

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

ISO New England Inc.

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)

Docket No. ER14-2407-003

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

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213 (2014), the New England States Committee on Electricity (“NESCOE”) hereby files this Motion for Leave to Answer and Limited Answer to the Rehearing Request filed by ISO New England Inc. (“ISO-NE”) on February 19, 2015 in the above captioned proceeding (the “Rehearing Request”).

The Rehearing Request asks the Commission to reverse its decision in the January 20, 2015 Order on Clarification¹ (the “Clarification Order”), which directed the development of a new market-based structure for future interim winter programs that are determined to be necessary.² ISO-NE asks the Commission to permit “the continuation of the winter reliability program construct, possibly with an expanded scope to encompass other resource types” and notes that there is an ongoing stakeholder process that has been discussing programs for subsequent winters.³ ISO-NE further states that a “reversal is warranted given that . . . the options for developing a market-based solution in the context of existing obligations are, at best, potentially less effective than the winter reliability program, and, at worst, less effective,

¹ *ISO New England Inc.*, 150 FERC ¶ 61,029 (2015) (the “Clarification Order”).

² *Id.* at P 10.

³ Rehearing Request at 2.

inefficient, controversial and expensive to implement.”⁴ In addition, while stating that the current construct, which could be expanded, was the more efficient and effective approach, ISO-NE describes the possibility of increasing Reserve Constraint Penalty Factors (“RCPFs”) as another market-based approach.⁵

As discussed below, NESCOE seeks to provide a brief response to two issues raised in the Rehearing Request that have not to date been the direct subject of this proceeding: (i) the potential consumer cost implications if the Commission ultimately directs the implementation of a market-based program, and (ii) the potential for an increase to the RCPFs.

I. MOTION FOR LEAVE TO ANSWER

Answers to rehearing requests are generally prohibited under Rule 713(d)(1) of the Commission’s Rules of Practice and Procedure.⁶ However, the Commission has exercised discretion in accepting such answers if they assisted the Commission in its decision-making process.⁷ NESCOE’s Answer meets this standard. The Answer provides the Commission with a more complete record in considering issues that are the subject of this proceeding and which were raised for the first time in the Rehearing Request. Accordingly, NESCOE respectfully requests that the Commission accept this Answer.

II. ANSWER

A. Consideration of Cost Implications of a Market-Based Interim Program

The Rehearing Request discusses various considerations in developing a new market-based solution compared with the current reliability program or an expanded version of that

⁴ *Id.*

⁵ *Id.* at 11-13.

⁶ 18 C.F.R. § 385.713(d)(1) (2014).

⁷ *See, e.g., Cal. Indep. Sys. Operator Corp.*, 129 FERC ¶ 61,241 at P 16 (2009); *PJM Interconnection, L.L.C.*, 127 FERC ¶ 61,188 at P 6 (2009); *Missouri Interstate Gas, LLC et al.*, 127 FERC ¶ 61,011 at P 8 (2009).

program.⁸ Among the factors ISO-NE listed in comparing these two options were the potential cost implications of implementing a market-based solution, without reasonable indication that it would provide greater or equal reliability benefits than the current program.⁹

In comments on ISO-NE's proposal regarding the current winter program, NESCOE supported ISO-NE's expansion of the program to include liquefied natural gas as an eligible resource, stating that it was a positive step in moving toward a more fuel-neutral program if future short-term solutions were needed.¹⁰ Similarly, with respect to the first winter program, NESCOE expressed its preference for a more fuel-neutral approach to drive greater competition.¹¹ However, modifying future winter programs, if needed,¹² to include more resource types or moving to a new market-based structure is a means to an end: providing consumers with a cost-effective stop-gap solution to the region's fuel security challenges.

The discussion in the Rehearing Request of the expense in implementing a new market-based winter reliability program raises an important issue around cost that was not addressed in the Clarification Order. Perhaps given the limited scope of the clarification request at issue, the Clarification Order omits discussion of cost as a critical consideration in winter reliability solutions. At minimum, should the Commission ultimately direct implementation of a new market-based program, it should grant rehearing to clarify that the development of such a

⁸ Rehearing Request at 2, 8-13.

⁹ *Id.* at 5.

¹⁰ Motion to Intervene and Comments of the New England States Committee on Electricity, Docket Nos. ER14-2407-000 et al. (filed Aug. 1, 2014), at 5.

¹¹ Motion to Intervene and Comments of the New England States Committee on Electricity, Docket No. ER13-1851-000 (filed July 13, 2013), at 10.

¹² The Commission recognized in the Clarification Order that the first step in developing any future winter program was to determine the need, if any, for the subsequent year. Clarification Order at P 10 (“... the Commission intended that ISO-NE would determine whether a winter reliability solution is necessary for the 2015-2016 winter and future winters, and, if so, develop an appropriate market-based solution through the stakeholder process that can be implemented beginning with the 2015-2016 winter.”). This threshold question for the 2015-2016 winter is currently under discussion in the stakeholder process.

construct is not to be implemented at *any* cost but, rather, must be measured by the benefits provided to consumers. ISO-NE raises concern about the relative cost, ultimate effectiveness, and economic efficiency of a temporary market-based structure.¹³ The Rehearing Request also identifies the complexity of instituting such a system and the risks involved, which has potential implications for both the expense and outcome of the program.¹⁴ These issues warrant consideration on rehearing.

Moreover, any subsequent interim solution should be considered in relation to the costs of the 2013-2014 and 2014-2015 winter programs. These two programs approved by the Commission are reference points on both the effectiveness and cost for any future winter program or other changes needed to address reliability over the short-term. Consumers are already experiencing profound price increases related to the region's constrained gas pipelines,¹⁵ and cost must be weighed heavily in evaluating the structure of any future programs, especially if the effectiveness is in question.

B. Additional RCPF Increase

As discussed above, ISO-NE seeks rehearing to work with stakeholders on developing a possible expanded version of the current program, which ISO-NE views as the more efficient

¹³ See Rehearing Request at 2, 8-12.

¹⁴ *Id.* at 10-11.

¹⁵ According to the February 19, 2015 U.S. Energy Information Administration's ("U.S. EIA") *Natural Gas Weekly Update*, northeastern natural gas prices during a recent particularly cold stretch were more than five times the nearby Marcellus-area gas prices and the Henry Hub national benchmark. See www.eia.gov/naturalgas/weekly/archive/2015/02_19/index.cfm. See also Federal Energy Regulatory Commission, *Winter 2014-15 Energy Market Assessment*, Oct. 16, 2014, at 13, available at www.ferc.gov/market-oversight/reports-analyses/mkt-views/2014/10-16-14-A-3.pdf, for a comparison of regional electric and natural gas price futures, which directly influence the costs that retail customers in New England must pay for electricity supply. New England residential consumer costs increased roughly three times the national average increase when comparing rates in the first half of 2013 to the same period in 2014. See U.S. EIA, *Today in Energy*, Sept. 2, 2014, available at www.eia.gov/todayinenergy/detail.cfm?id=17791. Electric retail supply rates for most New England consumers were estimated to rise in the early 2015 period by more than 50% for most consumers, with some experiencing increases as high as 85%-100%. See James Daly, Vice President, Energy Supply, Northeast Utilities, Restructuring Roundtable: New England Electric Rates and Market Drivers, Nov. 21, 2014, available at www.raabassociates.org/main/roundtable.asp?sel=131.

and effective approach.¹⁶ However, in the event that the Commission ultimately determines that a market-based construct is required, ISO-NE describes the option of increasing the RCPFs as an alternative to a new market-based program.¹⁷ ISO-NE states that this approach would be relatively less complex and resource-intensive to implement than other market-based approaches, but that a major disadvantage to this approach is the lack of fuel assurance compared with the present winter program.¹⁸

NESCOE strongly cautions the Commission against ordering any changes to the RCPFs through this proceeding. These changes have not been fully discussed as part of the stakeholder process underway to consider future winter reliability solutions. In fact, increases to the RCPFs were just implemented last December¹⁹ and New England is still in the midst of a robust winter period.²⁰ While ISO-NE states that increasing RCPFs “strengthens incentives for real-time performance,”²¹ there is no basis at this time to conclude that an even higher level will provide any additional performance for the additional cost to consumers. Before any further changes are considered, the region needs a better understanding of the impact, if any, that the recent increase to the RCPFs has had on the physical capabilities and operational flexibility of the system.

¹⁶ Rehearing Request at 12-13.

¹⁷ *Id.* at 11-12.

¹⁸ *Id.*

¹⁹ *See ISO New England Inc. and New England Power Pool*, Order on Compliance Filing, 149 FERC ¶ 61,009, Docket Nos. ER14-2419-000, ER14-2419-001, and EL14-52-000 (Oct. 2, 2014), at Ordering Para. (A) and P 23.

²⁰ *See, e.g.*, The Washington Post, Capital Weather Gang, *Boston’s astounding month of snow a 1-in-26,315 year occurrence*, Feb. 25, 2015, available at www.washingtonpost.com/blogs/capital-weather-gang/wp/2015/02/25/bostons-astounding-month-of-snow-a-1-in-26315-year-occurrence/.

²¹ Rehearing Request at 12.

Moreover, increasing the RCPFs may provide additional incentives for performance for those select resources able to respond, but the Rehearing Request does not address how such an increase would affect the ability of other resources that are incapable of benefitting from the higher RCPFs. The RCPFs, as ISO-NE notes, further do not address the fundamental concern that drove the implementation of a winter program in the first place: the lack of assurance that resources would have sufficient fuel inventory.²² By contrast, while the outcome of increasing the RCPFs is unknown, ISO-NE describes how the winter program design to date has left the region “well positioned with fuel inventory at the beginning of the winter.”²³ The current program also provides a cost that can be reasonably estimated. For all of these reasons, the Commission should not direct such a dramatic change to the winter program in this proceeding. No further changes should be made to the RCPFs until at least there has been an opportunity to evaluate performance over this past winter in relation to the effectiveness of the recent market design changes.

III. CONCLUSION

For the reasons stated herein, NESCOE respectfully requests that the Commission (i) grant its Motion for Leave to Answer, and (ii) consider its Limited Answer in this proceeding.

²² *Id.*

²³ *Id.* at 4.

Respectfully submitted,

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Date: March 4, 2015

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Boston, Massachusetts this 4th day of March, 2015.

/s/ Jason Marshall _____

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