

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

Vineyard Wind LLC

)

Docket No. ER19-570-000

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF THE
NEW ENGLAND STATES COMMITTEE ON ELECTRICITY**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”), 18 C.F.R. §§ 385.212 and 385.213, the New England States Committee on Electricity (“NESCOE”) files this Motion for Leave to Answer and Answer in the above-captioned proceeding.¹ NESCOE files this limited answer to correct inaccuracies in comments that the New England Power Generators Association, Inc. (“NEPGA”) filed in this proceeding on January 4, 2019 (“NEPGA Comments”) regarding the development of the Renewable Technology Resource (“RTR”) exemption.²

I. MOTION FOR LEAVE TO ANSWER

Pursuant to Rule 212, NESCOE seeks leave to answer the NEPGA Comments. While NEPGA styles its pleading as “comments,” its filing is submitted as a protest under the Commission’s Rules.³ The Commission can allow a party to answer protests where good cause is shown. *See* 18 C.F.R. §§ 385.213(a)(2) and 385.101(e). NESCOE’s short answer meets this

¹ On December 21, 2018, NESCOE filed a timely motion to intervene in this proceeding. Capitalized terms not defined in this filing are intended to have the meaning given to such terms in the ISO New England Inc. (“ISO-NE” or “ISO”) Transmission, Markets and Services Tariff (the “Tariff”).

² NESCOE’s silence on other issues raised in the NEPGA Comments should not be construed as agreement with NEPGA’s position.

³ Vineyard Wind LLC (“Vineyard Wind”) notes that it does not believe the Commission’s Rules require it to seek leave to file a reply because “NEPGA filed ‘Comments’ which did not affirmatively ask that Vineyard Wind’s petition be denied.” Reply of Vineyard Wind LLC to Comments of the New England Power Generators Association, Docket No. ER19-570-000 (filed Jan. 10, 2019), at n. 1. NESCOE submits this motion to the extent that leave of the Commission is required to answer NEPGA’s pleading.

standard because it provides the Commission with a more complete and accurate record upon which to base its decision.⁴ NESCOE’s answer corrects certain inaccuracies contained in the NEPGA Comments. NESCOE’s response will clarify the record in this proceeding and provide a better understanding of the issues before the Commission. Accordingly, there is good cause for the Commission to accept this answer.

II. ANSWER

The NEPGA Comments assert, without support, that “at the time the RTR definition was drafted, it was unforeseen that state-sponsored offshore wind resources located in *federal* waters would participate in the capacity auction, and thus the RTR definition as filed was limited to renewable or alternative energy resources ‘geographically located’ in any particular New England state.”⁵ This statement is inaccurate.

ISO-NE has been clear that the inability of such offshore wind resources to qualify for the RTR exemption is due to an unintentional drafting error. In a filing currently pending before the Commission, ISO-NE proposed enhancements and conforming changes in connection with the upcoming implementation of its Competitive Auctions with Sponsored Policy Resource (“CASPR”) market rules.⁶ As part of the CASPR Filing, ISO-NE proposed to clarify the qualification language for the RTR exemption, which is being phased out over the next three Forward Capacity Auctions, to remove any ambiguity that certain offshore wind resources

⁴ See, e.g., *HORUS Central Valley Solar 1, LLC, et al. v. California Independent System Operator Corp.*, 157 FERC ¶ 61,085 at P 29 (2016) (accepting answers because they provided information that assisted the Commission in its decision-making process); *New England Power Generators Ass’n, Inc. v. ISO New England, Inc.*, 146 FERC ¶ 61,039 at P 45 (2014) (same); *PJM Interconnection, L.L.C.*, 139 FERC ¶ 61,165 at P 24 (2012) (same).

⁵ NEPGA Comments at 3 (emphasis in original) (footnote omitted).

⁶ Joint Filing of ISO New England Inc. and New England Power Pool regarding Conforming Change to ISO Tariff for CASPR, Docket No. ER19-444-000 (filed Nov. 30, 2018) (“CASPR Filing”).

located in federal waters were eligible.⁷ ISO-NE informed the Commission that the clarification is needed because some offshore wind resources were “precluded from qualifying for the remaining available MW of the RTR exemption due to an oversight in drafting the RTR exemption qualification language” in the Tariff.⁸ ISO-NE continued: “In the ISO’s view, it was not the intent to preclude such resources from utilizing the RTR exemption, so long as they are located off the shore of New England and directly interconnect to the state where they qualify as a renewable or alternative energy generating resource.”⁹ This is entirely consistent with NESCOE’s view of the RTR exemption’s original intent.

Moreover, consistent with this view, no party has disputed ISO-NE’s account of the intent of the RTR exemption and the unintentional error that inadvertently excluded these offshore wind resources from participation. This includes NEPGA and several NEPGA members that have participated in the CASPR Filing proceeding. Tellingly, NEPGA provides no support or citations to corroborate its assertion that the RTR exemption omitted this category of offshore wind resources because it was “unforeseen” that they would participate in Forward Capacity Auctions. In contrast, stakeholder discussions in advance of the CASPR Filing supported ISO-NE’s understanding of the original intent of the RTR exemption to capture these offshore wind resources in its qualification criteria.¹⁰

NEPGA does not accurately recount the development of the RTR exemption. The exclusion from the RTR exemption of the type of offshore wind resources at issue in this

⁷ *Id.*, Transmittal Letter, at 38.

⁸ *Id.*

⁹ *Id.*

¹⁰ *See* Minutes of the NEPOOL Markets Committee Meeting, Oct. 9-10, 2018, at 7 (“Comments from the stakeholders and a statement from the ISO indicated their agreement that NESCOE was fairly portraying the original intent of the relevant Tariff provisions.”).

proceeding was the result of an unintentional drafting error. The record in this proceeding should be corrected to reflect that fact.

III. CONCLUSION

For the reasons discussed herein, NESCOE respectfully requests that the Commission accept and consider NESCOE's answer in this proceeding.

Respectfully Submitted,

/s/ Jason Marshall _____

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Dated: January 11, 2019

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 Cambridge, Massachusetts this 11th day of January, 2019.

/s/ Jason Marshall _____

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