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**VIA ELECTRONIC FILING**

The Honorable Kimberly D. Bose, Secretary  
The Honorable Nathaniel J. Davis, Sr., Deputy Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Re: ISO New England Inc.  
Docket No. ER09-1282-000

Dear Secretary Bose and Deputy Secretary Davis:

Attached for electronic filing in the above-referenced docket is the *Answer of ISO New England Inc.* A copy of the foregoing has been served upon all parties included on the Commission's service list.

If you have any questions or concerns regarding this filing, please feel free to contact me. Thank you for your assistance in this matter.

Respectfully submitted,

/s/ Sherry A. Quirk  
Sherry A. Quirk, Esq.

Counsel for ISO New England Inc.

Attachment

cc: Official Service List



As an initial matter, the ISO reiterates its request<sup>5</sup> that the Commission not issue any orders or directives on the substance of the INTMMU Report or on any issues raised in response.<sup>6</sup> Both the State PUCs and NEPGA expressly support that position.<sup>7</sup> While NEPGA asks the Commission to issue an order regarding the scope and timing for the resolution of FCM-related issues, as discussed in the Answer below, the ISO also urges the Commission to decline to issue any procedural directives in the proceeding.

## **I. ANSWER**

### **A. The ISO Does Not Oppose the Process Proposed by the State PUCs**

The ISO's June 5, 2009 transmittal letter stated that the recommendations in the INTMMU Report "should be promptly considered in the stakeholder process."<sup>8</sup> In response, NEPGA stated that it "fully supports the prompt stakeholder process discussed by ISO-NE to consider these reforms."<sup>9</sup> In its response, the State PUCs stated:

The State PUCs wish to pursue a comprehensive, regional review of proposed modifications to the FCM rules that includes all stakeholders. The State PUCs, ISO-NE, and some New England Power Pool ("NEPOOL") representatives have discussed a process that will involve all parties and will use the services of a mutually agreeable mediator to assist in reaching an agreement on all major FCM issues. . . . The State PUCs fully support this process, but NEPOOL has not yet had an opportunity to decide whether it will agree. If NEPOOL does not agree to

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<sup>5</sup> INTMMU Report, Transmittal Letter at p. 2.

<sup>6</sup> It is also worth noting that the INTMMU Report was an independent review by the Internal Market Monitoring Unit and does not necessarily reflect the views or conclusions of the ISO management, which is reviewing and evaluating the INTMMU Report and will share its opinion on those recommendations through the stakeholder process.

<sup>7</sup> See State PUC Comments at p. 3 (stating that "the State PUCs do not ask the Commission to issue any orders at this time about the justness or reasonableness of any proposed FCM rules changes"); NEPGA Comments at p. 4 (agreeing with the ISO that "it is likely premature for the Commission to issue substantive directions to 'pre-judge' the solutions at this time").

<sup>8</sup> INTMMU Report, Transmittal Letter at p. 1.

<sup>9</sup> NEPGA Comments at p. 1.

a comprehensive, mediated, inclusive process for considering any FCM modifications, the State PUCs reserve their rights to seek further Commission assistance.<sup>10</sup>

The ISO strongly agrees that a resolution of FCM-related issues with broad support of both market participants and regulators is an important goal and that working collaboratively toward this end is imperative.<sup>11</sup> While the ISO believes that the established stakeholder process in New England works effectively, the ISO is also very willing to work with a mediator to facilitate the process.

As the State PUCs also note,<sup>12</sup> in other contexts related to FCM (specifically, the development of the Installed Capacity Requirement provisions and revisions to the interconnection queue), a modified stakeholder process was adopted in which the New England Conference of Public Utility Commissioners, NEPOOL, and the ISO each provided a co-chair for special working groups established to address specific issues. The solutions developed by these working groups were then quickly moved through the established NEPOOL stakeholder process as required by the Tariff and filed by the ISO pursuant to Section 205 of the Federal Power Act. The ISO believes that such an approach could be successfully applied here as well.

The ISO is confident that the parties, among themselves, can reach a satisfactory agreement as to the appropriate process to resolve these issues, and hence no Commission action is required on this point. Whichever approach is adopted, the ISO stands ready to work with participants and regulators to resolve these important issues.

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<sup>10</sup> State PUC Comments at pp. 2-3.

<sup>11</sup> Broad consensus, however, cannot come at the expense of the ISO's independence. As the holder of the Federal Power Act Section 205 filing rights, the ISO is charged with ensuring reliability and that the markets are efficient and effective. The ISO, of course, cannot support any proposal that is at odds with these principles, even if broadly supported by stakeholders and regulators.

<sup>12</sup> See State PUC Comments at p. 9.

**B. The Reasonableness of a February 20, 2010 Deadline Depends on the Scope of Issues to be Addressed**

For some of the major FCM-related issues that must be resolved, deadlines have already been established and work has already begun. Notably, the ISO has made a commitment to file revisions addressing application of the transmission security analysis and its parameters, how Capacity Zones and Local Sourcing Requirements are established, and aligning the standards to be used in establishing those zones and requirements with those used in performing reliability reviews by February 20, 2010.<sup>13</sup> Also, the ISO is required to file potential changes to the treatment of de-list bids rejected for reliability reasons, including an evaluation of the application of the Alternative Capacity Price Rule, or similar mechanism, to Forward Capacity Auctions affected by de-list bids rejected for reliability reasons by May 17, 2010.<sup>14</sup> These efforts alone will tax the resources of both the ISO and stakeholders.

In their comments, however, NEPGA and the State PUCs make certain requests that are not compatible. NEPGA asks for a significant expansion of the FCM-related issues, and asks that all identified issues be resolved and filed with the Commission no later than February 20, 2010.<sup>15</sup> Likewise, the State PUCs note that only a comprehensive package of FCM changes can

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<sup>13</sup> See Order Accepting Tariff Revisions and Requiring Compliance Filing, 126 FERC ¶ 61,115 at P 52 (Feb. 13, 2009) (stating that “while we would encourage submission of any proposed revisions prior to February 20, 2010, we will not make this a requirement, and will continue to hold ISO-NE only to its commitment to file revisions by February 20, 2010”).

<sup>14</sup> See Tariff Section III.13.2.5.2.5(f).

<sup>15</sup> See NEPGA Comments at p. 6 (stating that “[t]he Commission should require ISO-NE to file reforms in the substantive areas identified in the [INTMMU Report] and the Stoddard response by no later than February 20, 2010, reflecting consensus wherever it has been achieved”).

be made so that the balance in the original FCM settlement is maintained.<sup>16</sup> As the Commission is now well aware, the FCM is extremely complex, and a major redesign of even a single component is extremely challenging and time consuming, both from a technical perspective and in the need to balance competing stakeholder interests. While the February 20, 2010 date would allow the filed revisions to be effective before the fourth Forward Capacity Auction, it is important to understand that a significant expansion of the scope of issues that must be resolved simultaneously will all but ensure that the February 20, 2010 date cannot be met. While the ISO does not seek “piecemeal changes” to issues in the current FCM design, it is infeasible to address all of the parties’ concerns – each of which must be designed, vetted with stakeholders, drafted as rules, filed, and implemented – prior to the fourth Forward Capacity Auction.

As the ISO mentioned in the June 2, 2009 transmittal letter for the INTMMU Report, a steering committee – made up of representatives from various stakeholder groups and the ISO – has been established to help determine how best to address the various potential changes to the FCM, including those raised in the INTMMU Report, those advanced by stakeholders, and those identified by the ISO. That steering group is in the process of determining how best to prioritize and address those many issues. While the steering group may be replaced or modified, depending on the process agreed to among the parties (as discussed above), what seems certain is that work on the various outstanding FCM issues must be sequenced in a manner that realistically estimates the capabilities of the interested stakeholders, regulators, and the ISO. This prioritizing and sequencing should proceed using whatever process is agreed to among the parties, and the Commission should decline to elevate the particular issues raised by NEPGA

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<sup>16</sup> See State PUC Comments at pp. 7-9.

above any others by making them subject to a Commission-imposed deadline. Just as the Commission declined to impose a strict February 20, 2010 deadline for the filing of changes to FCM-related zones and requirements,<sup>17</sup> the Commission should decline NEPGA's request here.

## II. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission consider the ISO's Answer and decline to issue any substantive or procedural orders in this proceeding.

Respectfully submitted,

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Dated: July 8, 2009

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<sup>17</sup> See *supra* p. 3 and note 7.

## **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 8th day of July, 2009.

/s/ Sherry A. Quirk  
Sherry A. Quirk, Esq.