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November 16, 2007

VIA ELECTRONIC FILING

Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**Re: ISO New England Inc., Docket No. ER08-54-000;
Motion for Leave to Answer and Answer of ISO New England Inc.**

Dear Ms. Bose:

Transmitted electronically for filing is the Motion for Leave to Answer and Answer of ISO New England Inc. in the above-captioned docket.

If there are any questions concerning this filing, please call me at (202) 661-7640.

Very truly yours,

/s/ Jack N. Semrani

Jack N. Semrani
Counsel for
ISO New England Inc.

Enclosure

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

ISO New England Inc.

)

Docket No. ER08-54-000

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

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), 18 C.F.R. § 385.213 (2007), ISO New England Inc. (the “ISO”)¹ hereby submits this answer (“Answer”) to the comments filed in the referenced proceeding by Beacon Power Corporation (“Beacon Power”).

I. BACKGROUND

On October 11, 2007, the ISO, the Participating Transmission Owners, the PTO Administrative Committee, Cross-Sound Cable Company, LLC, the Schedule 20A Service Providers, Maine Electric Power Company Inc., and the New England Power Pool (collectively, the “Filing Parties”) jointly filed in the above-captioned docket proposed revisions to Sections I and II of the ISO Tariff to comply with the Commission’s Order No. 890 on preventing undue discrimination or preference in transmission service (the “Order No. 890 Compliance Filing”).

In the Order No. 890 Compliance Filing, the ISO revised Schedule 3 to its Open Access Transmission Tariff (“OATT”) in a way that would allow non-generation resources to provide Regulation and Frequency Response Services.² Also, the ISO has initiated a review of Market

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

² Order No. 890 Compliance Filing, Attachment 2, ISO Tariff Sheet No. 744.

Rule 1 to identify the modifications necessary to fully effectuate this change.³ The Order No. 890 Compliance Filing describes ISO-NE's efforts as follows:

ISO-NE has revised Schedule 3 (Regulation and Frequency Response) to adopt the changes made in the pro forma OATT by incorporating the phrase "other non-generating resources capable of providing this service." As provided in Schedule 3 of the ISO OATT, Regulation-related charges are made pursuant to Market Rule 1. Market Rule 1 currently provides for Regulation service to be supplied only from generating resources. Accordingly, certain corresponding revisions are necessary in Market Rule 1 in order to fully integrate the provision of Regulation and Frequency Response by non-generating resources. To that end, ISO-NE has initiated its review of Market Rule 1 to identify the modifications necessary to fully effectuate this change. These modifications will be presented at the NEPOOL Markets Committee for stakeholder review and input, and subsequently filed with the Commission for approval.⁴

On November 1, 2007, Beacon Power filed a Motion To Intervene And Comments ("Intervention") in the above-captioned docket requesting an "immediate implementation of Market Rule 1 changes"⁵ and asking that the Commission "direct ISO NE to make the necessary changes to Market Rule 1 and establish deadlines (*e.g.*, 90 days) within which ISO-NE must provide FERC with detailed reports about progress being made to finalize Market Rule 1 and to petition FERC for approval of the rules."⁶

II. MOTION FOR LEAVE TO ANSWER

Because an answer is not normally permitted in response to protests, the Filing Parties hereby move, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.212 (2007), for leave to file this Answer. The Commission has the authority to

³ Order No. 890 Compliance Filing at 30.

⁴ *Id.*

⁵ Intervention at 4.

⁶ Intervention at 6.

waive the prohibition against answers to protests for good cause.⁷ 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,⁸ provide information helpful to the disposition of an issue,⁹ permit the issues to be narrowed or clarified,¹⁰ or aid the Commission in understanding and resolving issues.¹¹ The ISO 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.

III. ANSWER

The ISO is fully committed to revising Market Rule 1 as necessary in order to fully integrate the provision of Regulation and Frequency Response by non-generating resources. The sincerity of ISO-NE's commitment is evidenced by its initiation of a review of Market Rule 1 to identify the modifications necessary to fully effectuate this change. As mentioned above, the Order No. 890 Compliance Filing stated that the modifications requested by Beacon Power "will be presented at the NEPOOL Markets Committee for stakeholder review and input, and subsequently filed with the Commission for approval."¹² It is therefore unnecessary for the Commission to order the immediate implementation of the Market Rule 1 changes or the related reporting requirements requested by Beacon Power.

⁷ See 18 C.F.R. § 385.101(e) (2007).

⁸ See, e.g., *Pacific Interstate Transmission Co.*, 85 FERC ¶ 61,378, at 62,443 (1998), *reh'g denied*, 89 FERC ¶ 61,246 (1999).

⁹ See, e.g., *CNG Transmission Corp.*, 89 FERC ¶ 61,100, at 61,287 n.11 (1999).

¹⁰ 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).

¹¹ See, e.g., *Tennessee Gas Pipeline Co.*, 92 FERC ¶ 61,009, at 61,016 (2000).

¹² Order No. 890 Compliance Filing, at 30.

Furthermore, the relief requested by Beacon Power would undermine the proper functioning of the stakeholder process, and would be inconsistent with Commission precedent. Changing Market Rule 1 to reflect the provision of Regulation and Frequency Response by non-generating resources is only one of many priorities for the ISO and its market participants. In New England, prioritization occurs in a comprehensive consideration of projects among the ISO, NEPOOL and NECPUC. In almost all situations, this prioritization process results in an agreed set of initiatives that will be undertaken by the ISO with the support of both NEPOOL and NECPUC. For 2008, this process will commence in early January and will evolve as new matters arise and other issues are closed. The Commission has recognized that such prioritization is necessary and has deferred to the judgments of the region especially where, as here, the ISO has committed itself to pursuing the requisite Market Rule 1 amendment process with its stakeholders.¹³

In response to a number of prior requests to order the ISO to develop particular market rules, the Commission has declined to do so and focused its attention on the stakeholder process as the proper venue to develop solutions for the issues involved.¹⁴ The Commission has also

¹³ See, e.g., *ISO New England Inc. and New England Power Pool*, 112 FERC ¶ 61,302 at P 23 (2005) (“We also note ISO-NE’s commitment to work with stakeholders to consider additional start-up and no-load offer flexibility. . . . ISO-NE explains that due to other market improving priorities reflected in the Wholesale Markets Plans, ISO-NE and stakeholders cannot formulate such flexibility immediately. Therefore, we encourage ISO-NE to continue exploring increasing bidding flexibility as it already committed to do.”).

¹⁴ See, e.g., *ISO New England and New England Power Pool*, 113 FERC ¶ 61,157 at P 24, *order on reh’g*, 112 FERC ¶ 61,278 (2005). When faced with a request to order ISO-NE to develop market rules regarding the participation of partially de-listed resources in the locational forward reserve market, the Commission has asserted that “as ISO-NE states in its answer, to the extent that [there is] a specific proposal that will permit de-listed resources to participate in the forward reserve markets, such a proposal should be promptly considered by ISO-NE and other market participants in the NEPOOL stakeholder process.” *Id.*

recognized the importance of the efficient use of capital expenditures and human resources and has declined to accelerate implementation timelines.¹⁵

For these reasons, the Commission should allow this process to take its course as it has done in the past and should decline to direct ISO to revise Market Rule 1 within a particular timeframe or impose burdensome reporting requirements.

IV. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission accept its Answer and accept the ISO's position as expressed herein.

Respectfully submitted,

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Dated: November 16, 2007

¹⁵ *ISO New England Inc., et al.*, 110 FERC ¶ 61,111 at PP 35-36, *order on reh'g*, 111 FERC ¶ 61,344 (2005) (rejecting protestor's call to accelerate timeline for issue resolution because the implementation process "reflect[s] both a reasonable and an efficient use of capital expenditures and human resources available to the parties").

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 Washington, D.C. this 16th day of November, 2007.

/s/ Pamela S. Higgins

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