

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

**RTO/ISO Performance
Metrics**

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Docket No. ER09-1051-000

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF
ISO NEW ENGLAND INC.**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.212 & 385.213 (2008), ISO New England Inc. (“ISO-NE” or the “ISO”)¹ hereby submits this motion for leave to answer and answer (“Answer”) to comments filed following the Commission’s Technical Conference on RTO/ISO responsiveness held on February 4, 2010.

I. MOTION FOR LEAVE TO ANSWER

Because an answer is not normally permitted in response to protests or comments, ISO-NE hereby moves, pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.212 (2008), for leave to file this Answer. The Commission has the authority to waive the prohibition against answers to protests and comments for good cause.² The Commission has found good cause to permit answers where they are otherwise prohibited in various circumstances, including where the answer would assure a complete record in the proceeding,³ provide information helpful to the disposition of an issue,⁴ permit the issues to be

¹ Capitalized terms used but not defined in this answer are intended to have the same meaning given to such terms in ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3 (the “ISO Tariff”).

² See 18 C.F.R. § 385.101(e) (2008).

³ See, e.g., *Pacific Interstate Transmission Co.*, 85 FERC ¶ 61,378, at 62,443 (1998), *reh’g denied*, 89 FERC ¶ 61,246 (1999).

⁴ See, e.g., *CNG Transmission Corp.*, 89 FERC ¶ 61,100, at 61,287 n.11 (1999).

narrowed or clarified,⁵ or aid the Commission in understanding and resolving issues.⁶ ISO-NE believes that its Answer will assure a more complete record in this proceeding and otherwise assist the Commission in understanding and resolving the issues presented.

II. ANSWER

A. Background

ISO-NE is the private, non-profit entity that serves as the Regional Transmission Organization for New England. ISO-NE administers the New England energy markets and operates the regional bulk power system pursuant to the ISO Tariff and operating agreements with the New England transmission owners.

In response to the Commission's Order No. 719 as it relates to responsiveness, ISO-NE convened a working group of stakeholders and formed a special committee of its Board. While ISO-NE believed that its existing practices complied with Order No. 719, after consultation with the stakeholder working group and Board committee, ISO-NE agreed to adopt a number of enhancements to its practices. These enhancements included: posting agendas for Board Committee meetings (in addition to Board meetings); expanding the CEO's report regarding Board activities; clarifying that any stakeholder can post written documents to the Board's attention; facilitating creation of a Consumer Liaison Group and creating a designated point of contact for that group; providing more information to consumer representatives through a structure similar to that used for state regulators; and inviting consumer representatives to meet with the Board. ISO-NE also agreed to make a set of changes to its mission statement, as approved by the NEPOOL Participants Committee.

⁵ See, e.g., *PJM Interconnection, LLC*, 84 FERC ¶ 61,224, at 62,078 (1998); *New Energy Ventures, Inc. v. Southern California Edison Co.*, 82 FERC ¶ 61,335, at 62,323 n.1 (1998).

⁶ See, e.g., *Tennessee Gas Pipeline Co.*, 92 FERC ¶ 61,009, at 61,016 (2000).

All of these enhancements were outlined in ISO-NE's Order No. 719 compliance filing, made on April 28, 2009 (the "Compliance Filing"). ISO-NE also filed an answer to comments on the Compliance Filing on June 15, 2009. Most recently, at the Commission's invitation, ISO-NE participated in the February 4, 2010 technical conference on Order No. 719 as it relates to responsiveness. Following the technical conference, stakeholders filed comments.

While much has and could be said on responsiveness, ISO-NE limits its comments herein to two discrete topics. ISO-NE believes that additional information on these topics may be helpful to the Commission as it considers stakeholder comments and prepares to issue an order on the Compliance Filing as it relates to responsiveness.

B. Impact Analysis for Major Initiatives

The changes to the mission statement outlined in the Compliance Filing include the following commitment: "To assist stakeholders in evaluating any major ISO initiative that affects market design, system planning or operation of the New England bulk power system, the ISO will provide quantitative and qualitative information on the need for and the impacts, including costs, of the initiative."⁷ Given the stakeholder consensus regarding the importance of the initiative, ISO-NE agreed to begin the process of implementing it immediately, although the Commission had not yet issued an Order approving the changes to the mission statement.

In beginning the implementation of impact analysis, ISO-NE acknowledged that a number of important factors had not been fully developed, including a definition of "major" and methodologies for determining costs and impacts of major initiatives. ISO-NE intended that this be a rolling implementation, throughout which it would work with stakeholders on the aforementioned and other issues. In fact, in its June 15, 2009 answer to comments on the

⁷ Compliance Filing at 117.

Compliance Filing, ISO-NE said, “ISO-NE agrees that the language in the mission statement is nonspecific and, accordingly, is in the process of developing processes to implement the new language. ISO-NE intends to work with stakeholders on this development effort, with the intention of reaching consensus on both the concepts of ‘major’ and the information to be provided.”⁸

In their post-technical conference comments, the Maine Public Utilities Commission and the Connecticut Department of Public Utility Control, commenting jointly (the “Maine and Connecticut PUCs”), and the Massachusetts Attorney General express concern about the implementation of impact analysis. The Attorney General, while acknowledging that the effort is a “work-in-progress,” expressed concern about its “mixed success” in having its requests for analysis fulfilled, and stated that “ISO-NE must provide cost impact analyses not only of its proposals, but also analyses of reasonable NEPOOL participant alternatives.”⁹ The Maine and Connecticut PUCs accused ISO-NE of “avoid[ing] carrying through with this obligation,” citing particularly the impact analysis regarding changes to the Forward Capacity Market (“FCM”).¹⁰

ISO-NE remains committed to developing broadly accepted methodologies and definitions to support the impact analysis initiative. However, ISO-NE is wary of efforts to expand impact analysis so that it becomes a barrier to progress of any kind. Moreover, ISO-NE

⁸ Answer of ISO-NE at 41.

⁹ Comments of the Massachusetts Attorney General at 9-10 (March 8, 2010).

¹⁰ Comments of the Maine Public Utilities Commission and Connecticut Department of Public Utility Control at 4 (February 23, 2010). During the stakeholder process regarding the recent FCM changes, ISO-NE provided both quantitative and qualitative analysis. ISO-NE explained in writing the necessity of good short-run price signals to ensure that, in the long-run, FCM would attract adequate new entry and be able to meet the region’s capacity needs and ensure reliability at the lowest cost to consumers (qualitative analysis). ISO-NE also provided a calculation that estimated the cost savings, under a specific set of assumptions, of reducing the risk premium in FCM through better auction design and price formation, with various steps in the calculation shown to allow better understanding and to facilitate stakeholders’ own analysis of alternatives (quantitative analysis).

does not have the resources or budget to perform analyses for every proposal it makes or for every stakeholder proposal.

Given these concerns and the understandable interest of stakeholders and ISO-NE in establishing the necessary methodologies and definitions, ISO-NE is in the process of developing a Request for Proposals for consulting services to support the development of these methodologies and definitions in conjunction with stakeholders, and then to perform the actual impact analyses. In summary, ISO-NE believes that it and stakeholders will be able to reach agreement regarding when and how such analyses should be performed.

C. Future Reporting

The Maine and Connecticut PUCs and the Massachusetts Attorney General propose additional reporting on the topic of responsiveness. Specifically, the Attorney General suggests that ISO-NE be required to file a report in one year to update the Commission on the progress of implementation of Order No. 719 initiatives.¹¹ The Maine and Connecticut PUCs suggest that Regional Transmission Organizations, in general, be required to file quarterly reports outlining the steps they are taking to comply with the responsiveness measures adopted by the Commission.¹²

While ISO-NE continues to believe that responsiveness is an important goal, ISO-NE does not agree that additional reporting is necessary, as stakeholders have ample opportunities to discuss responsiveness issues with Regional Transmission Organizations, their Boards of Directors, and the Commission. ISO-NE suggests that an ongoing dialogue on responsiveness will be more efficient and productive than a series of compliance filings, comments and answers.

¹¹ Comments of Attorney General at 11.

¹² Comments of Maine and Connecticut PUCs at 6.

The Maine and Connecticut PUCs suggest that, additionally, ISO-NE should be required to include in any Commission filing regarding which ISO-NE did not provide impact analysis an explanation of why it has not done so, and the Commission should reject the filing as deficient if there is not sufficient justification for failing to provide such analysis.¹³ ISO-NE respectfully suggests that the Maine and Connecticut PUCs are proposing a *de facto* amendment to Section 205 of the Federal Power Act, and the Commission should decline to define the “just and reasonable” standard to include explanations of why impact analyses were not provided in every Section 205 filing. This is particularly the case given that the Compliance Filing, as supported by NEPOOL, proposed that impact analyses would be provided only for “major” initiatives, the definition of which, as discussed above, is a matter of continuing discussion with stakeholders.

III. CONCLUSION

For the foregoing reasons, ISO-NE respectfully requests that the Commission consider the foregoing comments and approve the Compliance Filing as submitted on April 28, 2009.

Respectfully submitted,

/s/

Maria Gulluni
Assistant General Counsel - Corporate
ISO New England Inc.
One Sullivan Road
Holyoke, Massachusetts 01040
(413) 535-4000 (ph)
(413) 535-4379 (fax)
mgulluni@iso-ne.com

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¹³ Comments of Maine and Connecticut PUCs at 11.