

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

ISO New England Inc.

)

Docket No. ER18-1509

**LIMITED COMMENTS OF THE
NEW ENGLAND POWER POOL PARTICIPANTS COMMITTEE**
(May 17, 2018)

The New England Power Pool (“NEPOOL”) Participants Committee¹ hereby provides these limited comments to the request for waiver of the Market Rules² submitted by ISO New England Inc. (“ISO-NE” or the “ISO”) on May 1, 2018, in the above-captioned proceeding (“ISO-NE Request”).³ As explained in that ISO-NE Request, the Tariff currently permits the ISO to retain retiring resources to resolve local transmission security issues, but it does not provide ISO-NE with the authority to retain such resources to address reliability risks related to fuel security.⁴ The ISO-NE Request seeks the Commission’s approval of waiver of certain Tariff provisions to permit ISO-NE to retain two of the generating units at the Mystic Generating Station (“Mystic 8 and 9”) to provide fuel security for the 2022-23 and 2023-24 Capacity

¹ NEPOOL is the principal stakeholder organization for the New England RTO and is authorized to represent its over 480 members in proceedings before the Commission. *See* NEPOOL Agreement § 6.1; Participants Agreement § 8.1.3(c). As a voluntary association organized in 1971 pursuant to the New England Power Pool Agreement, its members include all of the electric utilities rendering or receiving services under the ISO-NE Tariff, as well as independent power generators, marketers, load aggregators, brokers, consumer-owned utility systems, demand response providers, developers, end users and a merchant transmission provider. NEPOOL moved to intervene in this proceeding on May 11, 2018.

² Capitalized terms not defined herein have the meanings ascribed thereto in the Second Restated NEPOOL Agreement, Participants Agreement, or the ISO New England Inc. (“ISO-NE”) Transmission, Markets and Services Tariff (the “Tariff”). Section III of the Tariff is referred to as Market Rule 1.

³ Petition of ISO New England Inc. for Waiver of Tariff Provisions, Docket No. ER18-1509. The Commission noticed the ISO-NE Request as filed on May 2, 2018.

⁴ ISO-NE Request at 4.

Commitment Periods (“CCPs 13 and 14”). Notably, ISO-NE does not seek in this proceeding to change any Market Rules.⁵

To be clear, because NEPOOL did not vote on, nor take any formal action with respect to, the issues raised before the Commission in this proceeding, NEPOOL takes no substantive position on the ISO-NE Request. NEPOOL submits these limited comments though for two key reasons. First, NEPOOL reports on the ISO’s engagement with regional stakeholders prior to submitting its Request. Second – without taking a position on the immediate waiver request – NEPOOL emphasizes the importance that any future changes to the Tariff or Market Rules to address system reliability issues be explored through the long-standing, Commission-approved NEPOOL Participant Processes, which will minimize the need for subsequent waivers of the filed rate for that purpose. ISO-NE has committed to employ the Participant Processes for such changes and NEPOOL stands willing and ready to work collaboratively with ISO-NE and State officials to address the region’s fuel security risks through the competitive wholesale markets.

I. BACKGROUND

As explained in the ISO-NE Request, Exelon Generation (“Exelon”) submitted Retirement De-List Bids to the ISO in late March 2018 to retire Mystic Generating Station’s Units 7, 8, 9, and the Jet Unit (collectively, the “Mystic Units”) beginning with the start of CCP 13 (June 1, 2022). Shortly after Exelon announced its plans to retire the Mystic Units, ISO-NE reviewed with NEPOOL its concerns over the ISO’s ability to maintain fuel security during the winter months in CCP 13 if Mystic 8 and 9 retired. ISO-NE explained that, because of its concern, it intended to take action that would permit the ISO to retain those two Mystic Units for fuel security reasons. In materials circulated for the regularly scheduled April 6, 2018, NEPOOL

⁵ As explained in these comments, changes to the Tariff and Market Rules need to be accomplished through the Commission-approved stakeholder process.

Participants Committee meeting, the ISO notified NEPOOL of its intention to file a waiver request in response to Exelon's Retirement De-List Bids for Mystic 8 and 9.⁶ At the April 6 NEPOOL meeting, the ISO presented its specific concerns and reviewed the outcome of its modeling scenarios, which, the ISO determined, demonstrated a fuel-security-related reliability need in the absence of Mystic 8 and 9.

The April 6 meeting was continued to April 10, 2018 to further address questions and comments concerning the ISO's planned waiver filing. During this April 10 session, the ISO reviewed with stakeholders its underlying assumptions and results from its analysis modeling the effects of the loss of Mystic 8 and 9 during the future relevant delivery years.⁷ The ISO also clarified with stakeholders that it had been told by Exelon that a two-year cost-of-service agreement, approved by the Commission before the running of FCA 13 in February 2019, was needed for Exelon to agree not to retire Mystic 8 and 9.

During these stakeholder discussions, the ISO explained that it planned to address regional fuel security risks in three separate "chapters."⁸ As explained by the ISO, the first chapter was to outline and discuss the proposed waiver of the Tariff in order to permit a cost-of-service agreement with Mystic 8 and 9 that would preserve the availability of those units for CCPs 13 and 14 (June 1, 2022 through May 31, 2024). In proposed chapter 2, the ISO plans to work closely with NEPOOL and State officials through the Participant Processes to develop Tariff revisions of general applicability that would provide the ISO filed-rate authority in similar

⁶ See ISO-NE Memorandum on Near-Term Fuel Security Concerns, NEPOOL Participants Committee Apr. 6 Meeting, Agenda Item 4, *available at* http://www.nepool.com/uploads/NPC_20180406_Composite4.pdf.

⁷ See Presentation of Vamsi Chadalavada, ISO-NE Chief Operating Officer (updated May 2, 2018), *available at* http://www.nepool.com/uploads/NPC_20180406_Addl_II_Updated.pdf.

⁸ See NEPOOL-approved Minutes of the NEPOOL Participants Committee Meeting, Apr. 6, 2018, *available at* http://www.nepool.com/uploads/Minutes_NPC_2018_0406.pdf.

future situations to retain units needed for fuel security, which would be executed through an out-of-market arrangement. In chapter 3 as proposed, ISO-NE, NEPOOL and other regional stakeholders would engage together through the Participant Processes to explore longer-term market-based solutions designed to address New England's fuel security risks.

II. LIMITED COMMENTS

Under the Commission-approved Participants Agreement, ISO-NE is obligated to provide notice and opportunity for NEPOOL input on any changes to the Market Rules.⁹ In this case though, ISO-NE has sought to address a specific and narrowly defined situation through a waiver of Tariff provisions rather than through Tariff changes of general applicability. NEPOOL's contractual and governance arrangements are silent on any required stakeholder process for the ISO to seek waiver of the Tariff or Market Rules.

Notwithstanding that absence of specific requirements for stakeholder process prior to an ISO waiver request, the ISO proactively engaged with its stakeholders prior to filing the ISO-NE Request. Such engagement with stakeholders is consistent with the spirit of the relationship between the ISO and its stakeholders and is appreciated by NEPOOL. Importantly, it is only through such engagement that ISO-NE receives balanced perspectives from various interests, and regional stakeholders are provided the opportunity to ask questions and/or provide initial feedback. NEPOOL also appreciates the challenging timing here given the fast-approaching deadline(s) for qualification and participation in FCA 13.¹⁰

NEPOOL's keen interest is in ensuring that ISO-NE engages fully with its stakeholders before seeking any change to the New England Tariff or Market Rules. That interest is codified

⁹ See Participants Agreement Among ISO New England Inc. and the New England Power Pool at Section 11 (NEPOOL Participants Agreement); Second Restated NEPOOL Agreement.

in the contractual arrangements establishing ISO-NE as the Regional Transmission Organization for New England,¹¹ and the Commission has repeatedly acknowledged the importance of full engagement in the NEPOOL Participant Processes.¹² The Commission has allowed, nonetheless, some limited flexibility for waiver of the requirements of the filed rate in narrowly defined circumstances, and NEPOOL has not previously taken substantive positions on those waiver filings. ISO-NE acknowledges in the ISO-NE Request that it must meet the Commission's well-established criteria for waiver requests,¹³ and, consistent with past precedent, NEPOOL does not here take any position on whether ISO-NE's Request satisfies the Commission's criteria.¹⁴ Should the Commission conclude though that the conditions for granting the ISO-NE Request have not been satisfied, NEPOOL urges the Commission to ensure that the Participant Processes be complied with prior to submission by ISO-NE of any changes to the Tariff or Market Rules. Moreover, if there are issues raised in this proceeding by other commenters that are outside the limited relief sought in the ISO-NE Request with respect to Mystic 8 and 9, NEPOOL asks that

¹⁰ See e.g., ISO-NE Forward Capacity Auction #13 Schedule, available at <https://www.iso-ne.com/static-assets/documents/2017/05/fca-13-timeline-5-9-2017.pdf>.

¹¹ See n. 9, *supra*.

¹² See, e.g., *ISO New England Inc.*, 138 FERC ¶ 61,042 (2012) at P 114 (the "stakeholder process is the appropriate venue for Joint Parties to propose and develop appropriate rules"); *Id.* at P 146 ("We encourage all parties to address any such issues initially in the stakeholder process."); *State of Rhode Island Attorney General's Office v. ISO New England Inc.*, 107 FERC ¶ 61,242, at P 15 (2004) (Commission dismissing the Rhode Island Attorney General's petition and stating that to grant the petition before the stakeholder process had been undertaken would "inappropriately circumvent established procedures in New England").

¹³ ISO-NE Request at 29-30.

¹⁴ NEPOOL notes that the ISO-NE Request seeks partial waiver of Market Rule 1, Section III.13.2.5.2.5.2(b), which requires the resource to make a separate filing with a Commission to explain the need for any potential capital improvements to the generating unit needed to continue to operate to meet the reliability need identified by the ISO.

the Commission direct that any proposed changes first be presented to and considered in the NEPOOL process.¹⁵

For chapter 2, ISO-NE has committed to work with stakeholders to develop a Tariff-based approach that may permit the ISO to retain retiring resources needed for fuel security on a short-term, going-forward basis.¹⁶ ISO-NE discussions with NEPOOL have already begun so that new Tariff provisions could be filed with the Commission this coming fall, allowing those provisions to be in effect for FCA 14.¹⁷ On April 25, the NEPOOL Reliability Committee (with the NEPOOL Markets Committee invited) began discussions with ISO-NE on the chapter 2 development of generic Tariff revisions to allow the ISO to retain resources for reliability based on fuel security reasons in specifically and narrowly defined circumstances.¹⁸ In response to feedback on its preliminary proposal, the ISO committed to respond to questions and concerns at future NEPOOL meetings on this topic and to more fully develop problem definition, reliability criteria and solution design objectives to address the need to retain units for reliability based on fuel security.¹⁹

¹⁵ See, e.g., *ISO New England Inc. and New England Power Pool*, 133 FERC ¶ 61,239 (2010) at p 26 (“If Pittsfield seeks to propose changes to the language in the tariff, the Commission recommends that Pittsfield address its concerns through the NEPOOL stakeholder process.”); *New England Power Pool and ISO New England, Inc.*, 109 FERC ¶ 61,252, at P 40 (2004) (encouraging parties who want to change tariff provisions to work through stakeholder process).

¹⁶ See n. 6, *supra*.

¹⁷ Retirement decisions for FCA 14 will need to be made in March 2019. Please note that Tariff revisions to be considered within the NEPOOL process for chapter 2 may also include revisions to the Forward Capacity Market rules for FCA 13 implementation, which may, for example, relate to cost allocation issues associated with the potential cost-of-service agreement for Mystic 8 and 9.

¹⁸ See ISO-NE’s presentation to the Reliability Committee at the April 25 meeting, *available at* https://www.iso-ne.com/static-assets/documents/2018/04/a13_reliability_reviews_for_fuel_security_criteria_for_unit_retention.pptx

¹⁹ Most recently, the NEPOOL Reliability Committee met on May 15, 2018, to continue discussions on chapter 2. See Presentation of Peter Brandien, Reliability Reviews for Fuel Security, *available at* https://www.iso-ne.com/static-assets/documents/2018/05/a8_reliability_criteria_for_fuel_security_final.pptx.

To be certain, a compressed timeframe is contemplated for chapter 2, but one that the NEPOOL stakeholder process is designed to accommodate.²⁰ NEPOOL stands ready to address any potential changes to the Market Rules that may be required or that ISO-NE and/or stakeholders desire through a full and thorough vetting in the Commission-approved NEPOOL stakeholder processes. Unlike the ISO-NE Request currently at issue in this proceeding, which was presented to but not voted on by stakeholders given the waiver nature of its request, any proposed changes to the Tariff or Market Rules to address potential retirements in FCA 14 and beyond must receive the benefit of full consideration within the NEPOOL processes prior to any filing with the Commission.²¹ For chapter 2, ISO-NE has committed and NEPOOL expects that the complete Participant Processes, pursuant to the Participants Agreement, will be completed in time for a filing later this year.

If chapter 3 proceeds as explained, New England will be working on an expedited basis to identify specific power system attributes or performance that can help assure fuel security and be signaled through appropriate compensation in the competitive markets.²² As with chapter 2,

²⁰ Under the normal NEPOOL stakeholder processes, proposed Tariff revisions are vetted by stakeholders over at least three meetings with time between meetings for discussions and refinement. At the first of three meetings, ISO-NE usually presents its proposal to the relevant NEPOOL Technical Committee, describing to the stakeholders the problem it is seeking to address or improvement it is seeking to make, and receiving conceptual input on that information from the stakeholders. At the second meeting, which is generally one month later so that Participants have the chance to consider and explore the proposal, ISO-NE provides and reviews proposed Tariff revisions to effectuate its proposal and receives input and comment on its Tariff language. It is not until after those two key opportunities for interaction and understanding among all affected parties that a third meeting, typically another month later, is held at which there is a final Technical Committee meeting to vote on whether to recommend the proposed changes for approval by the Participants Committee.

²¹ *See generally* Section 11 of the NEPOOL Participants Agreement, which requires, absent exigent circumstances, ISO-NE to present proposals for changes to Market Rules, Operating Procedures, Manuals, Reliability Standards, General Tariff Provisions, or Non-TO OATT Provisions for Governance Participant consideration and NEPOOL Participant vote.

²² NEPOOL separately submitted comments in the grid resilience docket that provide additional information regarding these ongoing efforts, *see* Comments of New England Power Pool Participants Committee, Docket No AD18-7-000, filed May 9, 2018.

ISO-NE has made the commitment – and NEPOOL expects – that the full Participant Processes will be completed prior to any ISO filing of longer-term market-based approach(es) for fuel security measures in New England. NEPOOL members own and operate the assets and facilities that serve New England’s consumers and they also represent the varied interests of New England’s wholesale buyers, sellers and customers. It is these stakeholders that will be directly impacted by any ISO-NE rule changes and these stakeholders that have the expertise and experience that allows them to assess the feasibility and consequences of any proposed rule change. Robust stakeholder engagement is necessary for the region to fully understand how any longer-term market-based proposal will impact Market Participants and the ISO-NE markets. The NEPOOL stakeholder process provides the opportunity to resolve or narrow issues and/or disagreements before presenting any Tariff or Market Rule changes to the Commission.²³ Furthermore, NEPOOL and ISO-NE have a long history of proactively working together, along with state regulators and officials, to identify reliability, transmission and market needs and developing appropriate solutions to those needs.²⁴

Accordingly, any and all Tariff changes developed or desired to address regional fuel security risks on a going forward basis, should be addressed first through the complete NEPOOL Participant Processes before any such changes are filed with the Commission. Further, for chapters 2 and 3, which are already underway, NEPOOL urges the Commission to avoid taking

²³ While NEPOOL is equipped and prepared to address these issues through the development of a market-based solution for fuel security, these discussions are only in their infancy. NEPOOL has not yet taken a vote on issues presented by the ISO in either chapter 2 or chapter 3, and therefore cannot definitively conclude at this time that it will support measures to “properly value the contributions that resources like Mystic 8 and 9 make in ensuring fuel security.” *See* ISO-NE Request at n. 38.

²⁴ NEPOOL has a long history of addressing regional grid reliability and resilience matters, and NEPOOL is committed to working closely with the ISO in assessing the region’s current fuel security risks and potential Tariff solutions. NEPOOL was formally established as a contractual organization in 1971, but interim committees of utility participants were formed several years earlier to address regional

any action in this, or any other, proceeding that would circumvent or compromise the full benefits of such stakeholder processes.²⁵

III. CONCLUSION

WHEREFORE, for the foregoing reasons NEPOOL respectfully requests that the Commission (1) consider these limited Comments in its evaluation of ISO-NE's Request and (2) ensure that there is an opportunity for the full NEPOOL Participant Processes ahead of any changes to New England's Market Rules, whether arising out of this proceeding or another proceeding seeking to address system reliability and/or fuel security concerns.

Respectfully submitted,

NEPOOL Participants Committee

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resilience and reliability-related issues, partly in response to the Northeast Blackout of 1965. *See* n. 22, *supra*.

²⁵ For example, efforts to collaborate and achieve consensus are enhanced when market proposals are subject to the "jump ball" provisions of the Participants Agreement, which provides under certain circumstances for alternative Market Rule proposals from NEPOOL to be submitted with ISO-NE proposals and for both to be considered as alternative Section 205 filings under the Federal Power Act. In a "jump ball" filing, the NEPOOL proposal is filed at the same time and on the same footing as ISO-NE's proposal. *See* Section 11.1.5 of the Participants Agreement.

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing document to be served electronically upon each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission.

Dated at Washington, DC this 17th day of May, 2018.

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