

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

ISO New England Inc.

and

New England Power Pool Participants Committee

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Docket No. ER20-89-000

**MOTION TO INTERVENE AND COMMENTS
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 the New England Power Generators Association, Inc. (“NEPGA”)² hereby submits this Motion to Intervene and Comments on ISO New England Inc.’s (“ISO-NE”) and the New England Power Pool Participants Committee’s (together, the “Filing Parties”) joint filing of Tariff changes limiting the use of the cost-of-service agreement as an instrument to meet system-wide or local reliability needs.³ The Filing Parties propose to eliminate the ability of a resource operating under a cost-of-service agreement to meet a fuel security need to thereafter become eligible for another cost-of-service agreement “should another reliability issue arise that could be resolved by the retention of the resource.”⁴

This proposal will have two primary benefits. First, it will eliminate the potential for further Forward Capacity Market price suppression, should the Commission continue to find just

¹ 18 C.F.R. §§ 385.211 and 385.214 (2018).

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. and New England Power Pool Participants Committee Filing Re Fuel Security Retention Limit Revision*, Docket No. ER20-89-000 (filed Oct. 11, 2019) (“Retention Limit Filing”).

⁴ Retention Limit Filing, Transmittal Letter at 1.

and reasonable the administrative re-pricing of Forward Capacity Auction offers from cost-of-service resources.⁵ Second, it will substitute “last resort” cost-of-service treatment with the Commission’s, ISO-NE’s and NEPGA’s preference for competitive market-based reliability solutions.

The Filing Parties’ proposal is just and reasonable, and not unduly discriminatory, in that it eliminates the risk of further capacity market price suppression and substitutes undesirable out-of-market action with competitive markets and solicitations. NEPGA therefore respectfully asks that the Commission accept the Filing Parties proposal without modification.

I. MOTION TO INTERVENE

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. NEPGA’s mission is to support competitive wholesale electricity markets in New England. NEPGA believes that open markets guided by stable public policies are the best means to provide reliable and competitively-priced electricity for consumers. A sensible, market-based approach furthers economic development, jobs and balanced environmental policy for the region. 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 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.

⁵ That Commission decision, with respect to resources held for fuel security, is pending rehearing. *See Request for Rehearing of the New England Power Generators Ass’n, Inc.*, Docket Nos. ER18-2364-001, EL18-182-002 (filed Jan. 2, 2019); *see also Order Granting Rehearings for Further Consideration*, Docket Nos. ER18-2364-001, EL18-182-002 (Feb. 1, 2019) (tolling order).

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

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II. COMMENTS

The Filing Parties rightfully characterize their proposal as a means to “prioritize the use of competitive processes.”⁶ Throughout the course of now multiple years of filings and NEPOOL stakeholder consideration of market design changes necessary to meet New England’s energy security challenges, NEPGA has asked the Commission to remedy the unjust and unreasonable market outcomes caused by administratively offering cost-of-service agreement resources as price-takers in the Forward Capacity Auction.⁷ NEPGA introduced unchallenged evidence in the Compliance Filing Order proceeding showing a reduction in the range of \$0.51 - \$1.52/kw-month in the Forward Capacity Auction clearing price as a result of administratively re-pricing 1,400 MW of resources operating under fuel security cost-of-service agreements as price-takers.⁸ The resulting price-suppression is no different and no less whether the resource is retained for fuel security, local transmission reliability, or any other reliability reason.

⁶ Retention Limit Filing, Transmittal Letter at 2.

⁷ See, e.g., *Request for Rehearing of the New England Power Generators Ass’n, Inc.*, Docket Nos. ER18-2364-001, EL18-182-002 (filed Jan. 2, 2019); see also *Order Granting Rehearings for Further Consideration*, Docket Nos. ER18-2364-001, EL18-182-002 (Feb. 1, 2019) (tolling order).

⁸ *Motion to Intervene and Protest of the New England Power Generators Ass’n, Inc.*, Exh. 1, Testimony of Paul M. Sotkiewicz, Ph.D. on Behalf of the New England Power Generators Ass’n Inc., at pp. 31-32 (showing a low-end estimate based on a flat supply curve of a \$0.51/kW-month clearing price reduction and a high-end estimate based on a steeper curve of \$1.52/kW-month).

NEPGA has sought rehearing of the Commission's acceptance of ISO-NE's request to administratively re-price market offers from fuel security cost-of-service resources (from their competitive offer price to \$0/kW-month to force them to clear the auction),⁹ which if granted will correct for the uncompetitive capacity market outcomes caused by this re-pricing treatment. In the underlying Order,¹⁰ the Commission failed to reason with or even mention the evidence NEPGA introduced showing up to \$642 million of price suppression and the displacement of up to 1,285 MW of otherwise economic resources, each in one auction alone. NEPGA filed its Request for Rehearing now nearly a year ago and subsequently moved for the Commission to issue an order on rehearing on August 30, 2019.¹¹ Ample time remains before FCA 14's commencement in February 2020 to correct for this unjust and unreasonable administrative offer price rule.

However, so long as the Tariff dictates re-pricing, every cost-of-service agreement will further suppress capacity market clearing prices below their competitive levels. Further, the ability to effectively extend an energy security Reliability Must Run agreement to address a different reliability problem undermines the Commission's goal of limiting the duration of arrangements that are meant to be short-term and used as a last resort. In effect, the Filing Parties' proposal will eliminate post-fuel security cost-of-service eligibility in the FCA 15 Capacity Commitment Period for any resource operating under a fuel security-related cost-of-service agreement in the FCA 13 or 14 Capacity Commitment Periods.¹²

⁹ See *Request for Rehearing of the New England Power Generators Ass'n, Inc.*, Docket Nos. ER18-2364-001, EL18-182-002 (filed Jan. 2, 2019); see also *Order Granting Rehearing for Further Consideration*, Docket Nos. ER18-2364-001, EL18-182-002 (Feb. 1, 2019) (tolling order).

¹⁰ *ISO New England Inc., Order Denying Waiver Request, Instituting Section 206 Proceeding, and Extending Deadlines*, 164 FERC ¶ 61,003 (2018).

¹¹ *Motion for Expedited Action of the New England Power Generators Association, Inc.*, Docket Nos. ER18-2364-001, EL18-182-002 (filed Aug. 6, 2019).

¹² ISO-NE has found that none of the resources that submitted Retirement De-List Bids for FCA 14 are needed to meet a fuel security need. Thus, the only resources that would be eligible for a non-fuel security cost-of-service

The FCA 15 Capacity Commitment Period, and the years that follow, will see changes that render cost-of-service eligibility unnecessary. First, the Commission recently accepted the Inventoried Energy Program for effect in FCAs 14 and 15, which will “help compensate resources that provide winter energy security and improve reliability while ISO New England develops a long-term market solution.”¹³ Second, ISO-NE must file by April 15, 2020, long-term market design changes to meet New England’s energy security needs (“April 15 Filing”), which Tariff changes ISO-NE will ask to take effect beginning with the FCA 15 Capacity Commitment Period. ISO-NE will propose to eliminate the Inventoried Energy Program at the conclusion of the FCA 14 Capacity Commitment Period if the Commission accepts the April 15 Filing for effect in FCA 15. Third, ISO-NE has initiated a process to identify and solicit a solution to local transmission needs for the Northeast Massachusetts/Boston load zone – the so-called Boston Area Needs Assessment. The only resources presently eligible for a fuel security-related cost-of-service agreement are located in that load zone. Thus, to the extent they are found to be needed thereafter to meet a local transmission reliability need, the Boston Needs Assessment process will competitively procure a remedy without resorting to a cost-of-service agreement.

Together, the avoidance of further harm to the wholesale markets and the existence of alternatives to “last resort” cost-of-service agreements renders the Filing Parties proposal entirely just and reasonable and not unduly discriminatory.

agreement at the expiration of their eligibility for a fuel security cost-of-service agreement, under the present Tariff language, are those with existing rights to a fuel security cost-of-service agreement in FCA 14 (with FCA 14 representing the last year of the fuel security-related eligibility).

¹³ *ISO New England Inc., Statement of Chairman Chatterjee*, Docket No. ER19-1428-001 (Aug. 8, 2019).

III. CONCLUSION

For the reasons explained above, NEPGA respectfully requests that the Commission grant this Motion to Intervene and accept the Filing Parties proposal without modification.

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, November 1, 2019.

/s/ Bruce Anderson

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