

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

ISO New England Inc.

)

Docket No. ER22-355-001

**MOTION OF ISO NEW ENGLAND INC. FOR
EXPEDITED CONSIDERATION OF
REQUEST FOR REHEARING OF NTE CONNECTICUT, LLC**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ ISO New England Inc. (the “ISO” or “ISO-NE”) hereby moves the Commission for expedited action on the pending “Request for Rehearing” of NTE Connecticut, LLC (“NTE”) in this docket. NTE’s rehearing request is included in the “Emergency Motion for Stay, Request for Rehearing, and Request for Shortened Answer Period”² that NTE submitted following the Commission’s order of January 3, 2022, in which the Commission accepted the ISO’s filing to terminate the Capacity Supply Obligation (“CSO”) of NTE’s non-commercial Killingly Energy Center (“Killingly”).³ Specifically, ISO-NE respectfully requests that the Commission promptly rule on the issues raised in NTE’s Request for Rehearing.

Expedited action is necessary so that ISO-NE may provide to New England stakeholders and file with the Commission the results of Forward Capacity Auction (“FCA”) 16, which the ISO conducted on February 7, 2022. Prompt resolution of the continuing uncertainty regarding the status of Killingly will also enable the ISO and market

¹ See 18 C.F.R. § 385.212.

² Emergency Motion for Stay, Request for Rehearing, and Request for Shortened Answer Period of NTE Connecticut, LLC, Docket No. ER22-355-001 (Jan. 10, 2022) (“Request for Rehearing”).

³ *ISO New England Inc.*, 178 FERC ¶ 61,001 (2022) (“Termination Order”).

participants to conduct qualification activities related to FCA 17, which is scheduled to be conducted in February 2023.

On November 4, 2021, ISO-NE submitted a filing in the captioned proceeding to request that the Commission terminate the CSO that Killingly acquired in FCA 13 because Killingly will not be able to achieve commercial operation by June 1, 2024 (i.e., Killingly will not be able to achieve commercial operation two years after the beginning of the Capacity Commitment Period for which Killingly first acquired a CSO).⁴ Effective January 4, 2022, the Termination Order accepted ISO-NE's request to terminate Killingly's CSO, beginning with the 2022-2023 Capacity Commitment Period⁵ and including future Capacity Commitment Periods.⁶

On January 10, 2022, NTE filed its Motion for Stay and Request for Rehearing. The Commission denied NTE's Motion for Stay on January 28, 2022.⁷ NTE subsequently filed a petition with the United States Court of Appeals for the District of Columbia Circuit ("D.C. Circuit") seeking a stay of the Commission's Termination Order to permit Killingly to participate in FCA 16 on February 7, 2022. By order issued on February 4, 2022, the

⁴ Section III.13.3.4A of the ISO-NE Transmission, Markets and Services Tariff (the "Tariff") provides that, after consultation with the Project Sponsor, the ISO has the right to terminate a resource's CSO through a filing with the Commission in certain circumstances, including if, as a result of milestone date revisions, the date by which a resource will have achieved all its critical path schedule milestones is more than two years after the beginning of the Capacity Commitment Period for which the resource first received a CSO. In other circumstances, the ISO may terminate a CSO without a filing with the Commission, including, as set forth in Section II.C.3 of the ISO New England Financial Assurance Policy (Exhibit IA to Section I of the Tariff), in the event that a financial/billing default remains uncured after due notice.

⁵ Termination Order at P 23.

⁶ I.e., the 2022-2023, 2023-2024, 2024-2025 and 2025-2026 Periods, in accordance with Section III.13.3.4A of the Tariff.

⁷ *ISO New England Inc.*, 178 FERC ¶ 61,063 (2022).

D.C. Circuit stayed the Termination Order until thirty days after the Commission resolves NTE's pending Request for Rehearing.⁸

In accordance with the D.C. Circuit's order, the ISO included Killingly in FCA 16 as an existing resource. Because of the continuing uncertainty regarding Killingly's status, the ISO provided notice to market participants on February 4 and 6, 2022 that it would include Killingly in the auction, would calculate clearing prices and quantities with and without Killingly, and would refrain from announcing the auction's results until Killingly's status has been clarified.⁹ FCA 16 was conducted as planned on February 7, 2022.

The Tariff requires the ISO to make a filing with the Commission providing the results of FCA 16 "as soon as practicable" following the close of the auction, and further directs the ISO to publish certain auction data within fifteen days after the FCA is concluded.¹⁰ In addition, the conclusion of FCA 16 initiates a variety of steps under the Tariff governing participation in, and establishing parameters for, the next forward auction, FCA 17, which is scheduled to be held in February 2023. Therefore, to facilitate timely publication of the FCA 16 results and the orderly conduct of the activities leading up to FCA 17, ISO-NE submits this motion urging the Commission to take expedited action on NTE's Request for Rehearing. If the Commission denies rehearing, then the ISO will evaluate whether, in light of all circumstances at the time, to submit a request that the D.C. Circuit dissolve the additional 30 days of the stay.

⁸ *In re NTE Connecticut, LLC*, No. 22-1011 (D.C. Cir. Feb. 4, 2022) (order granting petition for writ of mandamus and staying Commission order).

⁹ *Order from D.C. Circuit Court of Appeals - Update on FCA 16 Auction*, ISO New England Inc., (Feb. 4, 2022), <https://www.iso-ne.com/event-details?eventId=148195>; *Order from D.C. Circuit Court of Appeals – Second Update on FCA 16 Auction*, ISO New England Inc., (Feb. 6, 2022), <https://www.iso-ne.com/event-details?eventId=148201>.

¹⁰ *See, e.g.*, Tariff §§ III.13.1.8, III.13.8.1(c).

Several important factors support the relief ISO-NE seeks by this motion.

First, expedited action on NTE's Request for Rehearing is in the interest of all parties to this proceeding, and will not prejudice any party.

Second, expedited action is required to ensure the timely publication of the appropriate results of FCA 16. This, in turn, will provide important information to the New England markets and will enable market participants to plan and conduct business consistent with the price signal provided by the auction's outcome. Expedient resolution of NTE's Request for Rehearing also will facilitate beginning the detailed and complex calendar of FCM activities for FCA 17 and the annual reconfiguration auctions to be conducted later in 2022.¹¹

Though the Commission properly concluded in the Termination Order that Killingly failed to meet the Tariff's standards to be a participating resource in FCA 16 and subsequent Forward Capacity Auctions, the D.C. Circuit's February 4 Order required the ISO to allow Killingly's participation in FCA 16. ISO-NE's obligations in conducting such auctions include ensuring certainty and competitiveness among properly qualified resources, and this obligation is impeded by the inclusion of a resource such as Killingly, whose CSO should be and was terminated. Therefore, the Commission should promptly resolve NTE's pending Request for Rehearing so that ISO-NE may calculate and file with the Commission accurate auction results in accordance with the ISO's obligations under Section III.13.8.2 of its Tariff.

Finally, the expedited action that ISO-NE seeks here will serve the public interest. Informing market participants of the results of FCA 16 as soon as practicable will aid the

¹¹ *2022 Annual FCM Events*, ISO New England Inc. (Jan. 4, 2022), https://www.iso-ne.com/static-assets/documents/2021/07/2022_fcm_ra_bil_cal.pdf.

planning of capacity resources, and thus will help to ensure reliability of the transmission grid in New England. That goal is further served by enabling the timeline of activities in preparation for FCA 17 to commence and proceed. The Commission's expedited action will serve these objectives, and thus will further the public interest.

Accordingly, ISO-NE respectfully requests that the Commission issue an order on NTE's Request for Rehearing on or before February 10, 2022.

Respectfully submitted,

By: /s/ Michael J. Thompson

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Dated: February 9, 2022

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 Commission Secretary in these proceedings.

Dated at Washington, D.C. this February 9, 2022.

/s/ Michael J. Thompson

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