

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

ISO – New England, Inc.

Docket No. ER14-1409-000

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ANSWER OF THE NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.

Pursuant to Rule 213 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 answers the “Supplemental Protest” filed by the Eastern Massachusetts Consumer-Owned Systems (“EMCOS”) on September 5, 2014, in the above-captioned proceeding. As with each of its pleadings in this proceeding, EMCOS fails to raise any issue properly before the Commission, but instead simply repeats its vague and irrelevant allegations of “unilateral market power” and “market manipulation” without any factual basis for its claims. The Commission should therefore deny EMCOS’ Supplemental Protest.

I. ANSWER

ISO-New England’s (“ISO-NE”) Tariff requires it to file certain information after each Forward Capacity Auction (“FCA”) in order for the Commission to determine whether ISO-NE followed its Tariff in administering the FCA. ISO-NE is “obligated solely to demonstrate that it conducted the FCA pursuant to its own market rules.”³ As NEPGA discussed in its April 29,

¹ 18 C.F.R. § 385.213 (2013).

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.*, 127 FERC ¶ 61,040 at P 28 (2009).

2014, Answer in this proceeding,⁴ in each Commission FCA results filing order⁵ the Commission has repeated the extent of its review, most recently in its order on the FCA 6 Results Filing stating that “ISO-NE is required to file the results of each FCA with the Commission, and we must evaluate the filing to determine whether ISO-NE conducted the FCA in accordance with its [Forward Capacity Market (“FCM”)] rules.”⁶ Because EMCOS raises no credible question of whether ISO-NE properly applied the FCM rules the Commission has found to be just and reasonable, its Supplemental Protest should be denied.

ISO-NE conducted FCA 8 according to the FCM rules, and the Commission has found those rules to be just and reasonable. Given this history, EMCOS must resort to challenging the justness and reasonableness of the FCM rules – which EMCOS styles as a “waiver” request. EMCOS’ challenge of the FCM rules is a collateral attack on prior Commission orders, in that EMCOS is asking the Commission to find that the FCM rules, found just and reasonable by the Commission and executed according to their terms by ISO-NE, caused unjust and unreasonable rates. EMCOS’ challenge to the FCA 8 results is therefore, “in essence, [an] attempt to re-litigate the Commission’s original acceptance of those markets rules,”⁷ and should be denied.

EMCOS bases its request for relief on vague assertions of “market manipulation” and “unilateral market power.” As support for its claims, EMCOS casually refers to the non-public version of ISO-NE’s July 16, 2014, response (“ISO-NE Response”) to the Commission’s Office of Energy Market Regulation June 27, 2014, letter to ISO-NE in this proceeding, but fails to explain with any amount of specificity how ISO-NE’s Response supports EMCOS’ claims. For

⁴ Motion for Leave to Answer and Answer of the New England Power Generators Association, Inc., and the Electric Power Supply Association, at 2-5, Docket No. ER14-1409-000 (April 29, 2014).

⁵ For FCA 7, the Commission did not issue an order on the results filing. Instead, the Commission’s Office of Energy Market Regulation issued a letter accepting for filing the ISO’s FCA 7 Results Filing, based on the ISO’s explanation that it “conducted the seventh FCA in accordance with its Commission-approved Tariff.” *Office of Energy Market Regulation Letter to ISO-New England, Inc.*, Docket No. ER13-992-000 (June 11, 2013).

⁶ *ISO-New England, Inc.*, 140 FERC ¶ 61,143 at P 23 (2012).

⁷ 127 FERC ¶ 61,040 at P 30.

example, EMCOS simply claims that two market participants “appear to have exercised unilateral market power,”⁸ without citing to or discussing any information included in ISO-NE’s Response. EMCOS also repeats its prior claims that Brayton Point’s retirement was an act of “market manipulation,” without any discussion or supporting evidence in ISO-NE’s Response or from elsewhere. EMCOS’ failure to provide any evidence to support its claims cannot be excused by the confidential nature of the non-public information in ISO-NE’s Response, as EMCOS was free to discuss at any length the non-public information in a non-public version of its Supplemental Protest.⁹

It is upon this complete lack of evidentiary basis EMCOS asks the Commission to reverse the results of FCA 8 which, according to ISO-NE, was conducted in full compliance with the FCM rules the Commission has found to be just and reasonable. To the extent that the issues EMCOS raises are properly before the Commission in this proceeding, EMCOS provides no factual argument supporting its claims and its Supplemental Protest should therefore be denied.

⁸ EMCOS Supplemental Protest at 2.

⁹ Order Requiring Production of Protected Material Pursuant to a Non-Disclosure Agreement, at 10-11, Docket No. ER14-1409 (August 21, 2014). To date, NEPGA has not received notice that EMCOS filed with the Commission a non-public version of its Supplemental Protest.

II. Conclusion

For the reasons stated herein, NEPGA respectfully requests that the Commission deny the Eastern Massachusetts Consumer-Owned Systems' Supplemental Protest.

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, September 10, 2014.

/s/ Bruce Anderson

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