

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

<b>Participating Transmission Owners</b>	)	
<b>Administrative Committee &amp;</b>	)	
<b>ISO New England Inc.</b>	)	<b>Docket No. ER21-2337-000</b>
	)	

**MOTION FOR LEAVE TO ANSWER AND ANSWER  
OF THE NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”)<sup>1</sup>, the New England Power Generators Association, Inc. (“NEPGA”)<sup>2</sup> files this Motion for Leave to Answer the answer filed by the Participating Transmission Owners Administrative Committee (“TOs”).<sup>3</sup> NEPGA seeks to respond to the TOs unsupported assertions that a tariff ambiguity exists and that “current practice” compels acceptance of the TO’s proposed Tariff changes. They do not.

Good cause exists to permit this answer because it clarifies the record and law and responds to new arguments raised by the TOs in this proceeding. Good cause further exists given the uniqueness of this proceeding, in which the TOs seek to make tariff changes to be consistent with their prior practice of not following the tariff. No party will be prejudiced were the Commission to accept this Answer. NEPGA thus seeks leave to file this brief answer to further clarify the record in this proceeding.

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<sup>1</sup> 18 C.F.R. §§ 385.212, 385.213 (2020).

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

<sup>3</sup> *Motion for Leave to Answer and Answer of the Participating Transmission Owners Administrative Committee*, Docket No. ER21-2337-000 (filed Aug. 6, 2021) (“TO Answer”).

## I. ANSWER

The TOs do not challenge NEPGA's explanation that ISO-NE registered resources located behind the Pool Transmission Facility ("PTF") meter provide an equal or greater reduction in Network Customer use of the system and concomitant demand for PTF transmission. Instead, the TOs imply that their preferential treatment of resources that are not registered in the ISO-NE markets is somehow a Commission-sanctioned "current practice" made necessary by the inability to meter certain unregistered resources located behind the PTF meter.<sup>4</sup> The TOs assert that Tariff compliance for such resources can only be achieved with the installation of a meter at every behind-the-meter ("BTM") generation location, with the TO's dismissing NEPGA's and the IMM's explanation that it is entirely reasonable for ISO-NE to estimate behind-the-retail-meter generation during system peak, without question more accurate than simply ignoring their contributions, or conversely, assuming their contributions offset Network Customers' demand for PTF transmission usage to the extent their preferred netting treatment should demand in return for allowing that generation to reduce Network Customer Regional Network Service ("RNS") charges. According to the TOs' claim, estimation is not a "sufficient substitute for revenue-quality meter equipment to verify what behind-the-meter resources are actually doing during the system peak for purposes of calculating Monthly RNL."<sup>5</sup> Yet, absent metering, or estimation, TO's seem to admit they really do not know the patterns of unregistered resources' output, and the extent to which their contributions are consistent with reduced usage of the PTF system their proposed netting rationale assumes. Further, while TOs'

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<sup>4</sup> See TO Answer ("The New England Consumer-Owned Systems, an ad hoc coalition of municipal electric utilities and quasi-municipal electric districts, and Energy New England, LLC, a municipal lighting plant cooperative, point out that the treatment of behind-the-meter demand response as a load reducer is a "settled practice" in ISO-NE, pursuant to Commission directives regarding demand response.").

<sup>5</sup> TO Answer at 7.

Answer focuses on the 180,000 non-ISO-registered resources behind retail customer meters<sup>6</sup>, but make no mention of the other BTM generation their “current practice” allows to be netted against Monthly RNL that is reasonable to believe currently is metered, specifically BTM resources connected directly to the TOs’ affiliates’ distribution systems.

The TOs attempt to distinguish estimating behind-the-retail-meter generation for purposes of determining the allocation of Regional Network Service charges from ISO-NE reliance on their estimate of BTM generation to meet its resource adequacy needs and real-time operational energy needs. The ISO-NE uses its estimate of behind-the-retail solar generation for purposes of calculating the Installed Capacity Requirement, which is a primary parameter used to position the demand curve in ISO-NE’s Forward Capacity Auction (among other uses), and to forecast its real-time energy and reserves needs for system operation and reliability for daily, real-time operation of the system. According to the TOs, estimation cannot be relied on for RNS charges because without actual metered data “the PTOs have no way of knowing whether Network Customers are adding back or reconstituting behind-the meter generation into their monthly network load.”<sup>7</sup> This position fails in two respects. It does not distinguish the use of BTM estimation for load reconstitution for ICR and system operations purposes versus RNS charges, and certainly does not explain why for purposes of cost allocation estimation is inadequate when ISO-NE relies entirely on estimation for the contributions of BTM generation in reducing the capacity requirement and determining the level of load (net of behind-the-retail

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<sup>6</sup> *Participating Transmission Owners Administrative Committee & ISO-NE New England Inc.*, Modifications to Monthly Regional Network Load Calculation in the ISO-NE Transmission, Markets and Services Tariff, Docket No. ER21-2337-000 (filed July 1, 2021) at 9.

<sup>7</sup> TO Answer at 7.

meter solar generation) that must be met through ISO-NE scheduled generation. The Commission should therefore reject the TOs unsupported distinction.<sup>8</sup>

Further, the TOs contradict themselves by asserting that on the one hand “there is no way to confirm, verify, or even know what those assets [*i.e.*, unregistered BTM] are doing during the system peak” and later asserting that it reduces the Network Customers’ use of the transmission system (“one benefit of clarifying the Tariff on the treatment of behind-the-meter generation is that Network Customers could increase their behind-the meter generation and use less of the transmission system”).<sup>9</sup> Yet the reduction in transmission use cannot be known without knowing the quantity of generation from the unregistered BTM resources. The TOs cannot, on the one hand, know the extent to which the unregistered and unmetered BTM generation reduces Network Customer use by some amount in more than just the Monthly RNL hour while claiming that they have no reasonable basis to measure the reduced usage of the PTF system by unmetered BTM generation. Ironically, the ISO-NE registered resources that are excluded from the TO’s proposed definition of BTM generation eligible for netting *can* be observed, and in some cases, *dispatched* to maximize the extent to which Network Customers do not need to use the Pool Transmission Facilities.

Lastly, the TOs’ claim that the Commission should accept that the TO’s unduly discriminatory preference toward “unregistered” BTM generation should somehow be permitted because it has become their “settled practice,” and that under precedent holding that the Commission “can rely on settlement practice to construe and ambiguous tariff,” it should accept their request to change the Tariff to meet their unilaterally established “current practice”.<sup>10</sup> This,

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<sup>8</sup> TO Answer at 7 (“Without that verification, the PTOs have no way of knowing whether Network Customers are adding back or reconstituting behind-the-meter generation into their monthly network load.”)

<sup>9</sup> TO Answer at 6, 8.

<sup>10</sup> TO Answer at 10.

however, is not a case of an “ambiguous” Tariff in need of clarification but a request to substantively change the cost allocation design under the Tariff.<sup>11</sup>

Indeed, TOs persistence in asserting that their substantive tariff changes were only clarifying changes throughout the NEPOOL process prevented an effective stakeholder process. Despite the perspective of both the IMM and NEPOOL Counsel that the TOs’ proposed changes were substantive, and not simply clarifying, the TOs conducted their tariff change review as if their changes were already the rule of law, despite no prior review by stakeholders or FERC before they employed it as their “current practice”.<sup>12</sup> It was obvious that this line of argument left no room for changes to the definition of resources eligible for netting that were not part of their “current practice.” Unlike ISO-NE proposed changes to the Market Rule 1 portion of the Tariff, NEPOOL has no “Jump Ball” rights for proposed changes to the portion of the Tariff reserved for TOs. Consequently, with no opportunity for a competing Section 205 filing and the reality that TOs maintained this position throughout, stakeholders were, as a practical matter, relegated to simply watching the process with only an opportunity to comment on it. NEPGA is hopeful that the Commission will reject the PTOAC Filing and provide guidance to the TOs that any subsequent effort to revise the RNS allocation must assure balance between all Network Customers and all BTM generation (including ISO-NE registered resources).

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<sup>11</sup> Comments of the Internal Market Monitor of the Proposal to Exclude Behind-the-Meter Generation From Transmission Cost Allocation, at 4-5, Docket No. ER21-2337-000 (filed July 22, 2021); Proposed Regional Network Load Revision–Historical Context/Policy and Precedent, Eric Runge and Sophia Browning, NEPOOL Counsel Memorandum to the NEPOOL Transmission Committee, at 2-3 (Jan. 20, 2021), *available at*: <https://www.iso-ne.com/event-details?eventId=144077> (“NEPOOL Counsel Memo”).

<sup>12</sup> *Ibid.*

**II. CONCLUSION**

NEPGA respectfully requests that the Commission grant this Motion to Answer and consider NEPGA's Answer in its decision-making in this proceeding.

Respectfully Submitted,

*/s/Bruce Anderson*

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**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 Westborough, Massachusetts, August 12, 2021.

*/s/ Bruce Anderson*

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