

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

New England Power Generators Association,)	
)	
)	
Complainant)	
)	Docket No. EL18-154-000
v.)	
)	
ISO New England Inc.)	
)	
Respondent.)	

ANSWER OF THE NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.

Pursuant to Rule 213(a)(3) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ the New England Power Generators Association, Inc. (“NEPGA”)² hereby files this Answer to the New England States Committee on Electricity’s (“NESCOE”) request for a two-week extension of the comment date in this proceeding.³ NESCOE has not shown good cause for the extension, which if granted could prejudice NEPGA by delaying a Commission decision in this proceeding and creating uncertainty in the lead-up to Forward Capacity Auction 13 (“FCA 13”).

On May 23, 2018, NEPGA filed a complaint asking for relief from the pricing treatment ISO New England Inc. (“ISO-NE”) proposes to apply to the Mystic Units 8 and 9 (“Mystic

¹ 18 C.F.R. § 385.213(a)(3)(2018).

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

³ *Motion of the New England States Committee on Electricity Requesting Extension of Time and Request for Expedited Ruling*, Docket No. EL18-154-000 (filed May 25, 2018) (“NESCOE Motion”).

Units”) in FCA 13 and FCA 14.⁴ NEPGA asks the Commission to rule on its Complaint by July 2, 2018, to provide Market Participants with certainty as they develop and submit for Internal Market Monitor review their priced offers in FCA 13. A two-week extension of the Comment Date would effectively negate NEPGA’s request for expedited consideration and cause harm to NEPGA by likely risking a July 2 decision date from the Commission. NEPGA has also filed a protest of ISO-NE’s request for waivers asking the Commission to condition any grant of the waivers on resolving price suppression in FCA 13. Accordingly, delaying comments in this complaint proceeding could also interfere with the Commission’s decision-making on ISO-NE’s request for waivers of its Tariff to retain the Mystic Units (“Waiver Proceeding”).⁵

NESCOE has not shown good cause for the delay, having only cited ambiguously to “complex issues,” “interrelated” proceedings, and a common comment date between that set in this proceeding and in another, unrelated proceeding. For these reasons, NEPGA asks the Commission to deny NESCOE’s Motion and maintain the June 6, 2018, Comment Date it established in this proceeding.

⁴ *Complaint and Request for Expedited Consideration of the New England Power Generators Association*, Docket No. EL18-154-000 (filed May 23, 2018) (“NEPGA Complaint”).

⁵ *Petition of ISO New England Inc. For Waiver of Tariff Provisions*, at 33-35, Docket No. ER18-1509-000 (filed May 1, 2018) (arguing that pricing the Mystic Units as price-takers will not have undesirable consequences such as harming third parties, a requisite showing under the Commission’s review of waiver requests).

I. ANSWER

A. A TWO-WEEK DELAY IN THIS PROCEEDING WILL CAUSE SIGNIFICANT HARM TO NEPGA'S INTERESTS AND MAY INTERFERE WITH THE COMMISSION'S DECISION-MAKING ON ISO-NE'S WAIVER REQUEST

If granted, NESCOE's Motion will cause significant harm to NEPGA's interests in this proceeding, specifically to NEPGA's request that the Commission take action on the Complaint by July 2, 2018. As NEPGA demonstrates in its Complaint, offering the Mystic Units as price-takers in FCA 13 would suppress capacity prices in FCA 13 by \$214 to \$652 million, and by displacing 1,050 to 1,285 MW of otherwise economic resources.⁶ NESCOE acknowledges the "substantial implication" of pricing the Mystic Units in FCA 13, but believes that because FCA 13 will commence in February 2019 there is no urgency to NEPGA's Complaint.⁷

What NESCOE misses is that NEPGA asks for expedited consideration not only because of the immediate threat of an uncompetitive clearing price in FCA 13, but because Market Participants are presently engaged in the process of developing and reviewing with the Internal Market Monitor their FCA 13 offer prices. A two-week extension of the Comment Date would significantly reduce the time within which the Commission could make a decision by July 2, leaving uncertain whether significant price suppression caused by the re-pricing of the Mystic Units will occur in FCA 13. Until the Commission decides on NEPGA's Complaint, NEPGA Members will be required to account for this uncertainty, which in turn may adversely affect

⁶ NEPGA Complaint at 9, 13.

⁷ NESCOE Motion at 2.

their competitiveness in FCA 13. Granting NESCOE’s Motion would therefore cause substantial harm to NEPGA’s interests in this proceeding.

Granting NESCOE’s request may also interfere with the Waiver Proceeding, in which ISO-NE represents that granting the waiver request will not cause undesirable consequences, such as harming third parties.⁸ NEPGA filed a Conditional Protest in that proceeding, asking the Commission to decide on the waiver request and NEPGA’s Complaint contemporaneously, explaining that the waiver request will cause harm to capacity suppliers if granted with the condition that ISO-NE may or shall offer the Mystic Units as price-takers in FCA 13 and FCA 14.⁹ ISO-NE has asked the Commission to decide on the waiver request by July 2, the same day on which NEPGA asks the Commission to decide on its Complaint. If, as NESCOE requests, parties may answer the Complaint as late as June 20, 2018, it would likely interfere with the ability of the Commission to consider those answers contemporaneously with its decision-making in the Waiver Proceeding by July 2.

B. NESCOE FAILS TO SHOW GOOD CAUSE FOR ITS REQUEST

NESCOE submits that good cause exists to grant its Motion because the issues NEPGA raises in its Complaint are “complex” and “interrelated to” proceedings currently pending before the Commission and to other market rules.¹⁰ NESCOE also claims that the Comment Date in this proceeding causes a “significant burden” because it coincides with the comment date in the

⁸ *Petition of ISO New England Inc. For Waiver of Tariff Provisions*, at 33-35, Docket No. ER18-1509-000 (filed May 1, 2018).

⁹ *Motion to Intervene and Conditional Protest of the New England Power Generators Association, Inc.*, Docket No. ER18-1509-000 (filed May 23, 2018).

¹⁰ *Id.*

proceeding in which Constellation Mystic Power, LLC, filed a cost-of-service agreement for the Mystic Units (“COS Proceeding”).¹¹ None of these claims, however, provide good cause for granting NESCOE’s Motion.

First, NESCOE claims that the Complaint raises “complex issues,” but does not further explain the issues involved or their complexity. NESCOE simply concludes that the resolution of the pricing treatment NEPGA challenges will “have substantial implications” for FCA clearing prices and costs to load.¹² That the resolution of an issue may have significant consequences, however, does not convert it into one so complex that parties should be afforded two additional weeks to address it. NEPGA agrees with NESCOE that the pricing treatment to be applied to the Mystic Units (and, for NEPGA, any other resource potentially retained for “fuel security”) will have a profound effect on the FCA clearing price. That is not in dispute.

What NEPGA questions, and what NESCOE bears the burden of showing qualifies as good cause, is whether this issue is so complex that it justifies a two-week delay when auction deadlines are imminent. NEPGA submits that it does not. To the contrary, the impact on FCA clearing prices caused by the re-pricing of out-of-market resources as price-takers has a direct and simple to understand price-suppressing effect on FCA clearing prices.¹³ Both NEPGA, in its Complaint, and ISO-NE, in its waiver request, set out clearly the effect of pricing the Mystic Units as price-takers, and NEPGA provides a remedy that will require modest changes to the

¹¹ *Id.* (citing to the cost-of-service agreement filing, Docket No. ER18-1639-000).

¹² NESCOE Motion at 2.

¹³ See NEPGA Complaint at 16 (explaining the several FCA design provisions that have the effect of suppressing FCA clearing prices).

Tariff that can be put into effect beginning in FCA 13.¹⁴ Though NEPGA agrees with NESCOE that the resolution of NEPGA’s Complaint will have tremendous consequences for the Forward Capacity Market, those consequences do not justify the relief NESCOE seeks in its Motion. This has not been, and certainly no longer is an issue so “complex” that it requires a two-week extension of the Comment Date.

Second, NESCOE claims added “complexity” because the pricing treatment NEPGA challenges is “interrelated to” two proceedings currently before the Commission: (1) the Waiver Proceeding; and (2) the COS Proceeding. Neither proceeding, however, justifies an extension of the Comment Date. The Waiver Proceeding shares one issue in common with NEPGA’s Complaint - whether pricing the Mystic Units as price-takers in FCA 13 and FCA 14 is just and reasonable – but that does not make the issue any more complex. In fact, the Waiver Proceeding gave NESCOE and others notice, as of ISO-NE’s May 1 filing of the waiver requests, that the pricing treatment of the Mystic Units is at issue in FCA 13 and FCA 14.¹⁵ The Comment Date in that proceeding has now passed, with NESCOE, NEPGA and several other parties having filed timely comments and protests on May 23, 2018.¹⁶ NESCOE cannot now claim insufficient time to consider that same issue when it has now had nearly a month to consider the consequences of ISO-NE’s proposal to re-price the Mystic Units as price-takers in the FCA.

¹⁴ NEPGA Complaint at 19-23 (proposing an approach using the Annual Reconfiguration Auctions to clear Mystic Unit capacity supply offers).

¹⁵ *Petition of ISO New England Inc. For Waiver of Tariff Provisions*, at 33-35, Docket No. ER18-1509-000 (filed May 1, 2018) (arguing that pricing the Mystic Units as price-takers will not have undesirable consequences such as harming third parties, a requisite showing under the Commission’s review of waiver requests).

¹⁶ See, e.g., *Comments of the New England States Committee on Electricity*, at 2, Docket No. ER18-1509-000 (filed May 23, 2018) (taking “no substantive position on the Petition”).

Even less consequential to this proceeding is the COS Proceeding, which concerns a rate for the Mystic Units to provide a “fuel security” service.¹⁷ It has no bearing on how the Mystic Units will be priced in the FCA. NESCOE claims a “significant burden” because the Comment Date in the COS Proceeding is June 6, the same day as the Comment Date in this proceeding,¹⁸ but that by itself does not constitute good cause for a two-week delay of this proceeding.

II. CONCLUSION

For the reasons explained above, NEPGA respectfully requests that the Commission deny NESCOE’s Motion.

Respectfully Submitted,

/s/ Bruce Anderson _____

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¹⁷ *Constellation Mystic Power, LLC, Filing Re: Annual Fixed Revenue Requirement, Capital Expense Recovery, and Stipulated Variable Cost Recovery for Mystic 8 & 9 Fuel Security Service*, Docket No. ER18-1639-000 (filed May 16, 2018).

¹⁸ NESCOE Motion at 2.

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, May 29, 2018.

/s/ Bruce Anderson

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