

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

**ISO-New England Inc.**

**New England Power Pool  
Participants Committee**

**Docket Nos. ER14-2407-000, -001**

**MOTION TO INTERVENE AND COMMENTS OF THE  
NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.  
AND ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”)<sup>1</sup>, and in accordance with the Commission’s Combined Notice of Filings #1, dated July 11, 2014, and July 14, 2014, the New England Power Generators Association, Inc. (“NEPGA”) and Electric Power Supply Association (EPSA)<sup>2</sup> hereby file this Motion to Intervene and Comments in response to ISO New England, Inc.’s (“ISO-NE”) and the New England Power Pool Participants Committee’s (“NEPOOL”) joint filing on July 11, 2014, in the above-captioned dockets. For the second consecutive winter, ISO-NE and NEPOOL jointly propose an administrative out-of-market mechanism in lieu of a market-based mechanism that could allow for the economic pricing of ISO-NE system reliability. The Commission approved Tariff changes for last winter (the “2013 Program”) for a limited period of time only, explaining its preference for market-based mechanisms to address future winter reliability needs but that the urgency of the reliability need compelled Commission approval.<sup>3</sup> Given that a year

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<sup>1</sup> 18 C.F.R. §§ 385.214 (2013).

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

<sup>3</sup> *ISO New England Inc., et al.*, 144 FERC ¶ 61,204 at P 42 (2013), *order on reh’g*, 147 FERC ¶ 61,026, at P 5 (2014).

later the Commission is again asked to approve an out of market mechanism, NEPGA and EPSA respectfully request that the Commission order the ISO to commence, within 60 days of the Commission's order in this proceeding, the NEPOOL stakeholder process to develop Tariff changes, and to within 180 days of the order file Tariff changes for effect beginning in winter 2015/2016 providing for a market-based, resource-neutral, economically efficient pricing of ISO-NE's system reliability needs.

### **I. Motion to Intervene and Communications**

NEPGA is a private, non-profit trade association advocating for the business interests of competitive electric power generators in New England. NEPGA's member companies represent approximately 26,000 megawatts of installed capacity throughout the New England region. NEPGA's mission is to promote sound energy policies which will further economic development, jobs, and balanced environmental policy. 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 capacity and 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.

EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for nearly 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities serving global power markets. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any

particular member with respect to any issue. As active participants in the ISO-NE capacity and wholesale electricity markets, EPSA'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.

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

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## **II. Comments**

ISO-NE and NEPOOL ask the Commission to approve the Winter Reliability Program ("2014 Program"), a series of Tariff changes intended to: (1) create incentives for generation resources to commission or re-commission dual-fuel capability; (2) compensate resources for the carrying costs of unused oil inventory or firm liquefied natural gas contract entitlements based on administratively set payment rates ("Carrying Cost Proposal"); and (3) compensate certain demand response resources.<sup>4</sup> As was the case with the 2013 Program, the Carrying Cost Proposal is an out-of-market mechanism, available only to certain resource types, in lieu of Tariff changes that allow for the market to signal the economically efficient price of system

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<sup>4</sup> ISO-NE and NEPOOL Transmittal Letter at pp. 10-16, Docket No. ER14-2407 (filed July 11, 2014) ("ISO-NE and NEPOOL Transmittal Letter").

reliability. In approving the 2013 Program, however, the Commission opined that market-based solutions are generally preferable and encouraged the ISO to propose a market-based mechanism to address any lack of market compensation to meet ISO-NE's winter 2014/2015 system reliability needs.<sup>5</sup> The Commission's approval of the 2013 Program was accordingly "focused on a short-term solution for the coming winter," and should not have been construed as an invitation for the ISO and NEPOOL to propose another out of market mechanism to address winter 2014/15 system reliability needs.<sup>6</sup>

Though changes to the Tariff may be necessary to ensure system reliability for the winter 2014/2015 season, and there may be little that can be done to alter the 2014 Program at this late date, NEPGA and EPSA disagree with certain aspects of the 2014 Program, including that the primary objective of such changes should be to incent incremental fuel supplies.<sup>7</sup> With that goal in mind, rather than system reliability, the ISO may exclude certain resource types because "it is difficult to identify additional fuel requirements for these types of resources."<sup>8</sup> Excluding certain resource types<sup>9</sup> from competing to satisfy what should be and in fact is the actual goal of the Tariff changes, *i.e.*, system reliability, interferes with the ability to find the efficient price to meet that goal. The most efficient, market-based and cost effective mechanism to meet reliability concerns is to set a fuel-neutral energy production standard, with meaningful availability criteria, allowing any resource that can meet the product definition to do so. The ISO and NEPOOL

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<sup>5</sup> *ISO New England Inc., et al.*, Order Conditionally Accepting Tariff Revisions, 144 FERC ¶ 61,204 at PP 42, 50 (2013) ("we expect that, with more advance planning, ISO-NE and stakeholders will be able to design a more inclusive, market-based program for future winters – as ISO-NE has stated it plans to do").

<sup>6</sup> *Id.* at P 43; *see also id.* at 54 (accepting compensation mechanism of the 2013 Program "given the urgency of the need to protect reliability, and the interim nature of the [2013 Program]").

<sup>7</sup> ISO-NE and NEPOOL Transmittal Letter at 9.

<sup>8</sup> *Id.*

<sup>9</sup> For example, the 2014 Program excludes coal, nuclear, and LNG resources, when the source of LNG is not directly connected to a gas pipeline.

should not continue to rely on out-of-market procurements that are now becoming an annual exercise to meet the ISO's system reliability needs.

Even for those resource fuel types eligible to participate in the 2014 Program, the Carrying Cost Proposal is not a clearing-price mechanism, or even an as-bid mechanism (as was the case in the 2013 Program), but an administratively fixed program payment rate, intended to reflect the carrying cost of some amount of fuel the resource procured to help the ISO-NE meet its system reliability needs. The 2013 Program at least had some of the characteristics of a market mechanism, in that the ISO procured approximately 2.0 million MWh of energy-equivalent oil inventory and demand response resources on an as-bid basis, creating resource-specific competition and some downward pressure on prices. The ISO's proposed short-term out of market fixes to New England's wholesale markets for winter 2014/15 have no such market characteristics and therefore represent an even further departure from market-based solutions.<sup>10</sup>

That the ISO felt compelled for a second consecutive year to propose a short-term out of market fix limited to a discrete set of resources is symptomatic of the failure of the ISO-NE markets to properly price the reliability services ISO-NE proposes to procure in the 2014 Program. Whether through capacity, reserve or energy markets, or all three, the ISO-NE markets should allow for proper price formation and send appropriate price signals to incent investment in the resources necessary to maintain system reliability.<sup>11</sup> ISO-NE is obligated to “administer[ ]

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<sup>10</sup> In addition, the ISO adopted an amendment to its original proposal offered by United Illuminating that measures the level of oil inventory eligible for the Program payment rate at a point in time two weeks after the resource has satisfied its obligations under the 2014 Program (inventory as of March 15 rather than March 1, the 2014 Program end date). Though the ISO's adoption of the amendment may serve to lower the eventual costs of the 2014 Program, it is irrational from a market design perspective to measure a resource for fuel used after the resource has satisfied its performance obligations.

<sup>11</sup> See *California Independent System Operator Corp.*, 142 FERC ¶ 61,248, at P 64 (2013) (“The Commission has previously affirmed the need to employ market-based tools to provide transparent and effective locational price signals to ensure reliability.”)

and seek[ ] to enhance sustainable, competitive and efficient energy markets in New England.”<sup>12</sup> The 2014 Proposal unfortunately represents a failure to achieve those goals through the markets, and the Commission should compel ISO-NE and NEPOOL stakeholders to remedy the root causes expeditiously in order to avoid future short-term, out of market fixes that interfere with market transparency and efficiency. The ISO expects that the FCM changes that are to take effect beginning with the Capacity Commitment Period commencing June 1, 2018,<sup>13</sup> (together with recent changes to the energy markets) will serve as the market solutions to ISO-NE’s winter reliability needs. Whether that occurs or not, four winters will come and go prior to the effective date of those FCM changes, during which time ISO should use a market-based mechanism rather than persistent out of market solutions.

With the Commission’s expectation of a market-based proposal unmet for winter 2014/2015, NEPGA respectfully asks that the Commission order ISO-NE to commence, within 60 days of the Commission’s order in this proceeding, the NEPOOL stakeholder process to consider Tariff changes to take effect for the 2015/2016 winter season and thereafter reflecting a market-based, resource-neutral mechanism that allows for the identification of the economically efficient price for ISO-NE system reliability, rather than a third consecutive out of market proposal, and to file such Tariff changes with the Commission within 180 days of the Commission’s order.

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<sup>12</sup> ISO-NE Agreements and Contracts, Participants Agreement, Preamble at p. 5; *see also* ISO-NE Transmission, Markets and Services Tariff, at § I.1.3(b) (ISO-NE mission is to, among other obligations, “create and sustain open, non-discriminatory, competitive, unbundled markets for energy, capacity, and ancillary services (including Operating Reserves) that are (i) economically efficient and balanced between buyers and sellers, and (ii) provide an opportunity for a participant to receive compensation through the market for a service it provides in a manner consistent with proper standards of reliability and the long-term sustainability of competitive markets.”).

<sup>13</sup> ISO-NE and NEPOOL Transmittal Letter at 5.

### III. Conclusion

Wherefore, NEPGA and EPSA respectfully request that the Commission grant NEPGA's and EPSA's Motion to Intervene and order ISO-NE to commence, within 60 days of the Commission's order in this proceeding, the NEPOOL stakeholder process to develop a market-based, resource-neutral mechanism to accomplish the reliability goals that the Winter Reliability Program is intended to meet, and to file Tariff changes defining such mechanism within 180 days of the Commission's order.

Respectfully Submitted,

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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, August 1, 2014.

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