

Capacity Commitment Period.⁶ NEPGA respectfully requests that the Commission reject ISO-NE's proposed ICR values because ISO-NE has yet to consider and vet with NEPOOL stakeholders the potential market and operational effects of its proposed change in ICR methodology, and because ISO-NE seeks to make this change without filing Tariff language under Section 205 of the Federal Power Act defining its proposed ICR methodology.

I. Motion to Intervene and Communications

NEPGA is a private, non-profit trade association advocating for the business interests of competitive electric power generators in New England. NEPGA's member companies represent approximately 26,000 megawatts of installed capacity throughout the New England region. NEPGA's mission is to promote sound energy policies which will further economic development, jobs, and balanced environmental policy. NEPGA's member companies are responsible for generating and supplying electric power for sale within the New England bulk power system. As active participants in the ISO-NE capacity and wholesale electricity markets, NEPGA's member companies have substantial and direct interests in the outcome of these proceedings, and those interests cannot be adequately represented by any other party in the proceeding.

All correspondence and communications related to this proceeding should be addressed to the following individual:

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⁶ *Id.*, Transmittal Letter at pp. 6-8.

II. Protest

The ICR-Related Values ISO-NE proposes for the 2016 ARAs are based in part on the same change in ICR methodology ISO-NE proposes for the tenth Forward Capacity Market (“FCA 10”) ICR value – reducing ICR based on its forecast of incremental behind the meter solar PV installed in each Capacity Commitment Period.⁷ For FCA 10, ISO-NE proposes to reduce ICR by 390 MW under this accounting.⁸ ISO-NE proposes to reduce the ARA ICRs by 306 MW and 413 MW for ARA 1 (FCA 9) and ARA 2 (FCA 8), respectively, on the same basis.⁹

NEPGA filed a protest in response to ISO-NE’s proposed ICR value for FCA 10 (“FCA 10 Protest”)¹⁰, explaining that the Commission previously rejected calls to direct ISO-NE to make the same change in ICR methodology for FCA 10 because ISO-NE had yet to consider its potential market and operational effects.¹¹ The Commission instead directed ISO-NE to consider and vet with NEPOOL stakeholders the potential market and operational consequences of its proposal *prior to* filing ICR values based on this new methodology in the future.¹² ISO-NE however has yet to evaluate the potential consequences and vet them with NEPOOL stakeholders. NEPGA further explained in its Protest that ISO-NE’s proposed change in ICR

⁷ ARA ICR Filing, Transmittal Letter at p. 14.

⁸ ISO New England, Inc. Filing of Proposed Installed Capacity Requirements, Hydro Quebec Interconnection Capability Credits and Related Values for the 2019/2020 Capacity Commitment Period, Docket No. ER16-307 (filed November 11, 2015).

⁹ ARA ICR Filing, Prepared Testimony of Mr. Stephen J. Rourke and Mr. Peter K. Wong on Behalf of ISO New England Inc., p. 35. With respect to both, ISO-NE reports that its behind the meter forecast-based ICR reduction is “primarily” or “mainly” responsible for the ICR reductions. ISO-NE also reduced the ICR for ARA 3 (FCA 7) based on its behind the meter generation forecast, but does not report the precise MW amount.

¹⁰ See Attachment 1, Motion to Intervene and Protest of the New England Power Generators Association, Inc., Docket No. ER16-307 (filed December 1, 2015).

¹¹ See *ISO New England Inc.*, 150 FERC ¶ 61,003 at P 20 (2015) (rejecting requests to order ISO-NE to change its ICR methodology).

¹² *Id.*

methodology will significantly affect Forward Capacity Market rates, terms and conditions, and therefore must be defined in ISO-NE's Tariff and filed under Section 205 of the Federal Power Act.¹³ Because ISO-NE proposes to make a significant change in the ICR methodology without defining it in the Tariff, NEPGA asked the Commission to order ISO-NE to file Tariff language under Section 205.

On December 16, 2015, ISO-NE filed an answer to NEPGA's FCA 10 Protest, noting that NEPGA raised several concerns about the potential market consequences of ISO-NE's proposed reduction in ICR at the NEPOOL Markets Committee.¹⁴ ISO-NE draws several conclusions about the issues NEPGA raised, including that they "[were] not substantiated," and that as a result of NEPGA raising these issues "a full stakeholder process to discuss the issues that Protesters now raise has already taken place."¹⁵ ISO-NE's conclusions, however, are baseless. That NEPGA raised these issues at the Markets Committee hardly leads to the conclusion that they are without merit, nor that a full vetting of the potential market and operational consequences has occurred. More importantly, ISO-NE's argument is a red herring, in that it avoids the question of whether ISO-NE satisfied the Commission's mandate that "ISO-NE must examine the market and operational issues associated with incorporating distributed generation into the ICR calculation."¹⁶ The Commission explained to ISO-NE that it must "fully explore" reducing ICR based on distributed generation forecasts prior to seeking that change with the Commission, and ISO-NE simply did not do so before asking the Commission to approve the change in this proceeding and in the FCA 10 ICR proceeding. It is self-evident from

¹³ NEPGA Protest at pp. 10-14.

¹⁴ Motion for Leave to File Answer and Answer of ISO New England Inc., Docket No. ER16-307-000 (filed December 16, 2015).

¹⁵ *Id.* at p. 5.

¹⁶ *ISO New England Inc.*, 150 FERC ¶ 61,003 at P 20 (2015).

the lack of any discussion of potential consequences in ISO-NE's filing in this proceeding and in the FCA 10 ICR proceeding that ISO-NE has yet to fully explore and vet with NEPOOL stakeholders the potential market and operational consequences of its proposed change in ICR methodology. The evidentiary record is no different now than it was earlier this year when the Commission declined to order this change in ICR methodology, specifically with respect to those issues the Commission deemed critical to a proper consideration of the justness and reasonableness of ISO-NE's proposed ICR methodology, namely its potential market and operational consequences.

Given that ISO-NE bases its 2016 ARA ICR values on the same behind the meter generation forecast and ICR methodology as it used for its proposed FCA 10 ICR value.¹⁷ NEPGA's protest in this proceeding mirrors that of its FCA 10 Protest. NEPGA accordingly wholly incorporates and adopts its FCA 10 Protest into this pleading, attached for the Commission's reference and convenience.¹⁸ In addition, there are potential market and operational issues unique to ISO-NE applying its proposed ICR methodology to ARAs not present in the FCA 10 ICR context. For example, resources that acquired Capacity Supply Obligations ("CSO") in the base Forward Capacity Auctions (and in prior ARAs) reasonably understood that changes to the ICR for each ARA would be based on observable, historical peak load changes, not forecasts that cause significant reductions in ICR from the base Forward Capacity Auction to the ARA (or from one ARA to the next). As noted above, ISO-NE proposes to reduce ICR by up to 413 MW for a single ARA. The willingness to assume a CSO depends, in part, on the market opportunities to shed or acquire CSO MWs, and ISO-NE's proposed post-

¹⁷ ARA ICR Filing, Transmittal Letter at p. 14.

¹⁸ See Attachment A, Motion to Intervene and Protest of the New England Power Generators Association, Inc., Docket No. ER16-307 (filed December 1, 2015).

hoc change in ICR methodology, and the consequential significant reduction in ICR, affects ARA liquidity and resource positions in the ARAs. NEPOOL stakeholders, ISO-NE, and the Commission should have the benefit of a thorough understanding of the potential market consequences of a change in ICR methodology for the ARAs, particularly for resources that have assumed CSOs that may be traded in the 2016 ARAs, prior to making the change proposed by ISO-NE.

III. Conclusion

Wherefore, NEPGA respectfully asks the Commission to: (1) reject the application of the ISO-NE's proposed ICR values to the 2016 ARAs; and (2) exercise its authority under Section 206 of the Federal Power Act, and order ISO-NE to file under Section 205 of the Federal Power Act its proposed Tariff changes defining its new ICR methodology, or show cause why it should not.

Respectfully Submitted,

/s/ Bruce Anderson_____

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ATTACHMENT A

**Motion to Intervene and Protest of the New England Power Generators Association, Inc.
Docket No. ER16-307
Filed December 1, 2015**

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

ISO-New England Inc.

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Docket No. ER16-307-000

**MOTION TO INTERVENE AND PROTEST OF
THE NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.**

Pursuant to Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ and in accordance with the Commission’s Combined Notice of Filings #1, dated November 12, 2015, the New England Power Generators Association, Inc. (“NEPGA”)² hereby files this Motion to Intervene and Protest in response to ISO New England Inc.’s (“ISO-NE”) tenth Forward Capacity Auction (“FCA 10”) Installed Capacity Requirement filing (“ICR Filing”).³ ISO-NE proposes to reduce the Installed Capacity Requirement for FCA 10 by 390 MWs based on the incremental amount of solar PV capacity ISO-NE predicts will be installed behind the meter and not otherwise reflected in its load forecast for the FCA 10 Capacity Commitment Period (the 12 months beginning June 1, 2019).⁴

ISO-NE proposes to make this change to the ICR calculation in response to the Commission’s order on its FCA 9 Installed Capacity Requirement filing, in which the Commission (and ISO-NE) rejected intervenor requests that it order ISO-NE to adopt the ICR methodology ISO-NE now proposes.⁵ Instead, the Commission directed ISO-NE and NEPOOL

¹18 C.F.R. §§ 385.211, 385.214 (2014).

² The comments expressed herein represent those of NEPGA as an organization, but not necessarily those of any particular member.

³ ISO New England, Inc. Filing of Proposed Installed Capacity Requirements, Hydro Quebec Interconnection Capability Credits and Related Values for the 2019/2020 Capacity Commitment Period, Docket No. ER16-307 (filed November 11, 2015).

⁴ *Id.*, Transmittal Letter at pp. 6-8.

⁵ *ISO New England Inc.*, 150 FERC ¶ 61,003 at P 20 (2015).

stakeholders to consider the “market and operational” impacts of reducing ICR based on projections of the MWs of installed behind the meter distributed generation three years forward.⁶ ISO-NE and NEPOOL stakeholders, however, have yet to consider the potential market and operational effects of this proposed change in ICR methodology.

ISO-NE seeks to make this change to the ICR methodology without a filing under Section 205 of the Federal Power Act seeking Commission approval of Tariff changes defining new treatment of behind the meter resources in the peak load forecast. ISO-NE’s proposal, however, is a significant change to the most important input into the system-wide sloped demand curve and may have significant effects on Forward Capacity Auction rates and other aspects of the Forward Capacity Market design. The change should be subject to Commission review under Section 205 of the Federal Power Act, and not merely explained and adopted by ISO-NE through its FCA 10 ICR Filing.

NEPGA therefore respectfully requests that the Commission order ISO-NE to make a Section 205 filing of proposed Tariff language defining its proposed ICR calculation formula, and to vet the proposal through the NEPOOL stakeholder process, including the NEPOOL Markets Committee and NEPOOL Reliability Committee. Doing so will allow ISO-NE and NEPOOL stakeholders to more fully understand the potential market and operational impacts, and proposed Tariff language if necessary, of the proposed ICR methodology prior to accepting ISO-NE’s proposal to reduce the Installed Capacity Requirement by 390 MWs in FCA 10.

⁶ *Id.*

IV. Motion to Intervene and Communications

NEPGA is a private, non-profit trade association advocating for the business interests of competitive electric power generators in New England. NEPGA's member companies represent approximately 26,000 megawatts of installed capacity throughout the New England region.

NEPGA's mission is to promote sound energy policies which will further economic development, jobs, and balanced environmental policy. NEPGA's member companies are responsible for generating and supplying electric power for sale within the New England bulk power system. As active participants in the ISO-NE capacity and wholesale electricity markets, NEPGA's member companies have substantial and direct interests in the outcome of these proceedings, and those interests cannot be adequately represented by any other party in the proceeding.

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V. Protest

A. ISO-NE and NEPOOL Stakeholders Have Yet to Consider the Potential Market and Operational Effects of the Proposed Change in Installed Capacity Requirement Methodology

Under the old vertical demand curve FCA design, the Installed Capacity Requirement (“ICR”) established the quantity of capacity procured in the FCA. The ICR now serves as a single point on the system-wide sloped demand curve, defined by the straight line passing through the quantity of capacity needed to meet a 1-day-in-5 year Loss of Load Expectation (“LOLE”) at the auction starting price⁷ and a 1-day-in-87-year LOLE at a zero capacity price. These target quantities are derived from the ICR value. Because the methodology to develop the forecasted peak load distribution and ICR directly affects the key parameters of the demand curve (whether it be vertical or curved), ISO-NE has always developed its peak load forecast for purposes of the ICR based only on historical, observable changes in load, rather than on predictions of future potential generation installed behind the meter.⁸ For example, ISO-NE already modifies the peak load forecast to account for behind the meter solar PV that is not participating in the ISO-NE markets, but only once the effects of this generation physically reduce the metered load on Electric Distribution Company systems, if any.⁹ ISO-NE should continue this practice, and account only for observable changes in the load forecasts as newly installed behind the meter distributed generation is reflected through the metered load inputs to the load forecasting model. If any change to this principle is to be considered, ISO-NE and stakeholders should at the very least develop a full understanding of the market and operational

⁷ The auction starting price (and *de facto* market price cap) is defined as 1.6 x the Cost of New Entry.

⁸ *See, e.g.*, Answer of ISO New England Inc., Docket No. ER15-325-000, at pp. 2-3 (filed December 10, 2014) (explaining that existing solar PV resources are accounted for in the ICR through historical observations on changes in peak load distributions and through resource participation in the Forward Capacity Market).

⁹ *Id.*

effects of abandoning the historic and principled ICR methodology practice, and any such proposed change should be subject to Commission review under Section 205 of the Federal Power Act.

In January, the Commission addressed the question of whether it should order ISO-NE to make the change in ICR methodology ISO-NE now proposes for FCA 10. The Commission rejected these requests, finding that ISO-NE must first “fully explore the incorporation of distributed generation into the ICR calculation in the ICR process” and “examine the market and operational issues associated with incorporating distributed generation into the ICR calculation.”¹⁰ ISO-NE itself argued that the Commission should not order the change in ICR methodology without a proper examination of its potential consequences.¹¹ ISO-NE explained that it would be unsound to “reduce the ICR based on a projection of future PV resources that may participate in the ISO energy markets or would be eventually captured in historical loads” without further consideration and that it was “working to understand whether and how PV resources not currently captured through existing FCM mechanisms should impact the ICR calculations *based solely on a forecast.*”¹² In commenting on calls to change the ICR methodology based on resource availability forecasts, ISO-NE opined that a change in ICR methodology “based on future anticipated performance ... would be imprudent and unsound.”¹³ ISO-NE reasoned that it “has no basis to predict the exact performance outcome” and therefore “any value used to represent the future performance of capacity resources would be purely speculative.”¹⁴ ISO-NE concluded therefore that “the prudent way to calculate ICR is to

¹⁰ *ISO New England Inc.*, 150 FERC ¶ 61,003 at P 20.

¹¹ Answer of ISO New England Inc., Docket No. ER15-325-000 (filed December 10, 2014).

¹² *Id.* at p. 4 (emphasis added).

¹³ *Id.* at p. 7.

¹⁴ *Id.*

continue to use historical five-year data.”¹⁵ These bases for ISO-NE’s and the Commission’s rejection of forecast-based changes to the ICR methodology earlier this year continue to hold true, particularly given the absence of any further examination of the potential market and operational consequences of the proposed change.

Without question, ISO-NE has been thorough in developing and discussing with NEPOOL stakeholders how the ICR methodology it now proposes would be implemented.¹⁶ The examination of market and operational issues through the stakeholder process, however, simply has not yet happened. As explained by ISO-NE in its ICR Filing, ISO-NE and the Distributed Generation Working Forecast Group developed and discussed with NEPOOL stakeholders over several meetings and in great detail the assumptions, projections and data ISO-NE relies on in its peak load forecast proposal.¹⁷ But the discussion around the ICR methodology did not include any meaningful consideration of issues raised beyond the details of the peak load forecast and its place in the ICR calculation.¹⁸ The critical questions posed by the Commission have therefore yet to be fully explained by ISO-NE and vetted with NEPOOL stakeholders.¹⁹ The ISO-NE proposal to date, and the NEPOOL discussion around that proposal, has been entirely about the finer points of developing the “how to” of a peak load forecast methodology, not the issues the Commission deemed critical to a proper evaluation of the proposal. Indeed, there is no discussion of either market or operational impacts in the ICR

¹⁵ *Id.*

¹⁶ *See* ISO-NE Filing Letter, ICR Filing, at pp. 7-8.

¹⁷ *Id.*

¹⁸ *See, e.g.*, ISO-NE Presentation to the NEPOOL Reliability Committee, September 15, 2015, Agenda Item 9 (explaining the detail of ISO-NE ICR calculation for FCA 10, including its peak load value), *available at*: http://www.iso-ne.com/static-assets/documents/2015/09/a9_icr_results.pdf.

¹⁹ NEPGA does not agree with ISO-NE that there was any meaningful discussion in the NEPOOL process of “resource adequacy related issues surrounding the appropriate incorporation of PC resources from the PC forecast into the ICR-Related Value calculations.” *See id.*

Filing.²⁰ What has been proposed by ISO-NE and considered to date by NEPOOL is a change in methodology for forecasting peak load, not the market and operational risks of undervaluing capacity in a base Forward Capacity Auction.

1. Several Market Issues for ISO-NE to Consider

It is self-evident that a sudden and significant change to ICR may have significant market consequences that should be fully considered. The capacity required to deliver a 1-day-in-5 year LOLE and 1-day-in-87 year LOLE dictates the system-wide sloped demand curve foot and cap quantities, and serves as the anchor for pricing on the curve.²¹ Reducing these values by netting forecasted peak load by forecasts of new behind-the-meter solar distributed generation generally causes the demand curve to shift to the left – as a result, the clearing price at the quantity for each point on the demand curve is lower than it would be if the peak load forecast was not reduced according to the ISO-NE proposal. The price suppressing effects may be even more pronounced under the demand curve redesign recently proposed by ISO-NE, which would create a steeper slope than presently defined in the system-wide demand curve.²²

Reducing the installed capacity requirement level also impacts other aspects of the market design. For example, the Commission approved the Renewable Technology Resource exemption from the Minimum Offer Price Rule (“RTR Exemption”) because of the system-wide demand curve pricing and its expectation that load will increase at 200 MW or more per year on

²⁰ See ICR Filing Transmittal Letter; Testimony of Stephen Rourke and Peter Wong.

²¹ The price foot and cap quantities are equal to, respectively, the 1-in-87 year and 1-in-5 year Loss of Load Expectancy level, which in turn are derived from the ICR value.

²² See ISO-NE Presentation on Zonal Demand Curve Design, at p. 27, November 9-10 NEPOOL Markets Committee materials, Agenda Item 7 (November 10, 2015), available at: http://www.iso-ne.com/committees/markets/markets-committee/?sort=publish_date_dt.desc&load.more=1.

average.²³ As a result, according to the Commission, entry through the RTR Exemption “will, in most cases, only displace the new entry required to meet load growth” thus “helping to mitigate any price suppressive effect of a renewable resource exemption.”²⁴ A 390 MW reduction in ICR will obviously compromise if not eliminate the ability of load growth to displace the uneconomic entry allowed in the Forward Capacity Auction.²⁵ The proposal to reduce ICR by forecasted behind the meter solar resources likewise calls into question the Commission’s conclusion that the countervailing weight of peak load growth will mitigate the uneconomic effect of the Renewable Technology Resource Exemption and therefore create a “FCM in equilibrium [that] would likely clear near net CONE and attract merchant entry to meet resource retirement in ISO-NE.”²⁶ Indeed, reducing ICR based on an installed generation forecast will imbed in the market design flat or declining load growth. At the same time, it will embed in the market design a reduction in ICR based on forecast installed generation without subjecting the generation to buyer-side mitigation review through the Minimum Offer Price Rule.

²³ *ISO New England Inc. and New England Power Pool Participants Committee*, 147 FERC ¶ 61,173 (2014). In approving the system-wide sloped demand curve, the Commission accepted the Renewable Technology Resource exemption on the premise that its 200MW/year buy-side market power exemption would be offset by peak load growth of 200MW or more per year on average. ISO-NE’s proposal to change the ICR methodology to discount forecast peak load for anticipated levels of behind the meter solar generation is expected to lead to flat or declining peak load growth for ICR purposes.

²⁴ *Id.* at P 83.

²⁵ Up to 200 MW/year may offer into the Forward Capacity Auction under the Renewable Technology Resource exemption. If less than 200 MW clear the FCA in a given year, the “unused” portion of the 200 MW cap may be added to the annual cap for the following year. These “unused” MWs may be carried over for up to two years. Last year, only 16 MWs qualified, meaning that the Renewable Technology Resource exemption cap for FCA 10 is 384 MW, which together with the 390 MW reduction in ICR proposed by ISO-NE would allow for over 700 MWs to enter or effect the capacity market as if the resources offered at below their true costs. At the existing \$0.44/kw-month per 100MW slope of the system-wide demand curve, this permits over a \$3.00/kw-month depression of capacity prices below competitive levels. As noted above, ISO-NE is proposing a new system demand curve with a steeper slope nearly double the slope of the existing system-wide demand curve. If ISO-NE’s proposed sloped demand curve goes into effect, the potential price suppression caused by uneconomic entry (or displacement) would therefore be even greater.

²⁶ *See* FN 24 (“In such an eventuality, an FCM in equilibrium would likely clear near net CONE and attract merchant entry to meet resource retirement in ISO-NE.”).

The ISO-NE proposal may have other types of market impacts, for example by creating a disincentive for distributed resources to participate in the Forward Capacity Auction because load will be given a credit for these resources effectively as capacity resources through the proposed reduction in ICR, without any of the performance obligations imposed on capacity resources.²⁷ The potential for double-counting also exists, in that a MW that ISO-NE predicts will be installed in the relevant Capacity Commitment Period may actually participate in the FCA and procure a Capacity Supply Obligation. NEPGA raises these market issues as examples, rather than an exhaustive list, of the potential market effects of ISO-NE's proposal, none of which have been addressed in ISO-NE's filings or discussed in the NEPOOL stakeholder process. These market issues should be explored and discussed in detail through the NEPOOL stakeholder process, as previously directed by the Commission, prior to applying the ISO-NE proposal, if at all, to the Forward Capacity Auction.

2. Several Operational Issues for ISO-NE to Consider

The ISO-NE proposal also raises potential consequences for system reliability and ISO-NE operations. In order for the Forward Capacity Market to attract sufficient capital to meet ISO-NE's resource adequacy, it must price in a way that provides existing resources and potential new entrants with the opportunity to recover at a price that supports investment on average and over time. The Net CONE value is intended to reflect the average long-run price to support merchant generator investment in New England. The potential market consequences

²⁷ A distributed generation resource may participate in the FCA as a reduction to load or as a supply-side resource procuring a Capacity Supply Obligation. *See* ISO-NE Tariff §§ III.12.8(a)(b). Participation as a supply-side resource with a Capacity Supply Obligation carries affirmative obligations including exposure to non-performance penalties in the event the generation is not delivered when the system needs it most. The 390 MWs reflected in ISO-NE's proposal would not be subject to the performance penalties and incentives in the two-settlement Forward Capacity Market design.

discussed above, and others, therefore could cause a Forward Capacity Market design that decreases confidence in the market and systematically prices below the Net CONE value. A flawed design that undervalues the price of capacity would over time fail to procure the resources needed to maintain resource adequacy. Further, creating incentives to enjoy the benefit of a reduction in capacity requirements through ISO-NE's proposal, rather than through participation in the Forward Capacity Market, can create potential operational issues that must be further understood and vetted through the NEPOOL process. ISO-NE has recently explained the need for it to better understand the operational consequences of distributed generation by proposing new telemetry requirements for distributed generation aggregations of less than 5 megawatts.²⁸ ISO-NE's ICR proposal likewise should be subject to further scrutiny to better understand its potential consequences on system operations.

As with the market issues discussed above, NEPGA raises these operational issues as a demonstration of some of the potential consequences ISO-NE and NEPOOL stakeholders should consider pursuant to the Commission's directive to fully consider the potential operational consequences of ISO-NE's proposed ICR methodology.

B. ISO-NE Should File Tariff Language Under Section 205 of the Federal Power Act Defining Its Proposed Installed Capacity Requirement Methodology

ISO-NE is proposing to adopt and report a significant change in the ICR methodology through its FCA 10 ICR Filing, rather than by filing Tariff language with the Commission under Section 205 of the Federal Power Act. The Commission requires that public utilities file Tariff

²⁸ See, e.g., ISO-NE Memo to the NEPOOL Reliability Committee Re: Revisions to ISO New England Operating Procedure No. 14, October 21 NEPOOL Reliability Committee Meeting Materials, Agenda Item A10.1 (October 14, 2015), available at: http://www.iso-ne.com/committees/reliability/reliability-committee/?eventId=125635&sort=normalized_document_title_s.asc&load.more=1.

language for review under Section 205 of the Federal Power when they are seeking to change a practice that significantly affects the utility's rates, terms or conditions. As discussed above, a 390 MW reduction in ICR and the ICR methodology proposed by ISO-NE represent significant changes to the Forward Capacity Auction. NPEGA therefore requests that the Commission order ISO-NE to file Tariff language defining its proposed changes to the ICR methodology under Section 205 of the Federal Power Act.

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.”²⁹ 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.³⁰ 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.³¹ Viewed through the rule of reason, the proposed changes to ICR should be defined in the Tariff.

²⁹ *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).

³⁰ *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).

³¹ *Midcontinent Indep. Sys. Operator*, 152 FERC ¶ 61,073, at P (2015), citing *PacifiCorp*, 127 FERC ¶ 61,144, at P 11 (2009).

The change in ICR methodology will significantly affect the clearing prices and unquestionably change the Forward Capacity Auction's terms and conditions. In similar circumstances, the Commission has recently ordered ISO-NE to file Tariff language describing changes in its rates, terms and conditions in order to provide market transparency, notice, and a meaningful opportunity for stakeholders to challenge changes to market practices. Most recently, the Commission ordered ISO-NE to include the ISO-NE Winter Reliability Program payment rate formula in its Tariff, finding that because ISO-NE must re-calculate the program payment rate each year, "the Tariff should explicitly include the formula that ISO-NE will use each year to establish the rate."³²

The Commission similarly rejected a request to amend the Tariff to provide for an automatic reduction in the Offer Review Trigger Price for certain resources based on potential new Federal tax law.³³ The Commission reasoned that it would be unjust and unreasonable to allow ISO-NE to "unilaterally change the [Offer Review Trigger Prices] for onshore wind resource based on the Internal Market Monitor's evaluation of a currently non-existent tax law."³⁴ The Commission further explained that "[g]iven the uncertainties regarding the parameters and applicability" of future changes in the law, it did not find it reasonable that the Tariff would allow for a change in the Offer Review Trigger Price "without review by stakeholders and the Commission."³⁵ The Commission then ordered ISO-NE to vet any future changes to the Offer Review Trigger Prices (on the basis of changes in Federal law) through the NEPOOL stakeholder process and file the changes with the Commission under Section 205 of

³² *ISO New England Inc. and New England Power Pool Participants Committee*, 152 FERC ¶ 61,190, at P 51 (2015).

³³ *ISO New England Inc.*, 147 FERC ¶ 61,109, at P 22 (2014).

³⁴ *Id.*

³⁵ *Id.*

the Federal Power Act.³⁶ As the Commission ordered with respect to the Offer Review Trigger Prices, ISO-NE should be required to file Tariff language under Section 205 of the Federal Power Act when it seeks to make a significant change to the Forward Capacity Market practices, terms and conditions.

The Tariff provides that the load forecasts “shall be based on appropriate models and data inputs.”³⁷ It further defines certain circumstances under which “[e]xpected reductions from an installed or forecast Demand Resource” is counted as a reduction in the load forecast, and those circumstances under which it is not.³⁸ The Tariff establishes a precedent for defining in the Tariff the circumstances under which forecast or expected conditions should be reflected in the peak load forecast. The instant proposal is not merely a change in load forecasting model or analytics, it is converting the load forecast into a combined load and behind-the-meter solar resource forecast. Requiring ISO-NE to file Tariff language defining its proposed change to the ICR methodology would therefore be entirely consistent with the existing Tariff provisions defining the inclusion or exclusion of certain Demand Resources from the load forecast for purposes of calculating ICR.³⁹ Indeed, it would be inconsistent for the Tariff to define how Demand Resources are reflected in the load forecast for purposes of calculating the ICR, but remain silent over a change in how distributed generation may be reflected in the load forecast when this later change would result in a 390 MW reduction in ICR.

ISO-NE’s proposed change to the ICR methodology will have a significant effect on the rates, terms, and conditions in the Forward Capacity Market. As ISO-NE and NEPOOL

³⁶ *Id.* at P 23.

³⁷ ISO-NE Tariff § III.12.8.

³⁸ *Id.* at § III.12.8(a), (b), and (d)

³⁹ ISO-NE Tariff §§ III.12.8(a), (b), and (d).

stakeholders continue to work to improve the Forward Capacity Market, significant changes to market rates, terms, and conditions should be reflected in the Tariff to provide 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. NEPGA respectfully requests that the Commission order ISO-NE to file Tariff language under Section 205 of the Federal Power Act defining its proposed treatment of behind the meter solar PV resources for purposes of the peak load calculation used in its Installed Capacity Requirement calculation.

VI. Conclusion

Wherefore, NEPGA respectfully asks the Commission to: (1) reject the application of the ISO-NE's proposed ICR value for FCA 10; and (2) exercise its authority under Section 206 of the Federal Power Act, and order ISO-NE to file under Section 205 of the Federal Power Act its proposed Tariff changes defining its new ICR methodology, or show cause why it should not.

Respectfully Submitted,

*/s/ Bruce Anderson*_____

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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, December 22, 2015.

/s/ Bruce Anderson _____

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