

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

ISO-New England Inc.) Docket No. ER09-1029-000

**MOTION FOR LEAVE TO INTERVENE AND COMMENT
OF THE ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to Sections 212 and 214 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure, 18 C.F.R. § 385.212 and § 385.214, the Electric Power Supply Association (EPSA)¹ respectfully files this motion for leave to intervene and comment in the above-captioned proceeding. On April 23, 2009, the Indicated DR Market Participants² filed a motion requesting a limited waiver of Section III.13.1.4.8.1 of ISO-New England Inc.'s (ISO-NE) Market Rule 1. Indicated DR Market Participants 1) state this limited waiver will allow them to timely submit to ISO-NE the Updated Measurement and Verification Plan (Updated Plan) required by the rules implementing the Forward Capacity Market (FCM); and, 2) request that FERC act on this motion no later than June 15, 2009. EPSA does not oppose FERC granting this limited waiver, particularly given the newness of the FCM and its

¹ The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the view of any particular member with respect to any specific issue.

² The Indicated DR Market Participants are: Action Energy LLC, Ameresco, Inc., Comverge, Inc., The Connecticut Light and Power Co., Connecticut Municipal Electric Energy Cooperative, Constellation Energy Resources, LLC, CPower, Inc., Energy Curtailment Specialists, Inc., EnergyConnect, Inc., Freedom Logistics LLC, Hess Corporation, Holden Municipal Light Department, Linde Energy Services, Inc., Littleton Electric Light & Water Departments, Massachusetts Electric Company d/b/a National Grid, Massachusetts Municipal Wholesale Electric Co., The Narragansett Electric Company d/b/a National Grid, New Hampshire Electric Cooperative Inc., NSTAR Electric Company, The United Illuminating Company, and Z-Tech, LLC.

array of requirements for market participants. As part of its action on this motion, EPISA requests that the Commission require ISO-NE to evaluate its FCM timelines and requirements to ensure the FCM qualification and auction process is streamlined and clear. This will better enable market participants to provide accurate, timely information to the ISO in order to facilitate its administration of the forward capacity market. Additionally, and as a general matter, EPISA urges the Commission to ensure comparability of application of rules and requirements for participation by all qualified resources – generation, demand response and energy efficiency – in order to maintain reliability and viability of the FCM.

I. BACKGROUND

The Indicated DR Market Participants state in the limited waiver request that “[a]s a result of an administrative oversight, every supplier of demand resources in the ISO-NE Forward Capacity Auction (FCA) failed to meet the newly created deadline requirement of Section III.13.1.4.8.1 of Market Rule 1.”³ This was one of many changes to the FCM rules that became effective on December 1, 2008, and these entities assert that because of the “newness of this requirement and the complexity of the FCM rules,”⁴ they all missed the January 20, 2009, deadline to submit Updated Plans (which were due five days after the resources were notified that they qualified) for the ISO-NE’s third FCA.

The Indicated DR Market Participants have requested the limited waiver to allow the DR Market Participants to submit these plans by May 29, 2009, and to

³ Motion for Limited Waiver at 2.

⁴ *Id.*

allow ISO-NE to treat the Updated Plans as timely submitted in the qualification filing to be submitted to the Commission in July 2009 prior to the third FCA. The Indicated DR Market Participants assert that the waiver is necessary to prevent the permanent de-listing of 1,957 MW of real-time demand response and emergency generation resources. DR Market Participants further assert that their capacity corresponds to 70% of the Existing Demand Resources, and is 100% of the existing demand response resources under consideration for participation in the third FCA.⁵ Further, ISO-NE has indicated that it does not oppose the requested waiver.

II. MOTION TO INTERVENE

EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities serving global power markets. EPSA seeks to bring the benefits of competition to all power customers.

Many of EPSA's member companies are market participants in ISO-NE's markets, including the Forward Capacity Market (FCM). Further, EPSA and/or its members have been and continue to be active in many of the Commission's ongoing proceedings on ISO-NE issues. Accordingly, EPSA has a direct and substantial interest in the outcome of this proceeding that cannot be adequately

⁵ *Id* at 3.

represented by any other party and allowing EPSA to actively participate in this proceeding would be in the public interest.

All pleadings, correspondence and other communications concerning this proceeding should be directed to:

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III. COMMENTS

EPSA does not oppose the limited request for waiver given the unique circumstances of this situation. EPSA strongly supports broad inclusion and participation by qualified resources in forward capacity markets, and has previously expounded on the critical role increased demand response can play in improving market efficiency, and producing more efficient price signals for plant operation, the need for new investment and managing consumption.⁶

EPSA believes this limited waiver request illustrates that the FCM rules are complex with many, overlapping and rigid deadlines for the timely filing of information with ISO-NE in order for existing and new resources to have the ability to participate, delist, or retire. Absent ISO-NE providing timely reminders of each approaching deadline, then, depending on the specific circumstances, similar consideration of waiver requests for such resources should be granted.

⁶ See Comments of EPSA regarding the Advanced Notice of Proposed Rulemaking on Wholesale Competition in Regions with Organized Electric Markets, Docket No. RM07-19, et al., pgs. 11-36, September 14, 2007.

However, EPSA requests that as a condition of approval here, the Commission should also direct ISO-NE, in coordination with NEPOOL, to seek to simplify and shorten the FCM filing requirements and deadlines wherever possible so that resources can participate in the capacity markets, eliminate administrative burdens, and provide the most accurate information the ISO needs to administer its markets. ISO-NE's willingness to extend this filing deadline from January 5 to May 29 seems to indicate that this (and possibly other) arbitrary deadlines are embedded in the market rules and should be reviewed. The affect of such arbitrary deadlines may result in reduced flexibility and could lessen competition in markets.

As a general point on forward capacity markets, EPSA asserts that as ISO-NE and other RTOs/ISOs work to make demand response resources more viable market participants, the Commission must ensure that these resources are subject to the same performance verification, rules and requirements as all other resources in order to maintain the reliability and viability of the market. Demand response resources can provide great reliability benefits to the system, but all resources must be held accountable to perform as needed. A lack of comparability between resources runs the risk of artificially skewing price signals towards less reliable resources generally, discouraging investments needed for reliable demand response, and ultimately, compromising the reliability of the system.

IV. CONCLUSION

WHEREFORE, EPSA respectfully requests that the Commission grant its motion for leave to intervene and consider its comments as set forth above in rendering its decision on the limited waiver request of the Indicated DR Market Participants.

Respectfully submitted,



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May 14, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the comments via email, upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., May 14, 2009.

A handwritten signature in cursive script that reads "N. Bagot".

Nancy Bagot, VP Regulatory Affairs