

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

**New England Power Generators
Association, Inc.**

v.

ISO New England Inc.

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**Docket Nos. ER17-2153-000
ER17-2153-001**

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

Pursuant to Rule 602(f) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”)¹, the New England Power Generators Association, Inc. (“NEPGA”)² respectfully files these Comments in support of the Offer of Settlement (“Settlement”)³ jointly filed by NEPGA and several parties to this proceeding on July 28, 2017.³ Each party to the proceeding has either joined in the filing of the Settlement or does not oppose it.⁴ The uncontested Settlement is in the public interest and represents a fair and reasonable resolution of the single issue the Commission set for hearing and settlement procedures in

¹ 18 C.F.R. §§ 385.602(f) (2016).

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

³ *Offer of Settlement*, Docket Nos. EL16-120-000 and ER17-2153-000, *et. seq.* (filed July 28, 2017). The filing parties originally filed the Offer of Settlement in the Commission’s eTariff system on July 26, 2017, but due to a filing error were required to refile the Offer of Settlement on July 28, 2017.

⁴ The joint filing parties include NEPGA, the New England States Committee on Electricity, the Retail Energy Supply Association, the New England Power Pool Participants Committee, Exelon Corporation, H.Q. Energy Services (U.S.) Inc., Eversource Energy Service Company, Dominion Resources Services, Inc., Entergy Nuclear Power Marketing, LLC, NRG Power Marketing LLC, and Cogentrix Energy Power Management, LLC (the “Parties”). ISO New England Inc., PSEG Energy Resources & Trade LLC, Inc., Consolidated Edison Energy, Inc., Verso Corporation, GenOn Energy Management LLC, National Grid, NextEra Energy Resources, LLC, the New Hampshire Electric Cooperative, and Calpine Corporation have authorized the Parties to represent that they do not oppose the Settlement (the “Non-Opposing Intervenors”).

Docket No. EL16-120-000. NEPGA therefore supports certification of the Settlement to the Commission for its approval, and respectfully requests that the Commission approve it unconditionally and without modification. NEPGA further requests that the Commission direct ISO New England Inc. (“ISO-NE”) to make a compliance filing to make the tariff changes agreed to in the Settlement.

I. Background

On September 30, 2016, NEPGA filed a formal complaint with the Commission, pursuant to Section 206 of the Federal Power Act and Rule 206 of the Commission’s Rules of Practice and Procedure,⁵ asking for relief from the Peak Energy Rent (“PER”) Adjustment.⁶ The PER Adjustment causes a charge to Market Participants with a Capacity Supply Obligation in the Forward Capacity Market when the average Real-Time Energy Market price in any hourly interval exceeds a daily Strike Price (referred to as a “PER Event”). A PER Event causes a charge to capacity suppliers through the PER Adjustment in each of the twelve consecutive months of capacity payments following the month in which the PER Event occurred. NEPGA alleged in its complaint that those sections of the ISO-NE Transmission, Markets, and Services Tariff (“Tariff”) governing the PER Adjustment were unjust and unreasonable.

On January 19, 2017, the Commission granted NEPGA’s Complaint in part,⁷ finding that “the PER mechanism has become unjust and unreasonable as a result of the interaction between the PER mechanism and the higher Reserve Constraint Penalty Factors,”⁸ and ordered ISO-NE to

⁵ Federal Power Act § 206, 16 U.S.C. §824e; Commission Rules of Practice and Procedure, Rule 206, 18 C.F.R. 385.206 (2016).

⁶ *Complaint of the New England Power Generators Association, Inc.*, Docket No. EL16-120-000 (filed Sept. 30, 2016) (“Complaint”)

⁷ *New England Power Generators Ass’n, Inc. v. ISO New England Inc.*, 158 FERC ¶ 61,034 (2017) (“Complaint Order”).

⁸ Complaint Order at P 48.

“revise the method by which it calculates the PER Strike Price as set forth in ISO-NE Tariff section III.13.7.2.7.1.1.1.”⁹ The Commission set for hearing and settlement procedures the “question of the appropriate method of calculating the PER Strike Price”¹⁰ and then held the hearing in abeyance and directed that a settlement judge be appointed pursuant to Rule 603 of the Commission’s Rules of Practice and Procedure. The Commission also established a refund effective date of September 30, 2016.

II. Description of the Settlement

The Settlement filing includes an Explanatory Statement and the Settlement. The major provisions of the Settlement are summarized below and explained in more detail in the Explanatory Statement.

The Settlement defines a change to the Strike Price formula found in Section III.13.7.2.7.1.1.1 of the ISO-NE Tariff. At present, the Strike Price is equal to the product of an assumed heat rate and fuel cost for a Proxy Unit defined in the Tariff.¹¹ The Settlement provides for a change to the Strike Price to account for increases to the Reserve Constraint Penalty Factors (“RCPFs”) that took effect in December 2014. RCPFs are numeric values, in \$/MWh, that are added to energy and congestion values to make up the full Locational Marginal Price (“LMP”) in the Real-Time Energy Market. In December 2014, the RCPF for Thirty-Minute Operating Reserves increased from \$500/MWh to \$1,000/MWh, and the RCPF for Ten-Minute Non-Spinning Reserves increased from \$850/MWh to \$1,500/MWh.¹²

⁹ *Id.* at P 57.

¹⁰ *Id.*

¹¹ ISO-NE Tariff, Section III.13.7.2.7.1.1.1(a), (b) (the Proxy Unit is, *inter alia*, indexed to the higher of a daily price for ultra-low sulfur No. 2 oil and day-ahead natural gas, and a 22,000 Btu/kWh heat rate).

¹² See *ISO New England Inc. and New England Power Pool, Order on Tariff Filing and Instituting Section 206 Proceeding*, Docket Nos. ER14-1050-000 & ER14-1050-001, 147 FERC ¶ 61,172 at P 107 (2014).

As defined in the Settlement, ISO-NE will calculate an Adjusted Hourly Strike Price equal to the sum of the daily Strike Price (as calculated under the existing Tariff) and a newly-defined Hourly PER Adjustment. The Hourly PER Adjustment will be equal to the average over each hour of a newly-defined Five-Minute PER Strike Price Adjustment. The Five-Minute Strike Price Adjustment will be equal to any positive difference between a five-minute Thirty Minute Operating Reserves Clearing Price or Ten-Minute Non-Spinning Reserves Clearing Price that exceeds the maximum allowable reserves clearing prices for those reserves products (*i.e.*, the RCPFs) in effect before December 2014. The calculation of each Five-Minute PER Strike Price Adjustment will be calculated according to the following formula:

Five-Minute PER Strike Price Adjustment =

MAX (Thirty Minute Operating Reserves Clearing Price - \$500/MWh, 0) +
MAX (Ten Minute Non-Spinning Reserves Clearing Price –
Thirty Minute Operating Reserves Clearing Price - \$850/MWh, 0).

The Adjusted Hourly Strike Price will therefore be greater than the daily Strike Price under the existing Strike Price formula when the Thirty-Minute Operating Reserves Clearing Price exceeds \$500/MWh or when the Ten-Minute Non-Spinning Reserves Clearing Price exceeds \$850/MWh on average over any hourly real-time interval. The intent of the Adjusted Hourly PER Strike Price formula is to reduce any positive difference between the Real-Time LMP and the Strike Price by an amount reflecting the positive difference between reserves pricing in real-time and the maximum reserves pricing possible under the pre-December 2014 RCPF levels.

III. Discussion

The uncontested Settlement is fair, reasonable and in the public interest. It represents a negotiated agreement on the Strike Price increase the Commission ordered in its Complaint

Order, and is intended to return capacity suppliers' monthly capacity payments to just and reasonable rates. The Settlement is the result of several months of negotiations among the Parties, Non-Opposing Intervenors, and Trial Staff, and represents a fair balancing of the interests of the Parties and Non-Opposing Intervenors. The Adjusted Hourly Strike Price defined in the Settlement eliminates the incremental PER Adjustments caused by Commission-directed increases to the Reserve Constraint Penalty Factors that went into effect in December 2014.

The Settlement notes that some Parties do not agree as to the applicability of the Adjusted Hourly Strike Price to monthly capacity payments made to capacity suppliers beginning on June 1, 2018. Though Parties are free to comment on that issue, the Settlement can and should be approved by the Commission without modification or condition. The Commission set only one issue for hearing and settlement procedures – an increase to the Strike Price – which the Parties have agreed to as explained in the Settlement and Explanatory Statement. If approved, the Settlement provides for a precise and well-defined change to the Strike Price formula defined in Section III.13.7.2.1.1.1 of the ISO-NE Tariff. The Commission's Complaint Order does not contemplate or require any other change to the ISO-NE Tariff. Should any Party seek a change to the Tariff to extinguish the applicability of the Adjusted Hourly Strike Price beginning on June 1, 2018, it may do so pursuant to a Section 206 filing with the Commission.

In granting NEPGA's Complaint, the Commission found that the PER Adjustment is unjust and unreasonable. With each passing day, capacity suppliers are exposed to the risk of unjust and unreasonable rates in any hour in which the hourly average of Real-Time Energy Market LMPs exceed the daily Strike Price. NEPGA respectfully requests that the Presiding Administrative Law Judge certify the uncontested Settlement for approval by the Commission without delay to avoid any potentially unjust and unreasonable rates. NEPGA further requests

that the Commission direct ISO-NE to make a compliance filing to incorporate the Tariff changes agreed to in the Settlement.

IV. Conclusion

For the reasons explained above, NEPGA submits that the Settlement represents a fair and reasonable resolution of the sole issue set for hearing and settlement procedures and is in the public interest, and therefore supports certification of the Settlement to the Commission for its approval.

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, August 17, 2017.

/s/ Bruce Anderson

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