

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

**Wholesale Competition in Regions
with Organized Markets**

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**Docket Nos. RM07-129-000
and AD07-7-000**

COMMENTS OF THE NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.

Pursuant to the Notice of Proposed Rulemaking (“NOPR”) issued February 22, 2008, proposing reforms to improve the operation of organized wholesale electric markets issued by the Federal Energy Regulatory Commission (the “Commission”) in the above-captioned proceedings, the New England Power Generators Association, Inc. (“NEPGA”) respectfully submits these comments.¹

COMMUNICATIONS

NEPGA is the largest trade association representing competitive electric generating companies in New England, representing approximately 25,000 megawatts of generating capacity throughout the region. NEPGA's member companies have been involved in the design and development of all of the competitive wholesale markets in the United States during the last ten years. In that time, markets, especially in the three Northeast ISO/RTO regions, have developed the necessary frameworks to support robust competition.

NEPGA’s mission is to promote sound energy policies which will further economic development, jobs, and balanced environmental policy. In furtherance of that mission, NEPGA supports properly designed competitive markets that enable all resources to participate and

¹ The comments contained in this filing represent the position of The New England Power Generators Association, Inc. as an organization, but not necessarily the position of any particular member(s) with respect to any statement, concept, issue or position expressed herein.

contribute to a reliable and affordable resource mix. A balanced playing field for all resources fosters competition in the wholesale power markets consistent with sound economic principles, long-standing national policy and the Commission's core responsibilities.²

NEPGA requests that all further correspondence, communications and other documents relating to this matter be served upon the following individuals:

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EXECUTIVE SUMMARY

In these proceedings, the Commission is proposing targeted reforms to improve the operation of organized wholesale electric power markets. NEPGA has chosen to comment on four areas of the NOPR. First, NEPGA supports limiting the focus of this proceeding to further improving the operation of the wholesale competitive markets in organized market regions because the fundamental differences in the regional markets limits the ability for uniform comprehensive market proposals. Second, NEPGA supports the NOPR's proposal for a stakeholder process for demand response and resource comparability as a method for a collaborative process for market participants to discuss market rule changes. Third, NEPGA disagrees with the NOPR's proposal to remove market monitors from market power mitigation because of the success with which ISO-New England ("ISO-NE") has implemented this structure. Fourth, NEPGA supports allowing each RTO and ISO to demonstrate RTO

² See, ANOPR at 5 (2007), citing the Energy Policy Act of 2005, Pub. L. No. 109 Stat. 594 (2005).

responsiveness in a manner that best suits its region and does not believe that having a hybrid board with stakeholder members is an appropriate option for the New England region.

BACKGROUND

The Commission issued an Advance Notice of Proposed Rulemaking (ANOPR)³ on June 22, 2007, to identify and implement improvements to specific aspects of organized wholesale markets. In the ANOPR, the Commission identified four issues in organized market regions that the Commission viewed as not being adequately addressed as follows: (1) the role of demand response in organized markets and greater use of market prices to elicit demand response during a period of operating reserve shortage; (2) increasing opportunities for long-term power contracting; (3) strengthening market monitoring; and (4) enhancing the responsiveness of RTOs and ISOs to customers and other stakeholders, and ultimately to the consumers who benefit from and pay for electricity services.

On, September 14, 2007, NEPGA filed comments to the ANOPR supporting properly designed competitive markets to facilitate the involvement of all resources, including demand response, as well as traditional and renewable supply resources. Specifically, NEPGA commented that demand response should participate in reserves markets within the same parameters as supply resources; in support of the existing allocation of uplift charges in the New England markets, including the allocation to loads which consume less in real-time than scheduled day-ahead; that demand response resources should be compensated on the same basis as supply resources and without the removal of existing bid caps; that ISOs and RTOs should not post long-term bilateral contract information; that developing long-term contracts is not an appropriate role for RTOs or ISOs; that ISOs and RTOs should be encouraged to explore

³ Wholesale Competition in Regions with Organized Electric Markets, Advance Notice of Proposed Rulemaking, 72 Fed. Reg. 36,276 (July 2, 2007), FERC Stats. & Regs. ¶ 32,617 (2007).

mechanisms to post expressions of interest for voluntary long-term electricity contracts; that ISO-NE is in compliance with the requirements of Order Nos. 2000, 2003 and the Commission policy statement on market monitoring units; and that ISO-NE and the New England market participants benefit from a robust and mature stakeholder process that would not be enhanced by revision of its current structure or by the inclusion of stakeholders on the ISO-NE Board of Directors.

Consistent with the NEPGA's prior comments on organized wholesale markets in response to the Commission's ANOPR, NEPGA offers the following comments:

COMMENTS

1. NEPGA Supports Limiting the Scope of the Proceeding to the Four Specific Market Reform Areas.

NEPGA supports limiting the focus of these proceedings to further improving the operation of the wholesale competitive markets in organized market regions. As the Commission properly recognized, the markets are inherently different in that some regions have organized spot markets administered by an RTO or ISO, whereas, others rely solely on bilateral contracting between wholesale sellers and buyers.⁴ The fundamental differences naturally limit the ability for uniform comprehensive market proposals for wholesale market design.

NEPGA has participated to the greatest extent possible in recent proposals for market reforms at all levels, and shares the goals of most market participants to improve upon the efficiencies of competitive electricity markets and facilitate the involvement of all participants. As noted above, NEPGA submitted comments in the Commission's ANOPR in an effort to constructively participate in the development of a concise record. The request of commenters to expand the scope of this proceeding to become a general inquiry would diminish the focus of the

⁴ ¶. 18

proceeding, and imperil its opportunities of successfully imparting improvements onto the competitive electricity markets. Furthermore, such a general inquiry would exceed the scope of the record that has been developed and risk contextual misinterpretations of the earlier comments submitted by participants.

NEPGA agrees that, given the unique nature of the regional markets, specific concerns regarding the market designs of the respective markets should be addressed firstly at the regional market level.⁵ As discussed *infra*, New England has a comprehensive and robust stakeholder process that has successfully addressed market issues in the past. Absent national electricity markets, the autonomy of the regional market system dictates that future market reforms, that are unique to a specific regional market, should first be addressed within the market's established stakeholder process.

NEPGA further acknowledges that the Commission has proactively engaged in reforms to the competitive electricity markets over the past several years.⁶ Undoubtedly there will be opportunities for additional market reforms focusing on the specific areas of concern to all commenters. NEPGA suggests that this proceeding, and all future proceedings, be limited to a concise investigation of identifiable areas of the competitive electricity markets, as proposed by the Commission in this proceeding.

2. NEPGA Supports the Commission's Request for a Stakeholder Process for Demand Response and Resource Comparability.

The Commission has proposed "several reforms to further eliminate barriers to demand response in organized energy markets...[to]... ensure that demand response is treated

⁵ ¶. 24.

⁶ ¶¶. 17-23

comparably to other resources.”⁷ NEPGA supports the participation of demand response in the competitive markets within the same parameters as supply resources.⁸ The detailed and comprehensive nature of the Commission’s proposed reforms will affect all of the market participants and, as such, the participants should have an organized process to discuss issues with other participants, as well as with the respective RTO/ISO.

ISO-NE and the New England Power Pool (“NEPOOL”) have a long history of load response program development. The broad-based recognition of the importance of demand response and the inclusive regional stakeholder process has allowed the New England region to develop several demand response programs since the markets have been in place. NEPGA supports employing the region’s successful stakeholder process to collaborate on the proposals set forth by the Commission.

3. NEPGA Disagrees with the NOPR’s Proposal to Remove Market Monitors from Market Power Mitigation.

The Commission proposed *inter alia* that MMUs be removed from tariff administration, including mitigation so as to “strengthen their independence” and to allow them to “objectively monitor the markets, without the bias that might arise from their personal involvement in tariff administration.”⁹ While the overall goals are laudable, NEPGA disagrees with the NOPR’s proposal to remove market monitors from tariff administration and market power mitigation. The success of the ISO-NE MMU processes are an indication that departure from MMU’s participating in market mitigation would not improve the efficiencies of the competitive market

⁷ ¶. 46

⁸ See, Comments of NEPGA to Docket Nos. RM07-19-000 and AD07-7-000; Wholesale Competition in Regions with Organized Electric Markets, September 14, 2007.

⁹ ¶. 207.

in New England. NEPGA views such a departure as more than “temporary transition pains,” but rather a fundamental reversal of successfully implemented policy.¹⁰

ISO-NE fulfills its market monitoring and market power mitigation functions through an internal market monitoring unit (INTMMU) reporting to the ISO Chief Executive Officer and the ISO Board and by contracting with an independent market monitoring (IMMU) unit selected by and reporting to the ISO Board. This approach provides for an efficient and unbiased market monitoring plan that best fits the corporate form of ISO-NE as well as the types of markets the RTO administers in New England. Consistent with the Commission’s MMU Policies¹¹ and pursuant to the Participants Agreement, the ISO-NE IMMU reviews the competitiveness of the New England Markets; performs independent evaluations and prepares annual and ad hoc reports on the overall competitiveness and efficiency of the New England Markets; reviews market rules, practices, procedures and protocols of ISO-NE that affect the competitiveness and efficiency of the New England Markets; reviews the activities of the Governance Participants regarding market competitiveness and efficiencies; and reviews and assess the effectiveness of the Market Monitoring and Mitigation Plan.¹²

ISO-NE has a well established MMU. Departure from the established MMU policies in New England will not add incremental improvements to the efficiencies of the competitive

¹⁰ ¶. 210.

¹¹ The monitoring plan must be designed to ensure that there is objective information about the markets that the RTO operates or administers and a vehicle to propose appropriate action regarding any opportunities for efficiency improvement, market design flaws, or market power identified by that information. *See*, FERC Order 2000, 463, Docket No. RM99-2-000 (2000)

¹² *See*, Participants Agreement between ISO-NE, NEPOOL and Individual Participants, §9.4.3

electricity markets. Therefore, NEPGA concurs with Commissioner Kelly and opposes removal of the MMU from market mitigation.¹³

4. NEPGA Disagrees with the NOPR's Proposal to Promote Responsiveness of RTOs/ISOs by Allowing Them to Adopt Hybrid Boards with Stakeholder Members.

In the NOPR, the Commission is proposing that each RTO and ISO demonstrate responsiveness, using the following criteria: (1) inclusiveness; (2) fairness in balancing diverse interests; (3) representation of minority positions; and (4) ongoing responsiveness. Each RTO or ISO would be able to make this demonstration by developing a mechanism that best suits its own governance structure and stakeholder needs.¹⁴ FERC presented two options for consideration - the board advisory committee and the hybrid board, but said that each RTO or ISO should adopt a mechanism that best suits its needs.¹⁵

We agree strongly with that point. The working relationship between the ISO-NE staff, management, and board, and their willingness to meet with market participants and stakeholders has fostered an atmosphere in New England whereby the respective organizations can communicate their particular expectations for and needs from the market. In addition to the establishment of the ISO-NE Board, the Participants Agreement sets forth a detailed Participants Process “intended to facilitate a collaborative process between the Governance Participants (Individual Participants and the NEPOOL Participants) and ISO to assist ISO in fulfilling its responsibilities as the RTO for New England.”¹⁶

¹³ Opinion of Commissioner Kelly, Wholesale Competition in Regions with Organized Electric Markets Docket Nos. RM07-19-000 and AD07-7-000, February 22, 2008.

¹⁴ ¶. 275

¹⁵ ¶. 277

¹⁶ See, Participants Agreement between ISO-NE, NEPOOL and Individual Participants, §10.

NEPGA maintains that the existing arrangements for interaction and governance between the various stakeholders and ISO-NE is a successful model for “(1) inclusiveness; (2) fairness in balancing diverse interests; (3) representation of minority positions; and (4) ongoing responsiveness.”¹⁷ NEPGA does not believe that the adoption of a stakeholder board is an acceptable option for New England. We agree strongly with Commissioner Kelly’s comments in her partial concurrence and dissent that hybrid boards jeopardize the independence of RTO Boards.¹⁸

CONCLUSION

NEPGA respectfully requests that the Commission consider its comments as submitted herein.

Respectfully submitted,



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Dated: April 21, 2008

¹⁷ ¶. 150.

¹⁸ See, Opinion of Commissioner Kelly