

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

**ISO New England, Inc. and
New England Power Pool, Inc.**

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Docket No. ER12-229-000

**MOTION TO INTERVENE AND PROTEST OF
THE NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.**

Pursuant to Sections 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.211 and 214, and in accordance with the Commission’s Combined Notice of Filing dated October 31, 2011, the New England Power Generators Association, Inc. (“NEPGA”)¹ hereby files this Motion to Intervene and Protest of the ISO New England, Inc. (“ISO-NE”) October 28, 2011, filing of revisions to Schedule 2 of the ISO-NE Open Access Transmission Tariff (“OATT”) related to the calculation of the Base Capacity Cost (“CC”) Rate paid to Qualified Reactive Resources (“QRRs”) for providing reactive supply and voltage support (“VAR service”) necessary to maintain the reliability of the New England Transmission System. The ISO-NE proposes to keep the current rate of \$2.19/k-VAR-year unchanged and requests an effective date of January 1, 2012 (“ISO-NE proposal”).

The ISO-NE proposal is unjust and unreasonable and should be rejected by the Commission. As discussed further below, effective January 1, 2012, the CC Rate should in fact be escalated in order to maintain at least the same level of compensation value as provided under the rate established in 2006. Aside from offsetting the decreased compensation resulting from inflation impacts, QRR providers face increased costs but are compensated at a rate that is low

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

relative to the rates applicable for generators providing a comparable service in similar regional markets.

I. MOTION TO INTERVENE

A. Communications

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

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B. Intervention

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 27,000 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. As active participants in the ISO-NE day-ahead and real-time markets, and providers of VAR service, NEPGA's member companies have substantial and direct interests in the outcome of this proceeding, and those interests cannot be adequately represented by any other party in the proceeding.

II. BACKGROUND

A. The Base Capacity Cost Rate

Between 1998 and 2001, following the restructuring of the electricity industry in New England, the New England Power Pool, Inc. (“NEPOOL”) developed an initial VAR CC Rate for merchant generators, a service which was previously included as a rate-base charge by vertically-integrated utilities who owned the generation in the region. The initial CC Rate of \$0.90/kVAR-year beginning in 2001 and escalating annually by \$0.05/kVAR-year through 2004 was established based upon a negotiated discount to the weighted average of \$1.38/kVAR-year for the carrying costs of equipment, which had previously been owned by vertically-integrated utilities in New England, necessary to provide reactive supply and voltage support.² The Commission approved the NEPOOL-filed rate by letter order on June 28, 2001.³

In early 2005, NEPOOL formed the VAR Compensation Working Group which was tasked with re-evaluating the CC Rate and analyzing whether an update from the then-effective rate of \$1.05/kVAR-year was appropriate. Because New England generators did not necessarily maintain their plant financial data in accordance with FERC’s standard System of Accounts and wanted to avoid having to disclose competitively sensitive information related to the costs of their generation units, information was not made available on the cost for providing VAR service for units built after 1998. Due to the limited available cost data, ISO-NE used available FERC-approved data from combined-cycle gas-fired generators located in PJM Interconnection, LLC (“PJM”) and the Midwest Independent Transmission System Operator, Inc. (“MISO”), as well as available data from New England generating resources prior to 1998 (“pre-market”). Using a weighted average of one-third PJM/MISO unit information, reflecting the roughly 10,000MW of

² See *New England Power Pool*, submittal of Seventy-Third Agreement, Docket No. ER01-2161-000 (filed May 29, 2001)

³ See <http://www.iso-ne.com/regulatory/ferc/orders/2001/jul/er012161.00a.doc>

new combined cycle capacity that had been added in the region, and two-thirds pre-market data, NEPOOL and ISO-NE determined that the CC Rate should be increased to \$2.32/kVAR-year. On December 29, 2006, ISO-NE and NEPOOL Participants Committee jointly filed Amendments to Schedule 2, including the proposed CC Rate of \$2.32/kVAR-year.⁴

On February 28, 2007, the Commission issued an order approving all of the filed Schedule 2 Amendments, with the exception of the proposed CC Rate of \$2.32/kVAR-year.⁵ The rejection of the CC Rate eventually resulted in months of settlement negotiations and a subsequent Settlement Agreement filed on September 17, 2007.⁶ The Settlement Agreement established the current CC Rate of \$2.19/kVAR-year, effective June 1, 2007. The Settlement Agreement also mandated that a review of the settled rate be completed by ISO-NE by July 1, 2011, to determine whether a change in the compensation for the CC Rate would be necessary, effective January 1, 2012. Although Schedule 2 of the ISO-NE OATT outlines a cost allocation methodology of costs for providing VAR service which includes four components, the required review was limited to the CC Rate component. On January 25, 2008, the Commission issued an order approving the Settlement Agreement.⁷

B. ISO-NE Stakeholder Process

In accordance with the January 25, 2008 Order, ISO-NE first provided an overview of its intended review of the CC Rate at the May 24, 2011 NEPOOL Transmission Committee (“TC”) meeting. On June 7, 2011, ISO-NE staff held a call with NEPGA members to discuss the intended review and requested that any data supporting an increase in the Base CC Rate be

⁴ See *ISO New England Inc. and New England Power Pool Participants Committee*, Docket No. ER07-397-000 (filed December 29, 2006)

⁵ See *ISO New England Inc. and NEPOOL Participants Committee*, 118 FERC ¶ 61,163 (2007)

⁶ See *ISO New England Inc. and NEPOOL Participants Committee*, Docket No. ER97-397-000 (filed September 17, 2007)

⁷ See *ISO New England Inc. and NEPOOL Participants Committee*, 122 FERC ¶ 61,056 (2008)

submitted by June 9, 2011. A response proposing an inflation-adjusted CC Rate of \$3.26/kVAR-year using the Handy-Whitman Index of Public Utility Construction Costs (“Handy-Whitman Index”) to appropriately cover the costs of providing VAR service was promptly provided to ISO-NE on behalf of GenOn Energy (“GenOn proposal”).

ISO-NE presented the results of its internal review of the current CC Rate at the June 28, 2011 TC meeting, noting that some stakeholder feedback indicated that the current CC Rate does not compensate generators appropriately and should be increased to ensure that VAR costs and the risks of testing would be covered. ISO-NE referenced the GenOn proposal and additional stakeholder feedback which cited the higher compensation for VAR service in PJM and the New York Independent System Operator (“NYISO”).

On July 7, 2011, ISO-NE distributed a formal survey to stakeholders, requesting that cost data associated with the capability necessary to providing reactive service and voltage support under Schedule 2 be provided within a two-week timeframe. Although a representative of Exelon Generation Company, LLC and Granite Ridge Energy, LLC expressed particular concern with the short timeframe given to complete the survey, ISO-NE denied a request for extension.⁸ At the August 30, 2011 TC meeting, ISO-NE presented its proposal to carry forward the current CC Rate, citing limited cost data from the survey supporting an increase.

ISO-NE requested a vote on its proposed revisions to Schedule 2 at the September 28, 2011 TC meeting. Prior to the vote on the ISO-NE resolution, the TC was asked to consider an amendment from EquiPower Resources Management, LLC (“EquiPower”) which sought to adjust the 2006 CC Rate for 2012 and subsequent years based on indexed inflation since 2006

⁸ See http://www.iso-ne.com/committees/comm_wkgrps/trans_comm/tariff_comm/mins/index.html, 6/28/2011 TC Meeting Minutes at p. 9-10

with similar escalation annually thereafter using the same index.⁹ Both ISO-NE's resolution regarding its proposed revisions to Schedule 2 and the EquiPower motion to amend the ISO-NE proposal failed to pass at the September 28, 2011 TC meeting, as well as at the October 14, 2011 NEPOOL Participants Committee. Despite failing to gain the approval of NEPOOL, ISO-NE filed its proposal to maintain the current 2006 CC Rate, with no adjustment for inflation, on October 28, 2011.

III. PROTEST

The ISO-NE filing is unjust and unreasonable. The VAR CC Rate is, by definition, intended to pay for the fixed capital costs and maintenance associated with providing reactive capability.¹⁰ Accordingly, the current CC Rate was settled with the presumption that, upon its review, it would be increased to more accurately reflect the costs for providing VAR service at the end of the settlement term by taking into account the costs for all VAR-capable units at that time. Because the ISO-NE proposal fails to adjust the CC Rate relative to inflation faced by all segments of the economy, ISO-NE has effectively proposed to compensate QRRs a rate below the 2006 compensation without providing any justification for doing so. ISO-NE's filing falls short of appropriately compensating QRRs for providing a service which is vital to the reliability of New England's transmission system, and should be rejected by the Commission.

⁹ See http://www.iso-ne.com/committees/comm_wkgrps/trans_comm/tariff_comm/actions/2011/9_28_tc_actions.doc ("EquiPower Amendment"). The EquiPower Amendment was moved and seconded to amend the main motion to reflect EquiPower's proposed changes to Section IV.A.4 of Schedule 2, Section II – Open Access Transmission Tariff ("OATT") of the Transmission, Markets and Services Tariff to reflect the following:

4. The "Base CC Rate" shall be [\$2.19/kVAR-yr adjusted for the change in Producer Price Index – Electric Power Generation series published by the Bureau of Labor Statistics, from the period from June 1, 2007 through January 1, 2012]* effective January 1, 2012 and then adjusted every January 1 thereafter for the prior-year's change in the same index.

¹⁰ See *ISO New England Inc. and NEPOOL Participants Committee*, 118 FERC ¶ 61,163 (2007) at p. 3-4.

A. The Proposed Revisions to Schedule 2 are Unjust and Unreasonable

The Commission states that the VAR CC payment “is designed and intended to compensate qualified resources for their fixed capital costs related to the installation and maintenance of equipment necessary to provide reactive power.”¹¹ It goes without saying that the cost of “installation and maintenance” of virtually all generating equipment has increased over the years, making revisions to the CC Rate necessary as time goes on. In situations like this, where it may be difficult to ascertain the exact amount of the costs of the service, it is an accepted practice to use industry-specific escalators, designed to reflect those changes. Because the CC Rate is a proxy rate determined from industry-wide cost data, not unit-specific data, inflationary adjustments are particularly appropriate as the CC Rate must account for the current cost to all units providing VAR service.

The use of escalators to annually adjust proxy rates is widely accepted practice, with a longstanding history in New England, as evidenced by past FERC-approved CC Rate reviews¹² as well as the ISO-NE Internal Market Monitoring Unit’s current proposal¹³ to utilize the year-over-year percentage changes in the Producer Price Index to escalate the proxy-based and resource-specific Offer Review Trigger Prices to comply with the Commission-ordered minimum offer price review form of price mitigation in the Forward Capacity Market.¹⁴ Further, ISO-NE has also included annual adjustments in accordance with the Handy-Whitman Index within its proposed tariff language for Blackstart Compensation under Schedule 16.¹⁵ Building on this well-established precedent, the EquiPower Amendment proposed to adjust the 2012 Base

¹¹ See *ISO New England Inc. and NEPOOL Participants Committee*, 118 FERC ¶ 61,163 (2007) at p.3-4

¹² See *New England Power Pool*, submittal of Seventy-Third Agreement, Docket No. ER01-2161-000 at p. 7-8 (filed May 29, 2001)

¹³ See http://www.iso-ne.com/committees/comm_wkgrps/mrks_comm/mrks/mtrls/2011/nov9102011/index-p1.html, “MR 1 Appendix A Redlined 10-18-11 Revision 1” at Section IIIA.21.1.2

¹⁴ See *ISO New England Inc. and NEPOOL Participants Committee*, 135 FERC ¶ 61,029

¹⁵ See http://www.iso-ne.com/committees/comm_wkgrps/trans_comm/tariff_comm/mtrls/2011/nov42011/, “Blackstart Tariff Revisions” at Section 5.1.1.6.

CC Rate in accordance with the Producer Price Index- Electric Power Generation Series published by the U.S. Bureau of Labor Statistics (“PPI”) since 2007. The EquiPower Amendment also included an annual escalator, beginning in 2013, consistent with any change in the prior year’s PPI. The use of the PPI in this case is appropriate as it directly tracks the escalating cost of power generation equipment and can assist in determining what the applicable capital costs for providing VAR-service are. NEPGA urges the Commission to include the EquiPower Amendment, or a similar inflation mechanism, in its determination.

At the very least, it is clear from any reasonable assessment that the value of a dollar in 2012 is not the same as a dollar in 2006 when the current rate was settled. ISO-NE failed to show that the 2006 CC Rate continues to be just and reasonable. Moreover, ISO-NE’s refusal to include an escalator applicable to “capital costs related to the installation and maintenance of equipment necessary to provide reactive power” (cited above) in its proposed CC Rate is contradictory to other practices and unjust and unreasonable.

B. The Rate Review for Revisions to Schedule 2 Failed to Account for all Variables

The 2006 CC Rate calculation was based in part on the mix of VAR-capable resources in the market at that time. Because new generation has come online and older units have retired since the CC Rate was settled, the mix of VAR-capable resources in the market has changed. Accordingly, the rate should have been updated to reflect this change in resource mix. In addition, VAR testing and compliance requirements have increased since the 2006 rate filing due to changes in ISO-NE and the North American Electric Reliability Corporation (“NERC”) rules. While surveyed generators were unable to provide specific data identifying cost increases to ISO-NE, due largely to time restrictions and the fact that these costs are not separately tracked, it is clear that costs to meet the additional regulatory requirements have increased.

C. A Lack of Unit-Specific Data Does Not Mean Costs Have Not Increased

The CC Rate for QRRs has historically been increased following a rate examination, despite prior instances where limited cost data for New England generators has been available.

However, following its review of the current CC Rate, ISO-NE determined that:

the current, negotiated Base CC Rate of \$2.19/kVAR-year is still appropriate and should be continued. The main conditions that prevailed during the Base CC Rate development and negotiations in 2006-2007 have not significantly changed, and - based on limited cost data provided for New England generators - that the annual compensation under the current, negotiated Base CC Rate appears to be sufficient to cover the reported capital and O&M costs of providing VAR Service.¹⁶

ISO-NE's assertion that the current CC Rate should carry over into 2012 based on limited cost data provided by generators in New England is misleading. Competitive generators do not generally follow the Uniform System of Accounts, and the cost of providing VAR service is not generally tracked as a separate accounting item. Because many generators do not track these specific costs, only limited unit-specific data is ever available. However, the fact that ISO-NE collected limited unit-specific data does not constitute evidence that costs to provide VAR service have not changed – or indeed have gone down in real terms – since 2006, as suggested by ISO-NE's filing.

D. The Proposed Schedule 2 Base CC Rate is Substantially Lower than Other RTOs/ISOs

The Commission has approved CC compensation in PJM and NYISO at levels far above New England's current rate. In fact, the disparity between compensation in New England when compared to PJM and NYISO is such that, even if inflationary adjustments were applied to the current CC Rate, New England generators would still be compensated at a much lower rate than generators in other RTOs providing the exact same service.

¹⁶ See ISO New England Filing Letter at p. 8

Consider the following analysis¹⁷ provided by GenOn Energy in response to ISO-NE's request for information supporting a change in the CC Rate:

In comparison to ISO-NE, the VAR compensation rate under the NYISO tariff accepted by the FERC is \$3.919/kVAR-year and is paid on the gross VAR capability of each eligible unit, as compared to the lower net VAR capability which is the basis for payment in New England. If lagging VAR losses average about 23%, as they have in New England, the NYISO VAR capability rate would have to be grossed up to \$5.09/kVAR-year in order to be directly comparable to the \$2.19/kVAR-year rate paid in ISO-NE.

Additionally, PJM's Schedule 2 VAR capability compensation annual revenue requirement accepted by the FERC is \$245,258,310 for generation with a total summer installed capability of 167,326 MW. Assuming a comparable mix of generation resources as in New England, the PJM VAR capability compensation revenue requirement, as accepted by FERC, equates to an average VAR rate (on a net basis) of about \$3.65/kVAR-year.

It is clear from this analysis that based upon the Commission-approved compensation for VAR service in NYISO and PJM, ISO-NE's proposed CC Rate is unreasonably low and there is nothing unique about the ISO-NE region that would dictate such disparate compensation for generators providing the same service. NEPGA urges the Commission to consider this cost disparity between RTOs when ruling on ISO-NE's filing.

IV. Conclusion


As set forth above, ISO-NE's October 28, 2011 filing of proposed revisions to the Schedule Base Capacity Cost Rate is unjust and unreasonable. NEPGA requests that the Commission reject the ISO-NE proposed revisions and direct ISO-NE to adjust that 2006 era rate for inflation.

¹⁷ See http://www.iso-ne.com/committees/comm_wkgrps/trans_comm/tariff_comm/mtrls/2011/jul26272011/a7_memo_re_generator_cc_rate_proposal.pdf, GenOn Base CC Memorandum at p. 2

WHEREFORE, NEPGA moves to intervene in this proceeding and requests that its Protest be considered and ISO-NE's filing be rejected by the Commission in this proceeding. NEPGA further moves to have an inflationary adjustment included as part of the CC Rate.

Respectfully submitted,

**NEW ENGLAND POWER
GENERATORS ASSOCIATION, INC.**

By: _____

Dan Dolan
President
New England Power Generators
Association, Inc.

Dated: November 18, 2011

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that on this day I have served the foregoing Motion to Intervene and Protest via e-mail to each person on the Commission's official service list.

Dated at Washington, D.C. this 18th day of November, 2011.

