

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

ISO New England Inc.	) ) )	Docket No. ER14-2440-000
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**COMMENTS OF THE NEW ENGLAND STATES COMMITTEE ON ELECTRICITY**

Pursuant to the Federal Energy Regulatory Commission’s (“Commission”) July 16, 2014 Notice of Filings #1, the New England States Committee on Electricity (“NESCOE”) hereby files comments in the above-captioned proceeding.<sup>1</sup> This proceeding concerns proposed Tariff changes related to the rules governing the Forward Capacity Market (“FCM”), the region’s market for ensuring resource adequacy.<sup>2</sup> On July 16, 2014, ISO New England Inc. (“ISO-NE”) filed Tariff revisions pursuant to Section 205 of the Federal Power Act that would permit a new capacity resource, under certain circumstances, to seek a one-year deferral to the start of its Capacity Supply Obligation (“CSO”) (“July 16 Filing”).

NESCOE supports the proposed Tariff revisions as a necessary accommodation to address a resource adequacy issue with implications for system reliability.<sup>3</sup> In addition, this proceeding raises questions regarding whether 39 months is the appropriate planning process schedule for new resources to be developed and reach commercial operation in accordance with their CSO. NESCOE supports additional stakeholder process regarding the appropriate timeline, informed by experience since the implementation of the FCM.

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<sup>1</sup> NESCOE filed a Motion to Intervene in this proceeding on July 21, 2014.  
<sup>2</sup> Capitalized terms not defined in this filing are intended to have the meaning given to such terms in the ISO New England Inc. Transmission, Markets and Services Tariff (“Tariff”).  
<sup>3</sup> The State of Maine, through its NESCOE Manager, does not participate in this filing.

## I. Communications

Pursuant to Rule 203,<sup>4</sup> the persons to whom correspondence, pleadings, and other papers in regard to this proceeding should be addressed and whose names are to be placed on the Commission's official service list are designated as follows:

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## II. Comments

### A. NESCOE Supports the Proposed Tariff Revisions that would Permit New Capacity Resources, in Limited Circumstances, to Defer the Start of their CSO

For many of the same reasons articulated by ISO-NE in the July 16 Filing and in comments filed on this date by the Massachusetts Department of Public Utilities ("MA DPU"),<sup>5</sup> NESCOE supports the proposed Tariff revisions granting resources, under a specific and limited set of circumstances, a one-year deferral of its CSO. According to ISO-NE, "the approximately three-and-a-half year planning period between the [Forward Capacity Auction] and the associated Capacity Commitment Period may not be sufficient to ensure that participants are able to permit, finance and construct a new power plant by the start of the relevant commitment period."<sup>6</sup> Under the current FCM rules, a new capacity resource that has not reached commercial

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<sup>4</sup> 18 C.F.R. § 385.203 (2012).

<sup>5</sup> Notice of Intervention and Comments of the Massachusetts Department of Public Utilities (Filed August 6, 2014), Docket No. ER14-2440 ("MA DPU Comments").

<sup>6</sup> July 16 Filing, at 4.

operation by the time its CSO begins must cover its obligation by procuring replacement capacity through the Annual Reconfiguration Auctions or through CSO Bilaterals.<sup>7</sup> However, a situation has arisen where a certain new capacity resource that ISO-NE identifies as “very likely needed for reliability” will not be commercial in time to meet its CSO and absent a deferral to the start of its CSO, this resource “may not be able to become commercial.”<sup>8</sup> According to ISO-NE, “potential alternatives would become commercial much later” and “from a reliability perspective and to support a resource selected through the primary market process established to ensure resource adequacy, it is preferable to ensure that a new resource with a CSO can become commercial as soon as possible.”<sup>9</sup>

The ISO-NE proposal is a fairly significant change to the market rules put forward in response to pressing reliability concerns. However, given the deadline for consideration established by ISO-NE, along with other pressing issues before the relevant NEPOOL committees,<sup>10</sup> there was relatively limited ability for the stakeholder process to discuss alternative responses to the issues identified by ISO-NE. This concern is heightened when, as is the case here, there would be a retroactive application of the rules.

In determining whether to support the ISO-NE proposal, NESCOE must balance the potential impacts on reliability, the integrity of the market rules, and importantly, the costs to consumers. The potential impacts on reliability and cost to consumers absent any action provides adequate justification for NESCOE to support the ISO-NE proposal, despite concerns with the process of achieving the end result.

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<sup>7</sup> See Market Rule 1, Section III.13.3.4.

<sup>8</sup> July 16 Filing, at 4.

<sup>9</sup> July 16 Filing, at 4.

<sup>10</sup> These include the 45-day compliance deadline associated with the Commission’s May 30, 2014, “Pay for Performance” Order in Docket ER14-2419 and ISO-NE’s proposed Winter Reliability Program recently filed in Docket ER14-2407.

The MA DPU is filing separately in support of the July 16 Filing as necessary for reliability.<sup>11</sup> The MA DPU is reassured that elements of ISO-NE’s proposal and existing procedural safeguards adequately address the risk of unintended consequences associated with a one-year CSO deferral. These elements include:

- An ISO-NE determination of need for reliability in two consecutive Capacity Commitment Periods limits eligibility for the deferral;
- The requirement that the resource seeking a deferral must demonstrate that the reason for delayed commercial operation was beyond the control of the resource and would be subject to the Commission’s approval;
- The opportunity for stakeholders to comment in such a proceeding, ensuring that the Commission will have a full record upon which to make a case by case determination; and
- ISO-NE will still have the right to terminate the resource’s CSO and address the reliability issue through other means.

NESCOE agrees with ISO-NE and the MA DPU that the ability of a resource to seek a one-year deferral of its CSO is the preferable approach, especially in light of limiting elements of the proposal. Further, the opportunity to secure a deferral in the start of a resource’s CSO is consistent with recent reforms, notably the Commission’s recent approval of the extension of the price “lock-in” period.<sup>12</sup> In order to “address the New England region’s current capacity shortage and investor perceptions regarding risk,”<sup>13</sup> deferring the start of a new resource’s CSO, where that resource has elected for the multi-year price lock-in, allows the resource to maintain the period of time during which capacity revenues may be forecasted with certainty. This additional revenue certainty is necessary in a limited set of circumstances that delay operation of a critical resource and are beyond an owner’s control, so that resource can secure financing and

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<sup>11</sup> MA DPU Comments, at 4-5.

<sup>12</sup> *ISO New England Inc and New England Power Pool Participants Committee*, 147 FERC ¶ 61,173 (May 30, 2014) (“May 30 Order”), at P 54 *et seq.*

<sup>13</sup> May 30 Order, at P 57.

help the region address “the real risk of lack of investment when new capacity is needed and a high reliance on merchant entry.”<sup>14</sup>

**B. NESCOE Supports Additional Stakeholder Process Regarding Whether 39 Months is the Appropriate Schedule for New Capacity Resources to Reach Commercial Operation**

In the July 16 Filing, ISO-NE acknowledges that the “incentives for meeting a CSO beginning with [FCA 9]” have “fundamentally changed.”<sup>15</sup> Accordingly, and in light of other market rule changes approved by the Commission, ISO-NE “will commence a stakeholder process to consider the prospective need for [Tariff changes allowing for a one-year CSO deferral] and whether other steps (such as changing the length of the planning period) are appropriate.”<sup>16</sup> NESCOE has heard from some stakeholders that an increase in the deadline to achieve commercial operation could adversely impact resources with shorter planning periods such as energy efficiency and active demand response. Such an outcome would be a concern for states; however, these concerns can be fully explored in an appropriate stakeholder process and NESCOE supports such additional process to consider whether 39 months is the appropriate schedule for new capacity resources to be developed and reach commercial operation.

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<sup>14</sup> May 30 Order, at P 58.

<sup>15</sup> July 16 Filing, at 2.

<sup>16</sup> July 16 Filing, at 2.

### **III. Conclusion**

For the reasons stated herein, NESCOE respectfully requests that the Commission consider the above comments in this proceeding.

Respectfully submitted,

/s/ Benjamin S D'Antonio

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Date: August 6, 2014

## CERTIFICATE OF SERVICE

In accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day served by electronic mail a copy of the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Longmeadow, Massachusetts this Sixth day of August, 2014.

Respectfully submitted,

          /s/ Benjamin S D'Antonio          

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