

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

<b>Utilization in the Organized Markets of Electric )</b>	
<b>Storage Resources as Transmission Assets )</b>	
<b>Compensated Through Transmission Rates, for )</b>	<b>Docket No. AD16-25-000</b>
<b>Grid Support Services Compensated in Other )</b>	
<b>Ways, and for Multiple Services )</b>	

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

The New England Power Generators Association, Inc. (“NEPGA”)<sup>1</sup> submits these post-Technical Conference comments in response to the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) November 9, 2016, Technical Conference regarding the utilization of electric storage resources as transmission assets compensated through transmission rates, for grid support services compensated in other ways, and for hybrid compensation.<sup>2</sup> The Commission convened the Technical Conference, in part, to consider whether new energy storage resources should be considered transmission assets and therefore afforded transmission rate recovery and incentive rate treatment.<sup>3</sup> To the extent the Commission is now considering adopting a rule that would grant new energy storage resources with transmission rate cost recovery, the rule would be a solution in search of a problem.

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<sup>1</sup> The comments expressed herein represent those of NEPGA as an organization, but not necessarily those of any particular member. NEPGA is the trade association representing competitive power generators in New England. NEPGA’s member companies represent approximately 26,000 megawatts, or roughly 80% of the installed capacity in New England.

<sup>2</sup> *Utilization In the Organized Markets of Electric Storage Resources as Transmission Assets Compensated Through Transmission Rates, for Grid Support Services Compensated in Other Ways, and for Multiple Services*, Notice of Technical Conference, Docket No. AD16-25-000 (issued September 30, 2016); *see also* Supplemental Notice of Technical Conference (issued November 1, 2016), Further Supplemental Notice of Technical Conference (issued November 7, 2016), Docket No. AD16-25-000.

<sup>3</sup> Supplemental Notice of Technical Conference, at pp. 2-4, Docket No. AD16-25-000 (“Supplemental Notice”).

In New England, existing generation and demand-side resources have for decades provided the voltage support, thermal overload protection, and other transmission reliability services the Commission contemplates new energy storage resources may provide. Existing resources, including existing energy storage resources, compete to provide reliability services through ISO New England's ("ISO-NE") wholesale markets rather than through out-of-market transmission rates. New energy storage resources permitted to participate in the wholesale markets while recovering their costs through transmission rates will cause out-of-market price suppression. Even if new energy storage resources do not directly compete in the wholesale markets, granting a subset of supply-side resources with preferential cost recovery for services currently provided within the market is inefficient and unnecessary. Though new energy storage resources may provide some modularity and mobility not found in every existing resource, these distinctions do not justify discriminatory rate treatment.

NEPGA therefore respectfully requests that the Commission decline to adopt a rule that would grant transmission rate capital cost recovery or incentive rate treatment to new energy storage resources in ISO-NE. The Commission could and should continue to consider new energy storage resource cost recovery proposals on a case-by-case basis, and grant transmission rate cost recovery only if a particular resource justifies the discriminatory rate treatment, the inefficient procurement of grid reliability services, and the potentially adverse impact on ISO-NE's wholesale energy markets.

## **I. Comments**

### **A. Transmission Rate Recovery for New Energy Storage Resources is Unduly Discriminatory and Will Cause Out of Market Price Suppression**

A number of participants at FERC's technical conference stated that new energy storage resources will assist the transmission system by providing voltage support, thermal overload protection, and other reliability services. These are all valuable services, which today are provided by existing energy storage and other generation resources, as they have for years through ISO-NE's wholesale market rates.<sup>4</sup> Given that New England's wholesale markets procure these services at economic wholesale rates, the proposed discriminatory rate treatment is unnecessary, inefficient, and has the potential to cause out-of-market price suppression. Granting a subset of resources guaranteed transmission rate recovery, while other resources provide the same services through competitive wholesale rates, is patently discriminatory, and contrary to long-standing Commission precedent. Without some additional showing that discriminatory rate treatment is justified, new energy storage resources should be required to compete in the wholesale markets to provide the reliability services as is the case for existing energy storage and other resources. NEPGA strongly urges the Commission to not adopt a rule granting new energy resources transmission rate cost recovery.

#### **1. Existing Resources Provide Transmission Support Services Through ISO-NE's Wholesale Markets**

The Commission has historically determined whether an energy storage project should qualify as a certain resource type on a case-by-case basis.<sup>5</sup> In *Western Grid*, the Commission

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<sup>4</sup> Other than reactive power capability and voluntary black start service, which are compensated outside of the wholesale markets.

<sup>5</sup> See, e.g., *Nevada Hydro Co.*, 122 FERC ¶ 61,272, at P 84 (2008) ("*Nevada Hydro II*").

found that the specific new energy storage resource considered in CAISO qualified as a transmission resource, but limited its finding to the “specific circumstances and characteristics” of that resource.<sup>6</sup> The Commission reasoned that the new energy storage resources it considered in *Western Grid* are “unique thus far” in terms of how electric storage resources “mimic a wholesale transmission function.”<sup>7</sup> In ISO-NE, however, the transmission reliability services provided by new energy storage resources are hardly unique.

The Commission recently observed that markets that focus on the “technical ability” of resources to provide services are more open and competitive than those that do not.<sup>8</sup> New England’s existing resources have long provided the voltage control, thermal overload protection, and other transmission reliability services the ISO-NE system requires. It is in these ways that generation resources, including existing electric storage resources, have the same “technical abilit[ies]” of new electric storage resources. Existing and new resources are compensated for these services through the Forward Capacity Market, Forward Reserves Market, Real-Time Operating Reserve Market, Regulation Market, and in Real-Time LMPs. Because the “unique” circumstances found necessary under *Western Grid* do not present themselves in ISO-NE, and because wholesale markets are more open and competitive when they define the market according to technical ability to meet the services procured, no blanket exception to market cost recovery should be afforded to new energy storage resources.

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<sup>6</sup> *W. Grid Dev., LLC*, 130 FERC ¶ 61,056, at P 43, *reh’g denied*, 133 FERC ¶ 61,029 (2010) (“*Western Grid*”).

<sup>7</sup> *Id.* The Commission also drew a distinction in that the proposed new energy storage resource owner volunteered to not participate in the CAISO wholesale markets, but for incidental energy settlements from energy delivered by the resources.

<sup>8</sup> *Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators*, 157 FERC ¶ 61,121, at P 2, Docket Nos. RM16-23-000 and AD16-20-000 (published Nov. 17, 2016) (observing that participation models based on the “technical ability,” rather than eligibility to provide a service improve market competitiveness).

## **2. Transmission Cost Recovery for a Select Group of Resources is Unduly Discriminatory**

It would be unduly discriminatory to allow new energy storage resources to recover their costs of providing grid reliability services through transmission rates while all other resources, including existing energy storage, must recover their costs for the same services through the wholesale markets. An “unjustifiable difference in rates for substantially similar service works an unlawful discrimination” prohibited under the Federal Power Act.<sup>9</sup> This is true even when the different rates are each by themselves otherwise just and reasonable.<sup>10</sup> Existing generating and energy storage resources are similarly situated to new energy storage resources in that they provide the same reliability services. These resources have committed to provide the same grid reliability services contemplated by the Commission in *Western Grid* and in its Supplemental Notice of Technical Conference,<sup>11</sup> but are doing so entirely through the competitive marketplace without out-of-market revenue support. There is no compelling reason to provide all new energy storage resources with a preferable and discriminatory rate.

Though Congress has directed FERC to consider incentive rate treatment for Advanced Transmission Technologies such as energy storage devices, it may do so only “as appropriate.”<sup>12</sup> The Commission recognized this limit to its discretion in *Nevada Hydro II*, where it denied a pumped storage hydro generating resource transmission rate treatment even though the resource would have mimicked transmission services by providing voltage control and thermal overload

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<sup>9</sup> *Towns of Alexandria v. FPC*, 555 F.2d 1020, 1028 (D.C. Cir. 1977); *see also* Federal Power Act § 205(b), 16 U.S.C. § 824(b).

<sup>10</sup> *Towns of Alexandria*, at note 49 (“We wish to emphasize that a utility can unlawfully discriminate by maintaining different rates for similar service although all of the rates are just and reasonable.”).

<sup>11</sup> Supplemental Notice at p. 1 (recognizing that electric storage resources may provide voltage support or address thermal overloads).

<sup>12</sup> *Nevada Hydro II* at P 84, *citing* Energy Policy Act of 2005, § 1223, Pub. L. No. 109-58, § 1223(b), 119 Stat. 594 (2005) (defining “Advanced Transmission Technology” to include “energy storage devices (including pumped hydro, compressed air, superconducting magnetic energy, flywheels, and batteries)”).

protection.<sup>13</sup> The Commission noted that existing pumped storage hydro resources provide the same services as would the new pumped hydro resource proposed by Nevada Hydro, and that the existing and proposed new pumped hydro resources would each provide generation.<sup>14</sup> With that evidence before it, FERC concluded that allowing the new pumped hydro resource to receive cost-of-service, guaranteed revenue through a transmission rate “would create an undue preference for [the new resource] compared to these other similarly situated pumped hydro generators.”<sup>15</sup>

Though in *Western Grid* the Commission declined to find undue discrimination, reasoning that the new energy storage resources considered in that proceeding were different from existing resources in that they will not be offered into the wholesale energy markets and will be dispatched solely for transmission system support, the Commission’s holding should not be adopted into a rule of general applicability.<sup>16</sup> Whether resources are dispatched solely for voltage support and thermal overload protection or not, the Commission should also consider on a case-by-case basis whether transmission rate treatment is necessary, efficient, and likely to have an adverse effect on the wholesale markets. Discriminatory rates should be granted only in those cases where the petitioner makes a compelling case for preferable rate treatment.

### **3. Transmission Rate Recovery for New Energy Storage Resources May Cause Uncompetitive Market Prices**

The Commission has long protected ISO-NE’s wholesale markets from out-of-market price suppression through mechanisms like the Forward Capacity Market’s Minimum Offer Price Rule, and should likewise do so here by requiring new energy storage resources to compete

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<sup>13</sup> *Nevada Hydro II* at P 83.

<sup>14</sup> *Id.* at P 84.

<sup>15</sup> *Id.*

<sup>16</sup> *Western Grid* at P 50.

for grid reliability and wholesale market services through competitive wholesale markets. In similar circumstances and for similar reasons, FERC has discouraged ISO-NE from compensating specific resources through cost-of-service Reliability Must Run agreements (“RMR Agreements”),<sup>17</sup> and should likewise deny transmission rate cost recovery for new energy storage resources.

When the Commission has approved out-of-market mechanisms to meet ISO-NE’s reliability needs, it has done so with caution and for a limited duration. Years ago, the Commission approved several RMR Agreements, finding the out-of-market contracts necessary because of the failure of the markets to provide the necessary revenues, but limiting their duration only to those periods during which they were needed for reliability.<sup>18</sup> The Commission also discouraged ISO-NE from relying on the RMR Agreements to meet ISO-NE’s reliability needs, reasoning that out. More recently, the Commission approved the ISO-NE Winter Reliability Program, in part because it is an “interim measure” to meet ISO-NE’s winter reliability needs until the two-settlement Forward Capacity Market design takes effect beginning in June 2018.<sup>19</sup> Conversely, the Commission conditionally approved full capital cost recovery and incentive rate treatment to the new energy storage resource in *Western Grid*.<sup>20</sup> If all new energy storage resources in ISO-NE are afforded the level of cost recovery conditionally approved in *Western Grid*, it would represent a significant departure from ISO-NE’s long-

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<sup>17</sup> *Devon Power LLC, et al.*, 103 FERC ¶ 61,082 (2006) (“*Devon Power*”).

<sup>18</sup> See *New England Power Pool and ISO New England, Inc.*, 101 FERC ¶ 61,344 (2002) (establishing conditions on ISO-NE’s discretion to enter into RMR Agreements).

<sup>19</sup> *ISO New England Inc. and New England Power Pool Participants Committee*, 152 FERC ¶ 61,190, at P 45 (2015).

<sup>20</sup> *Western Grid* at P 71.

standing procurement of those services through wholesale energy rates, with limited exceptions for a limited duration.

The potential harm to the wholesale markets is straightforward. Transmission rate resources permitted to offer into the energy, capacity, forward reserves and regulation markets without appropriate mitigation will cause market price suppression displacing otherwise economic resources. The RMR Agreement resources in New England had this very effect, suppressing capacity market prices and causing more resources to seek RMR Agreements because the market was pricing the capacity and associated transmission reliability services uneconomically.<sup>21</sup> To put an end to the cycle, the Commission compelled ISO-NE to develop a location capacity mechanism to price the reliability needs through wholesale market rates rather than cost-of-service rates.<sup>22</sup> If the Commission were to adopt a rule granting transmission rate treatment for new energy storage resources in ISO-NE, it could lead to the same cycle of subsidized entry causing uneconomic clearing prices and in turn creating the need for substantial market reforms.

Awarding transmission rate recovery to all new energy storage resources is inefficient and unnecessary, regardless of whether they are permitted to participate in the wholesale markets. In its Technical Conference Agenda, Commission Staff notes that a resource must be “used and useful” for transmission service to be considered a transmission asset, and that electric storage resources often claim that they are “used and useful” because they will defer or avoid the cost of new traditional transmission assets.<sup>23</sup> Though a particular energy storage project may be

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<sup>21</sup> *Devon Power* at PP 29, 31.

<sup>22</sup> *See, e.g., Devon Power LLC*, 115 FERC ¶ 61,340, at P 166 (2006) (directing that existing RMR agreements remain in effect only until the adoption of a locational capacity mechanism).

<sup>23</sup> Supplemental Notice, Agenda at pp. 2-3.



able to demonstrate that it is a more efficient alternative to new transmission build, it is unlikely that the cost-of-service rate and incentive rates due a new energy storage resource would be more efficient than procuring the services from new or existing resources through the wholesale markets. A blanket rule allowing transmission rate recovery is likewise unnecessary in order to promote Advanced Transmission Technologies, as generic new energy storage resources, whether they be battery, pumped hydro, or some other technology, are not materially distinct from existing resources in their ability to provide voltage support, thermal overload protection, and other reliability services.

**B. New Energy Storage Resources have an Open, Competitive Opportunity to Participate in ISO-NE’s Wholesale Markets**

The Commission recently issued a Notice of Proposed Rulemaking (“NOPR”), which if promulgated will require each RTO/ISO to, *inter alia*, develop or confirm the existence of “participation models” that fully accommodate the participation of energy storage resources in wholesale capacity, energy and ancillary service markets.<sup>24</sup> The Commission explained that its proposed rule will better allow energy storage resources to compete for the services they are capable of offering in those markets.<sup>25</sup> As discussed, the ISO-NE wholesale markets together procure the grid reliability services ISO-NE needs from its supply and demand-side resources, including existing energy storage resources, to maintain transmission system reliability. The Commission emphasized the benefits of its proposed rule to new energy storage resources and market efficiency, reasoning that new technologies must now in some cases participate in wholesale markets in a way that “limit[s] the market opportunities for new resources and

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<sup>24</sup> *Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators*, 157 FERC ¶ 61,121, Docket Nos. RM16-23-000 and AD16-20-000 (published Nov. 17, 2016).

<sup>25</sup> *Id.* at P 2.

correspondingly limit[s] the potential supply of some services.”<sup>26</sup> As explained recently by ISO-NE, however, new energy storage resources are not so limited in the ISO-NE wholesale markets.

Earlier this year, ISO-NE (and all other ISOs/RTOs) responded to a Commission request for information on whether any barriers existed to the participation of energy storage resources in ISO-NE’s wholesale markets in the same proceeding under which the Commission issued the NOPR.<sup>27</sup> ISO-NE unequivocally stated that new and existing energy storage resources have every opportunity to enter and participate in ISO-NE’s wholesale markets.<sup>28</sup> ISO-NE also reported that it continues to evaluate the wholesale markets for improvements. For example, in March 2017 ISO-NE will put into effect energy market rule changes that better reflect energy storage resource charging, scheduling, and dispatch.<sup>29</sup> And just days ago, the Commission approved Tariff changes jointly proposed by ISO-NE and NEPOOL that will ease the ability of energy storage resources to participate in the energy markets when not providing regulation service.<sup>30</sup>

The Commission’s NOPR, ISO-NE’s wholesale market rules, and the on-going evaluation of those rules ensure that new energy storage resources have every opportunity to compete with existing energy storage and other resource types to provide voltage support, thermal overload protection, regulation and other grid reliability services through wholesale market rates. The markets are working to procure the needed services while supporting

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<sup>26</sup> *Id.*

<sup>27</sup> Letter Requesting ISO New England Inc. to File a Response to the Data Request of May 2, 2016, Regarding Electric Storage Participation in Regions With Organized Wholesale Electric Markets, Docket No. AD16-20-000 (April 11, 2016).

<sup>28</sup> Response of ISO New England Inc., Docket No. AD16-20-000 (filed May 16, 2016).

<sup>29</sup> See Letter Order Re: Dispatchable Asset Related Demand Pump Parameter Changes, Docket Nos. ER16-954-000 and ER16-954-001 (March 22, 2016).

<sup>30</sup> *ISO New England Inc. and New England Power Pool Participants Committee*, 157 FERC ¶ 61,189, at P 3 (2016).

investment in both new and existing resources. Indeed, in the most recent Forward Capacity Auction two new battery storage resources, each approximately 2 MWs, cleared for the first time.<sup>31</sup> The Commission should decline to adopt a rule that would be inconsistent with competitive markets and the Commission's current efforts to assure appropriate price formation in order to preserve reliability and incent economic investments. NEPGA instead urges the Commission to continue to allow ISO-NE's wholesale markets to function without undermining them through guaranteed cost-of-service or incentive rate recovery for a subset of resources.

## **II. Conclusion**

Transmission rate cost recovery for new energy storage resources is unduly discriminatory, may cause wholesale market price suppression through out of market compensation for certain resources, and is unnecessary and inefficient. NEPGA respectfully requests that the Commission decline to adopt a rule that will grant transmission rate treatment to new energy storage resources. To the extent ISO-NE's wholesale markets require changes or novel approaches to compensate resources for grid reliability and other wholesale services, NEPGA supports efforts to examine existing market rules or consider new markets to procure the desired services at a competitive price.

Respectfully Submitted,

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<sup>31</sup> See ISO New England, Inc. Press Release, *Finalized Capacity Auction Results Confirm 10<sup>th</sup> FCA Procured Sufficient Resources, at a Lower Price, for 2019-2020* (February 29, 2016), available at: [https://www.iso-ne.com/static-assets/documents/2016/02/20160229\\_fca10\\_finalresults.pdf](https://www.iso-ne.com/static-assets/documents/2016/02/20160229_fca10_finalresults.pdf).

**CERTIFICATE OF SERVICE**

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

Dated at Boston, Massachusetts, December 14, 2016.

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