

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

RENEW Northeast, Inc. and the American)	
Clean Power Association,)	
)	
Complainants,)	
v.)	Docket No. EL22-42-000
)	
ISO New England Inc.,)	
)	
Respondent.)	

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

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure¹ of the Federal Energy Regulatory Commission (the “Commission”), ISO New England Inc. (the “ISO” or “ISO-NE”) hereby submits this motion for leave to answer and answer to the April 29, 2022 Answer filed by RENEW Northeast, Inc. (“RENEW”) and the American Clean Power Association (“ACP;” collectively “Complainants”) in the above-captioned proceeding.

I. INTRODUCTION

On March 15, 2022, RENEW and ACP filed a complaint² alleging that the ISO’s Transmission, Markets and Services Tariff (“Tariff”)³ grants undue preferences (1) to gas-only resources with respect to resource capacity accreditation in the Forward Capacity Market (“FCM”), and (2) in the designation of, and payments to, gas-only resources as

¹ 18 C.F.R. §§ 385.212, 385.213 (2022).

² Complaint and Request For Expedited Consideration of RENEW Northeast, Inc. and the American Clean Power Association, Docket No. EL22-42-000 (Mar. 15, 2022) (“Complaint”).

³ Capitalized terms used but not defined in this filing are intended to have the meaning given to such terms in the Tariff.

operating reserves. Specifically, Complainants ask the Commission to direct ISO-NE to make Tariff changes that: (1) limit aggregate winter capacity qualification of gas-only resources to levels that can be simultaneously fueled and establish winter season capacity ratings that account for fuel availability; and (2) require that real-time operating reserves either have confirmed fuel available or a Tariff obligation to acquire fuel upon dispatch.⁴

On April 14, 2022, the ISO filed its Motion to Dismiss and Answer to Complaint,⁵ and various intervenors also filed comments and protests addressing the arguments raised in the complaint. On April 29, 2022, the Complainants filed an Answer to the ISO's Motion to Dismiss and Answer.⁶ Here, the ISO corrects several inaccurate assertions and characterizations in the RENEW/ACP Answer to ensure a complete and correct record upon which the Commission can and should dismiss the Complaint.

II. MOTION FOR LEAVE TO ANSWER

Under the Commission's rules, answers to answers are generally prohibited.⁷ However, the Commission is empowered to waive that prohibition for good cause.⁸ The Commission has found good cause to permit answers where they are otherwise prohibited in various circumstances, including where a protestor has provided an inaccurate interpretation of the contents of a filing,⁹ and where the answer would assure a complete

⁴ Complaint at pp. 31-32.

⁵ Motion to Dismiss and Answer to Complaint of ISO New England Inc., Docket No. EL22-42-000 (Apr. 14, 2022) ("ISO Answer"), supported by testimony from Andrew Gillespie ("Gillespie Testimony"), Tongxin Zheng ("Zheng Testimony"), and Peter T. Brandien ("Brandien Testimony").

⁶ Answer to Motions to Dismiss, Motion to File Answer and Answer of Renew Northeast, Inc. and The American Clean Power Association, Docket No. EL22-42-000 (Apr. 29, 2022) ("RENEW/ACP Answer").

⁷ See 18 C.F.R. § 385.213(a)(2) (2022).

⁸ See 18 C.F.R. § 385.101(e) (2022).

⁹ See, e.g., *Alliance Cos., et al.*, 91 FERC ¶ 61,152 at pp. 61,577-78 (2000).

record in the proceeding,¹⁰ lead to a better understanding of the issues in the proceeding,¹¹ permit the issues to be narrowed or clarified,¹² aid in the disposition of the issues raised by the protests,¹³ or otherwise assist the Commission in its decision-making process.¹⁴

This *Answer* responds to specific assertions in the RENEW/ACP Answer to address why Complainants arguments are unsound and to correct the record in this proceeding. In doing so, this *Answer* helps to assure a complete record in the proceeding, leads to a better understanding of the issues in the proceeding, and aids the Commission in the disposition of the issues raised in this proceeding.

III. ANSWER

A. Complainants Misconstrue the Purpose of the ISO's Fuel Reporting Requirements to Support Their Proffered Solution to a Problem That Does Not Exist

Complainants reiterate their ask that the Commission direct ISO-NE to revise the Tariff to require real-time operating reserves to either have confirmed fuel available or an obligation to acquire fuel upon dispatch.¹⁵ RENEW and ACP seek this relief in order to correct a so-called “overstated” amount of operating reserves, because, in their view, gas-only resources are designated as available to supply such reserves “without confirmed real-time fuel supplies.”¹⁶ Complainants do not offer any evidence in the Complaint or

¹⁰ See, e.g., *High Island Offshore System, L.L.C.*, 113 FERC ¶ 61,202 at P 8 (2005).

¹¹ See, e.g., *Mississippi River Transmission, LLC*, 141 FERC ¶ 61,080 at P 4 (2012).

¹² See, e.g., *TransColorado Gas Transmission Co.*, 111 FERC ¶ 61,208 at P 4 (2005); *PJM Interconnection, LLC*, 84 FERC ¶ 61,224, at p. 62,078 (1998).

¹³ See, e.g., *Transcontinental Gas Pipe Line Co., LLC*, 140 FERC ¶ 61,251 at fn. 6 (2012).

¹⁴ See, e.g., *Southern California Edison Co.*, 141 FERC ¶ 61,100 at P 6 (2012); *ISO New England Inc. and New England Power Pool*, 140 FERC ¶ 61,177 at P 6 (2012).

¹⁵ See, e.g., RENEW/ACP Answer at pp.15-16; see also Complaint at pp. 31-32.

¹⁶ RENEW/ACP Answer at p. 14.

their Answer that demonstrates gas-only resources are receiving payments for reserves that they are not actually providing. Moreover, the ISO has established that gas-only resources, which are a very small portion of the fast-start resource pool, perform at the same level as other types of reserves.¹⁷ One Market Participant provided compelling resource-specific performance data¹⁸ and information about its gas-only resource fuel management practices that the Complainants have failed to refute or even address.

Instead of providing verifiable facts or evidence, Complainants rely on unavailing arguments. According to RENEW and ACP, the alleged overstatement of operating reserves creates an undue preference for gas-only resources, which

remains inherent in ISO-NE's own description (which Complainants have noted), when information is available about a specific resource, ISO-NE can make changes to such unit's eligibility to offer and provide operating reserves. In the case of pumped storage hydro, ISO-NE has telemetered values of water storage available in their control room, such that ISO-NE has availability information for those units at all times. Likewise, ISO-NE audits oil and dual fuel resources regarding their oil inventory—which provides a predispatch basis for action by ISO-NE. In the case of gas-only resources, ISO-NE has working practices through which it communicates with pipelines regarding fuel supply and delivery conditions—a workaround at best. In fact, the entirety of ISO-NE's explanation of how it manages gas-only resources fuel availability always is prefaced by “when the ISO becomes aware” of a potential unavailability of fuel for a specific resource, it can then act.¹⁹

While Complainants are correct that the ISO does have access to real-time information related to pumped storage facilities, and receives regular reporting regarding resources' oil and coal availability, they misapprehend the purpose of these practices, which exist to provide information on regional energy and reserve availability, and not, as Complainants

¹⁷ See ISO Answer at p. 6; see also Brandien Testimony at pp. 8-10.

¹⁸ See Protest of LS Power Development, LLC, Ocean State Power LLC, and Wallingford Energy LLC, Docket No. EL22-42-000 (filed Apr. 14, 2022).

¹⁹ RENEW/ACP Answer at pp. 21-22.

suggest, to “make changes to such unit’s eligibility to offer and provide operating reserves.”²⁰

Specifically, the real-time pumped storage data helps the ISO maintain a greater degree of situational awareness of two large resources that play a significant role in the day-to-day operation of the grid, but is not used by the ISO to unilaterally limit reserve designations for such resources as Complainants suggest. Data the ISO collects on oil and coal levels similarly enhance the ISO’s situational awareness of regional energy and reserve availability and are also a key input to the ISO’s 21-day energy assessment,²¹ which is used to alert regional stakeholders of actual or anticipated near-term energy deficiency conditions such that resources can take action to replenish fuel supplies and/or take action to mitigate environmental limitations.²² That data is not timely enough to determine eligibility for real-time reserves, and thus is not used for this purpose.²³ Thus, the “preference” that Complainants allege also does not exist.

Complainants further incorrectly attempt to characterize gas-only resources as an outlier in the New England fleet because they are not required to confirm fuel availability prior to their designation to provide reserves.²⁴ To the contrary, no resources are required to provide real-time telemetry to determine their ability to provide reserves, other than

²⁰ See RENEW/ACP Answer at p. 21.

²¹ See 21-Day Energy Assessment Forecast and Report, <https://www.iso-ne.com/isoexpress/web/reports/operations/-/tree/21-Day-Energy-Assessment-Forecast-and-Report-Results>

²² See ISO New England Inc., *Operating Procedure No. 21, Operational Surveys, Energy Forecasting & Reporting and Actions During An Energy Emergency* (Oct. 27, 2021), at p. 5, https://www.iso-ne.com/static-assets/documents/rules_proceeds/operating/isono/op21/op21_rto_final.pdf.

²³ *Id.* at p. 10 (noting that during normal conditions, the ISO shall distribute Generator Fuel and Emissions Surveys either Weekly or Bi-weekly).

²⁴ RENEW/ACP Answer at pp. 22-23.

Continuous Storage Facilities.²⁵ This data is necessary in order for the ISO to provide a highly automated dispatch that accommodates the unique characteristics of these storage resources. Again, no other resource type on the system is subject to an obligation to provide real-time telemetry on their fuel (or energy) availability for the ISO to use in establishing reserve designations, including hydropower, pumped storage facilities, and Demand Response Resources.

Notably, Complainants now offer an alternative to the relief requested in the Complaint, by asserting that gas-only resources should be obligated to take “predispatch steps to confirm fuel availability,” as an alternative to imposing an obligation “to procure sufficient fuel upon receipt of a dispatch instruction,” arguing that both are “well within prudent utility practice and provide flexibility in how a gas-only resource meets its obligations as a designated operating reserve supplier.”²⁶ All resources are subject to a standard of operating their facilities using good utility practice, and Complainants fail to provide any evidence that gas-only resources are not employing such a standard when monitoring fuel availability.²⁷

²⁵ See ISO New England Inc., Operating Procedure No. 14, Technical Requirements for Generators, Demand Response Resources, Asset Related Demands and Alternative Technology Regulation Resources, Appendix I – CSF Plant Operator Guide (Mar. 19, 2021), pp. 5-8, at https://www.iso-ne.com/static-assets/documents/2019/04/op14_appi_rto_final.pdf.

²⁶ RENEW/ACP Answer at p. 24.

²⁷ See *New England Power Generators Ass’n, Inc. v. ISO New England Inc.*, 144 FERC ¶ 61,157 at P 61 (2013) (“The Commission expects that, going forward, ISO-NE’s IMM will refer suspected violations, including any capacity resource’s failure to timely notify ISO-NE that the resource is not physically available, to the Commission”) and P 62 (“Given the complexities involved in determining whether a particular resource has demonstrated that it was unable to procure fuel in order to satisfy its performance obligations, the Commission will require ISO-NE, through its IMM, to provide a written explanation regarding factors the IMM typically expects to examine to determine whether there is a reason to believe that a violation has occurred”); see also Information Filing of Factors the Internal Market Monitor will Consider Regarding Physical Availability of Fuel for Resource Operation, Docket No. EL13-66-000 (filed Sept. 26, 2013); see also Factors the Internal Market Monitor Considers in Evaluating Physical Availability of Fuel for Generating Resources, available at https://www.iso-ne.com/static-assets/documents/markets/mktmonmit/rpts/other/factors_imm_considers_in_eval_physical_avail_of_fuel_or_gen_res.pdf.

The Complainants do not provide a rationale for imposing a fuel-related Tariff obligation on gas-only resources (and only on such resources). As the ISO explained in its *Answer*, the Tariff does not impose express fuel availability obligations on *any* other type of reserve resource.²⁸ The Tariff, however, does obligate all resources to keep their offers up to date,²⁹ inform the ISO of relevant information regarding their availability,³⁰ and comply with all dispatch instructions from the ISO.³¹ These requirements collectively impose an obligation on *all* resources to inform the ISO of any limitations on resource availability, including limitations on available fuel. Those measures have been sufficient to ensure reserve performance.

Complainants' proposed solution to the "problem"—imposing an obligation for procurement of fuel to meet a reserve designation—would only serve to increase costs for reserves, without demonstrating first that there is an issue with current reserve delivery that would warrant such cost increases.³² Complainants have not demonstrated why the existing Tariff framework is deficient with respect to the obligations it imposes on gas-only resources that provide real-time operating reserves, and dismissal of the Complaint is

²⁸ The Commission directed that operating reserve qualifications be "based on capability and performance characteristics rather than categorical exclusions" at RENEW's request. *See ISO New England Inc.*, 152 FERC ¶ 61,065 at P 25 (2015).

²⁹ Tariff Section III.1.7.20(b) (requiring all Market Participants to "supply to the ISO all applicable Offer Data" and "continuously maintain all Offer Data concurrent with on-line operating information").

³⁰ Tariff Sections III.1.7.20(f) (requiring all Market Participants to report "anticipated availability and other information concerning Generator Assets, Demand Response Resources and Dispatchable Asset Related Demands required by the ISO New England Operating Documents, including but not limited to the Market Participant's ability to procure fuel and physical limitations that could reduce Resource output or demand reduction capability for the pertinent Operating Day").

³¹ Tariff Section III.1.11.3(b) (requiring all Market Participants to "ensure that the entity controlling a Dispatchable Resource offered or made available by that Market Participant complies with the energy dispatch signals and instructions transmitted by the ISO").

³² *See PJM Interconnection, L.L.C.*, 177 FERC ¶ 61,209 at P 30 (2021) (rejecting PJM's proposed increase to its Reserve Penalty Factors premised on a hypothetical example because PJM failed to demonstrate that the example is "likely to occur with sufficient frequency [such] that it renders ... [the] currently effective rules unjust and unreasonable.").

appropriate.

B. Complainants Conflate the Region’s Energy Security Concerns with Capacity Delivery Obligations and In Doing So Repeatedly Mischaracterize the Tariff’s Capacity Accreditation Framework

RENEW and ACP continue to point to winter gas delivery constraints as evidence of a capacity procurement problem that results in an undue preference for gas-only resources.³³ The ISO does not disagree with the Complaint’s underlying concern that New England faces gas delivery constraints that can pose significant risks to energy security, in particular during extended extreme winter weather conditions. However, the existence of those concerns does not provide evidentiary support for Complainants’ declaration that a market design flaw renders the FCM unduly discriminatory. As the ISO has previously stated,

fuel security is not an issue of installed generating capacity. This is not about the 1 in 10 day standard for loss of load and the process for determining the amount of installed capacity the region requires to meet peak load conditions. Fuel security instead is a matter of the ability of those power plants whose capability is procured in a capacity market to obtain and use the fuel they need to produce *energy* to meet demand and maintain required operating reserves, even at load levels that are far below the summer peak energy needs. Said another way, this is an *energy* problem, not a *capacity* problem. This problem is most acute during winter, particularly during periods of sustained cold weather. However, it also is a concern in the event that the New England interstate natural gas pipeline system becomes constrained during summer peaks, when dual-fuel and oil-fired plants are restricted or even prohibited from running on oil due to emissions limitations imposed to maintain air quality.

To illustrate the difference between energy and capacity, while the region may have procured the capacity – *i.e.*, capability in terms of supply machines – to serve a peak load, in the absence of fuel for those generators to actually operate, only some portion of that capacity will actually be able to produce energy. Thus, a region may have sufficient installed capacity,

³³ See, e.g., RENEW/ACP Answer at pp. 2 and 15 (“In this Complaint, RENEW and ACP have addressed the fact that the current ISO-NE rules and practices for capacity accreditation and operating reserve designation fail to take into account the uncertainty of natural gas supply in New England, particularly in winter peak conditions.”).

but may not have sufficient fuel to produce electric energy from that installed capacity.³⁴

RENEW and ACP remain unable to establish that an undue preference for gas-only resources exists under this underlying capacity market design, and instead resort to reiterating their unavailing arguments with unsupported facts.³⁵

Complainants also contend that the ISO “attempts to change the narrative from fuel uncertainty to control over energy outputs . . . ISO-NE’s ‘output’ argument ignores the simple fact that availability of input energy affects generation output – always, and for all resources.”³⁶ The ISO does not dispute that input and output are related, but the current FCM construct is designed to incentivize capacity suppliers to ensure their resources are capable of delivering energy when needed, and does so by measuring and paying for *output*, rather than by defining and controlling for inputs. RENEW/ACP continue to ignore this output-based incentive structure, and repeatedly assert, without acknowledging the existing Tariff, that “the present capacity accreditation for gas-only resources is based on an assumption of 100% fuel availability, notwithstanding the known gas-supply conditions that can significantly affect fuel availability to gas-only resources in winter peak conditions.”³⁷ As discussed in the Gillespie Testimony, Complainants’ attempts to argue that a resource’s capacity value is or should be determined based on its respective energy

³⁴ See *ISO New England Inc.*, Petition for Waiver of Tariff Provisions, FERC Docket No. ER18-1509, Testimony of Peter T. Brandien at pp. 10-11 (filed May 1, 2018).

³⁵ See, e.g., RENEW/ACP Answer at p. 6 (“Further, ISO-NE fails to acknowledge that every year it procures roughly 33,000 MW of capacity, but every year it sounds the alarm bells about winter reliability issues due to concerns that roughly 24,000 MW of load are at risk because of constraints on gas pipeline conditions”). Complainants offer no evidence in support of this statement.

³⁶ RENEW/ACP Answer at p. 16.

³⁷ RENEW/ACP Answer at p. 15; citing Complaint at pp. 3, 23-27.

inputs are fundamentally incorrect.³⁸ RENEW and ACP remain simply, and foundationally, wrong.

This is not to say that the current capacity accreditation framework cannot be improved. The ongoing resource capacity accreditation (“RCA”) effort is aimed at such improvements, to enhance the overall delivery of capacity and ensure the market continues to achieve the resource adequacy objectives of the market as the region’s resource mix transforms over the next several decades. But these revisions are properly viewed as an enhancement to the existing capacity market design, as opposed to a fix necessary to address an undue preference or demonstrated problem with the capacity market.

Importantly, the RCA project enhancements, once filed with the Commission, will include substantial evidence for such changes, including models related to gas fuel uncertainty and detailed analysis supporting the overall design, all of which the Complaint crucially lacks in support of its requested relief. The ISO reiterates its commitment to file the RCA revisions with the Commission by December 1, 2023, to be in effect in advance of the nineteenth Forward Capacity Auction.³⁹

IV. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission dismiss the RENEW/ACP Complaint with prejudice. Alternatively, as discussed its previous *Answer*, the Commission should deny the Complaint in its entirety on the merits.

³⁸ ISO Answer at p. 22; citing Gillespie Testimony at pp. 5-6.

³⁹ See Motion For Leave to Answer and Answer of ISO New England Inc., FERC Docket No. ER22-1528-000 at p. 30 (filed May 10, 2022); citing ISO New England Inc., *Revisions to ISO New England Transmission, Markets and Services Tariff of Buyer-Side Market Power Review and Mitigation Reforms*, FERC Docket No. ER22-1528-000 (filed Mar. 31, 2022), Testimony of Dr. Vamsi Chadalavada, pp. 43-44 (explaining current project timelines); see also Zheng Testimony at pp. 6-7.

In the event the Commission neither dismisses nor denies the Complaint, it should institute the other steps described in the ISO's April 14, 2022 *Answer* to preserve the efficacy of the impending New England stakeholder processes addressing resource capacity accreditation and reforms of the rules regarding reserves.

Respectfully submitted,

ISO NEW ENGLAND INC.

/s/ Kathryn Boucher

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May 17, 2022

*Individuals designated to be included on the Commission's service list for this proceeding.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the parties designated on the official service list for the above-captioned docket in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure. 18 C.F.R. §385.2010.

Dated at Holyoke, MA this 17th of May 2022.

/s/ Julie Horgan
Julie Horgan