

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

ISO-New England Inc.

Docket No. ER15-2208-002

**COMMENTS OF THE
NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.,**

In accordance with the Federal Energy Regulatory Commission’s (“Commission”) Combined Notice of Filings # 1, dated October 27, 2015, the New England Power Generators Association, Inc. (“NEPGA”)¹ hereby files these Comments in response to ISO New England, Inc.’s (“ISO-NE”) compliance filing of Tariff revisions defining the per barrel (or its equivalent) payment rate under ISO-NE’s Winter Reliability Program (“Program”).² NEPGA thanks the Commission for granting NEPGA’s and the Electric Power Supply Association’s joint request to direct ISO-NE to define the Program payment rate formula in the Tariff.³ NEPGA agrees that the Tariff changes filed by ISO-NE accurately define the Program payment rate formula to be used for the 2015-2016 winter season and Program years thereafter, and therefore asks that the Commission approve the compliance filing without modification.

The Commission directed ISO-NE to include the Program payment rate formula in the Tariff because the Program requires the calculation of the payment rate each year.⁴ Stakeholders

¹ The comments expressed herein represent those of NEPGA as an organization, but not necessarily those of any particular member.

² ISO New England Inc. Compliance Filing, Docket No. ER15-2208-002 (filed October 27, 2015).

³ *ISO-New England, Inc. and New England Power Pool Participants Committee*, 152 FERC ¶ 61,190, at P 51 (2015).

⁴ *Id.*

therefore will be able to refer to and understand the derivation of the payment rate in each year, and will have notice and the opportunity to deliberate any proposed changes to the payment rate formula under Section 205 of the Federal Power Act and the NEPOOL Participants Agreement. Though not all practices potentially affecting wholesale rates must be on file, “[p]ractices that significantly affect rates, terms, and conditions of service must be included in a Commission-approved tariff rather than in other documents.”⁵ In exercising its broad discretion to dictate what must be on file with the Commission, the Commission is guided by the principle that practices that “affect rates and service significantly, that are reasonably susceptible of specification, and that are not so generally understood in any contractual arrangement as to render recitation superfluous” must appear in the tariffs and contracts on file with the Commission.⁶ The Commission applies this principle through its “rule of reason,” pursuant to which the Commission considers whether a practice, term, or condition significantly affects rates and services, and balances the “real benefits” of notice and full disclosure against any potential burden to the public utility of filing terms that do not so affect rates and services.⁷

NEPGA appreciates the Commission’s careful consideration of existing and potential market participants’ interests in those ISO-NE practices that significantly affect rates, terms and conditions.⁸ As ISO-NE and NEPOOL stakeholders continue to work to improve the Forward Capacity Market, changes to the market rules should be reflected in the Tariff to provide

⁵ *Energy Spectrum, Inc. v. New York Indep. Sys. Operator, Inc.*, 141 FERC ¶ 61,197, at P 51, n.25 (2012) (citations omitted) (finding improper the use of a technical bulletin to clarify ambiguous tariff language).

⁶ *City of Cleveland v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985) (emphasis in original); *cf. Public Serv. Comm’n of N.Y. v. FERC*, 813 F.2d 448, 454 (D.C. Cir. 1987) (Commission properly excused utilities from filing policies or practices that dealt with only matters of “practical insignificance” to serving customers).

⁷ *Midcontinent Indep. Sys. Operator*, 152 FERC ¶ 61,073, at P (2015), *citing PacifiCorp*, 127 FERC ¶ 61,144, at P 11 (2009).

⁸ *See, e.g., ISO New England, Inc.*, 147 FERC ¶ 61,109, at PP 22-25 (2014) (ordering ISO-NE to remove an automatic adjustment to the Offer Review Trigger Prices for future tax law changes due in part to the “uncertainties regarding the parameters and applicability” of future tax laws).

adequate notice to existing and prospective market participants, and to afford all parties an opportunity to challenge ISO-NE practices should they believe those practices, and their effect on the Forward Capacity Market rates, terms and conditions to be unjust and unreasonable. Because ISO-NE's compliance filing satisfies these principles, NEPGA respectfully requests that the Commission approve it without modification.

Respectfully Submitted,

/s/ **Bruce Anderson**

Bruce Anderson
Vice President, Market and Regulatory Affairs
New England Power Generators Association, Inc.
141 Tremont Street, Floor 5
Boston, MA 02111
Tel: 617-902-2347
Email: banderson@nepga.org

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the comments by via email upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Boston, Massachusetts, November 16, 2015.

/s/ Bruce Anderson

Bruce Anderson
Vice President, Market and Regulatory Affairs
New England Power Generators Association, Inc.
141 Tremont Street, Floor 5
Boston, MA 02111
Tel: 617-902-2347
Fax: 617-902-2349
Email: banderson@nepga.org