

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

ISO-New England Inc.

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Docket No. ER13-356-000

**RESPONSE OF THE NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.
TO ISO NEW ENGLAND, INC.’S REQUEST FOR CLARIFICATION**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.212, the New England Power Generators Association, Inc. (“NEPGA”)¹ hereby submits a short response to the Chief Judge’s December 14, 2012 “Order of the Chief Judge Terminating Settlement Judge Procedures,” and to the clarification contained in ISO New England, Inc.’s (“ISO-NE”) December 19, 2012, “Request for Expedited Rehearing and Clarification.” (“ISO-NE Clarification”).

I. Comments

As stated in its earlier pleading, NEPGA strongly supports ISO-NE’s efforts to maintain reliable service in New England. NEPGA respects the concerns raised by ISO-NE that it needs to share information with various pipelines serving the New England service territory. While NEPGA sees nothing in the ISO-NE Clarification that would warrant the Commission reversing its prior decision, NEPGA and its members wish to work towards a solution on an expedited basis. In this spirit and in light of the concerns expressed by ISO-NE in its Clarification filing, NEPGA recommends that the Commission allow sharing of confidential information per the Non-Disclosure Agreement, subject to the following conditions:

¹ The comments expressed herein represent those of NEPGA as an organization, but not necessarily those of any particular member.

1. Allow the Non-Disclosure Agreement proposed by ISO-NE to go into effect for the winter period, without prejudice to parties' future litigation positions.

Allowing the Non-Disclosure Agreement to go into effect on a temporary or sunset basis through the end of March 2013 will resolve ISO-NE's immediate concerns over reliability of the gas supply this coming winter. It will also allow further discussions within the region and with the Commission to take place between now and next winter to evaluate whether information sharing is necessary, and if so, what protections should be afforded generators' legitimate concerns over the confidentiality of their proprietary commercial data.

2. Require ISO-NE to notify market participants when their confidential information is shared and a brief summary of the information disclosed.

NEPGA recommends that the Commission impose a disclosure requirement on ISO-NE to notify market participants in a reasonably short timeframe, e.g., within 24 to 48 hours, and to provide a summary regarding the substance of any sharing of proprietary commercial information between ISO-NE and the pipelines that takes place. In situations when unknown proprietary information may be shared, transparency is a key. Such a requirement will give the generator community appropriate comfort regarding the scope of the information sharing program without imposing any undue burdens on ISO-NE or pipeline operational personnel. As the New England market has operated well for years with the sharing of aggregated generator data, transparency regarding generator-specific information would seem to be the *quid pro quo* for the generators to agree to not insist on third party beneficiary rights during this winter period. A better understanding of the scope of the sharing, including its frequency and the extent of the information shared, will also give all parties a better understanding of the underlying issues for further discussions after March 31, 2012.

3. Adopt limits on the sharing of information with pipelines to periods when such sharing is operationally necessary.

In the ISO-NE Clarification, ISO-NE expresses the intent to only share generator's confidential and proprietary information under very limited circumstances; i.e., when, in ISO-NE's reasonable discretion, the sharing of such information is necessary.² This condition will limit the routine disclosure of sensitive and proprietary commercial data to periods when there is an imperative to share such information. NEPGA recommends that the ISO-NE be required to identify those periods to market participants, whether in real-time if practicable or in a reasonably short timeframe thereafter, *e.g.*, within 24 to 48 hours. The potential for misuse of confidential information is of course greater the farther from real-time in which the information is shared.

II. Conclusion

Wherefore, NEPGA respectfully requests that the Commission approve ISO-NE's proposal to allow the Non-Disclosure Agreement to go into effect, subject to the conditions discussed above.

Respectfully Submitted,

/s/ Bruce Anderson

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² See ISO-NE Clarification, at p. 6.

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, December 26, 2012.

/s/ Bruce Anderson _____

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