the Consumer-Aligned Parties filed the instant Motion on May 8, 2026.

¹⁰ *See id.*, at ¶ 5. Specifically, Ms. DiFiore states that “This process will require the annual change in revenue requirements by the relevant NETOs for the relevant months.” Understandably, Ms. DiFiore could not testify as to the specific reasons why these calculations would take significant time for the NETOs to complete, as she is an employee of ISO-NE and not a NETO.

¹¹ Opposition of Eastern Massachusetts Consumer Owned Systems to Motion for (1) Stay of Refund Obligations Pending Appeal and (2) Extension of Time to Complete Refunds, at 5.

¹² Motion, at 3.

III. RESPONSE

NESCOE supports the Consumer-Aligned Groups' Motion and respectfully requests that the Commission grant it.

As the Consumer-Aligned Groups correctly point out, when the Commission finds that refunds are due to consumers, those refunds should be provided “at the earliest possible moment.”¹³ In addition, the circumstances of these refunds weigh strongly in favor of providing them to consumers as quickly as possible. In Opinion No. 594, the Commission found that the NETOs have charged New England customers an unjust and unreasonable ROE for nearly 15 years and that customers are due refunds of over \$1.5 billion.¹⁴ As a general matter, consumers in New England pay the highest transmission rates by far of any consumers in any RTO area of the United States.¹⁵ In sum, consumers in New England are struggling with high energy costs and have been saddled with paying an unjust and unreasonable ROE for nearly 15 years. For these reasons, the Commission should endeavor to see that consumers receive these refunds as soon as possible and reasonable measures—such as those that the Consumer-Aligned Groups propose—are necessary to ensure that consumers receive refunds on the timeline that the Commission directs.

¹³ Motion, at 5 n.15, citing *Interstate Natural Gas Assoc. v. FERC*, 756 F.2d 166, 171 (1985) and *Federal Power Comm'n v. Tennessee Gas Transmission Co.*, 371 U.S. 145, 155 (1962).

¹⁴ Opinion No. 594 at P 4; Motion of Central Maine Power Company, Eversource Energy Service Company, and the United Illuminating Company for a Stay of Retroactive Refund Obligations, and Request for Shortened Comment Period and Expedited Consideration, Docket Nos. EL11-66-001, *et al.*, at 3 (April 2, 2026)(estimating that the amount of the refunds applicable to the October 16, 2014 to March 19, 2026 time period at \$1.5 billion, which estimate does not include the refunds due for the October 1, 2011 to December 31, 2012 time period).

¹⁵ 2024 Assessment of the ISO New England Electricity Markets, Potomac Economic, External Market Monitor for ISO-NE, at 4–5 (June 2025), available at <https://nepool.com/wp-content/uploads/2025/06/2024-EMM-Annual-Report.pdf> (last checked on May 26, 2026).

Indeed, additional urgency is necessary given the PTOAC's recent Section 205 filing seeking to increase the Commission's newly set ROE from 9.57 percent to 11.39 percent. This request would be a very substantial increase to the ROE in New England, and moreover, at least according to the most recent information before the Commission,¹⁶ the NETOs seek to put the increase into effect before providing even a single dime of the refunds due to consumers for being overcharged for ROE for nearly 15 years. As set forth in Ms. DiFiore's affidavit, ISO-NE and the NETOs do not plan to begin the refunds due under Opinion No. 594 until September of 2026, several months after the effective date requested by the NETOs for its new Section 205 filing.¹⁷ Even if the Commission exercises its discretion to suspend the Section 205 filing an additional five months pending investigation pursuant to 16 U.S.C. § 824d(e), as it should, any ROE that the Commission sets following the Section 205 filing would go into effect at end of November 30, 2026, after only a small portion of the total refunds have been returned to customers.¹⁸

Accordingly, the most recent filings before the Commission on the NETOs' current plans on ROE would create a highly inequitable result. Namely, the NETOs seek to institute a substantial increase to the region's ROE applicable to the country's most cost-burdened customers while at the same time withholding refunds for charging an unjust and unreasonable ROE for nearly 15 years.

¹⁶ NESCOE remains hopeful that the NETOs have taken measures to hasten its compilation and calculation of the necessary information to meet the Commission's ordered completion date of May 20, 2027. However, the NETOs have not provided any such information to date and NESCOE is currently unaware of whether the NETOs have endeavored to speed up their process or are simply planning to move for a further extension at some point before the current May 20, 2027 deadline.

¹⁷ DiFiore Affidavit, at ¶ 7.

¹⁸ *Id.*

To be clear, several interested parties—including NESCOE—have filed protests in response to the Section 205 filing, and NESCOE expects that the Commission will ultimately reject the PTOAC’s request for an increased ROE in its entirety or, at minimum, order an ROE increase substantially less than the proposed 11.39 percent. Nonetheless, the mere prospect of increasing the region-wide ROE *before* the refunds are provided at all or in part is a highly inequitable result that the Commission should take all possible measures to avoid. One of those measures is to direct reasonable reporting requirements that ensure that the NETOs have a plan to meet the current Opinion No. 594 refund deadline and stay on track to do so. At minimum, reasonable reporting measures will at least allow the Commission to more quickly become apprised of any challenges or delays, which the Commission can then take reasonable actions to mitigate. The Consumer-Aligned Groups’ proposal for two interim reports approximately four months apart would not be overly burdensome and would provide useful information to the Commission to monitor the progress of the refunds.

III. CONCLUSION

For the reasons described above, NESCOE supports the Consumer-Aligned Groups’ Motion and respectfully requests that the Commission grant it.

Respectfully Submitted,

On behalf of NESCOE:

/s/ Nathan Forster

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Date: May 26, 2026

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 Osterville, Massachusetts this 26th day of May, 2026.

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