MOTION FOR LEAVE TO ANSWER AND ANSWER OF THE MAINE PUBLIC UTILITIES COMMISSION TO PROTEST OF REENERGY BIOMASS OPERATIONS LLC

The Maine Public Utilities Commission ("MPUC"), pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission ("Commission" or "FERC") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213, hereby respectfully tenders for filing this Motion for Leave to Answer and Answer to the November 17, 2016 Protest of ReEnergy Biomass Operations LLC ("ReEnergy").

I. LEAVE TO FILE ANSWER TO REENERGY'S PROTEST

Pursuant to Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2) (2013), the MPUC requests that the Commission accept the MPUC’s Answer herein. The MPUC’s Motion for Leave should be granted and its Answer should be considered since the MPUC’s Answer aids the Commission in its understanding of the issues presented and the positions taken, and ensures the development of a complete record.¹

The Commission will allow otherwise unauthorized answers where, as here, an answer provides further explanation or otherwise helps to ensure the existence of a full and complete record and Commission understanding of that record. Although a reply to an answer is not provided for under Rule 213 of the Commission’s Rules of Practice and Procedure, the Commission allows such reply where the information provided will facilitate the Commission’s decisional process, or aid in the Commission understanding of the issues in the dispute.\(^2\) Similarly, the Commission will consider an otherwise impermissible reply when it enhances or facilitates a full and complete record upon which the Commission can base its decision.\(^3\) The Commission also permits such answers where the information provided in the answer assists in

\(^2\) See *Egan Hub Partners, L.P.*, 73 FERC ¶ 61,334 at 61,929 (1995) (“Although our rules do not permit answers to answers, we may for good cause, waive this provision. We find good cause to do so in this instance in order to clarify the issues in dispute.”); *New York Independent System Operator, Inc., et al.*, 91 FERC ¶ 61,218 at 61,797 (2000) (allowing otherwise impermissible answer deemed “useful in addressing the issues.”); *Central Hudson Gas & Elect. Corp. et al.*, 88 FERC ¶ 61,138 at 61,381 (1999) (accepting impermissible answers because they helped to clarify the issues); *Pacific Gas and Elec. Co., et al.* 77 FERC ¶ 61,204 at 61,808 (1996) (allowing impermissible answers that assists in the understanding of the issues raised); *Buckeye Pipe Line Co.*, 45 FERC ¶ 61,046 at 61,160 (1988) (Good cause exists for consideration of prohibited answers where “they help explicate issues that are important to this proceeding . . . .”). See also *Transwestern Pipeline Co.*, 50 FERC ¶ 61,211 at 61,672 n.5 (1990) (“Although answers to protests generally are not allowed by Rule 213 . . . we may waive this prohibition when circumstances warrant, e.g. where consideration of matters sought to be addressed in the answer will facilitate the decisional process or aid in the explication of issues.”).

\(^3\) See *The New Power Co. v. PJM Interconnection Inc.*, 98 FERC ¶ 61,208 at 61,756 (2002) (allowing otherwise impermissible answers “on the basis that they provide new factual and legal material that helps the Commission in its decision-making process.”); *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (2000) (Noting that Rule 213 “prohibits the filing of an answer to an answer unless otherwise permitted by decision authority” but accepting such an answer that was deemed “helpful in the development of the record.”); *Midwest Gas Transmission Co.*, 73 FERC ¶ 61,320 at 61,886 (1995) (finding good cause to allow otherwise impermissible answer “in order to develop a complete record on which to base a decision.”); *Williams Natural Gas Co.*, 70 FERC ¶ 61,304 at 61,914 (1995) (allowing otherwise impermissible answer “to achieve a complete and accurate record.”).
the understanding of the parties’ positions. The MPUC’s Answer assists in the understanding of both the Northern Maine Independent System Administrator’s reliability determinations and the importance of the proposed market rule amendment to northern Maine ratepayers.

II. ANSWER

A. Background

1. NMISA’s Role In Maintaining Reliability

The Northern Maine Independent System Administrator (“NMISA”) is charged with proposing market rules that are necessary to promote reliability, ensuring that the Northern Maine Transmission System has adequate transmission and generation capacity to satisfy reliability standards, and preparing an analysis of the Northern Maine Transmission System to, among other things identify actions that are or may be needed to alleviate an existing or emerging transmission constraint. This annual reliability analysis is called the Seven-Year Outlook (“Outlook”).

2. Transmission Constraints Identified in Outlooks Prior to 2016 Outlook

Prior to the 2016 Outlook, NMISA had identified an emerging transmission constraint. While the ReEnergy units could be counted as available resources through 2019, NMISA could not conclude with certainty that the units would be available after that time. That meant that there was a need for either additional transfer capability or additional in-region resources.

3. Elimination of the Transmission Constraint

In April of 2016, NMISA filed its 2016 Outlook. In the 2016 Outlook, NMISA states that the upgrade of the Tinker transformer and the rebuild of line 6901, expected to be completed by 4

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See Kansas City Power & Light Co., 53 FERC ¶ 61,097 at 61,282 (1990) (“Here, the information set forth in the answers has assisted us in understanding the parties’ positions. Accordingly, on this basis and given the absence of any undue prejudice and delay, we will accept all the answers.”).

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See NMISA Tariff §§ 4.8, 4.9, 4.14
early November 2016, will resolve the emerging transmission constraint identified by NMISA in previous Outlooks.6

4. Market Rule 10 and NMISA’s Proposed Amendment

Market Rule 10 addresses the capacity obligations for Competitive Energy Providers (CEPs) and other Load Serving Entities (LSEs) within the Northern Maine ISA area. The rule requires retail suppliers in northern Maine to secure capacity resources to cover projected peak load and projected operating reserve requirements for a Capacity Period. NMISA’s proposed amendment to Market Rule 10 eliminates the deliverability requirement for resources within the New Brunswick balancing area. The requirement was based on NMISA’s determination of a transmission constraint as discussed in NMISA’s Outlook. NMISA explains in its October 27, 2016 filing that with the removal of the transmission constraint, the deliverability requirement is no longer necessary.

5. Standard Offer Contract between New Brunswick Energy Marketing Corporation and Emera Maine

On September 21, 2016, the MPUC accepted a standard offer bid for service beginning November 1, 2016 for Emera Maine, Maine Public District’s small and medium class provided by New Brunswick Energy Marketing Corporation. The accepted bid included a fixed price for the first seven months, and a 31-month extension term that is contingent on FERC approval, prior to March 31, 2017, of the proposed change to Market Rule 10 that is the subject of NMISA’s October 27, 2016 filing in the instant docket. Therefore, FERC’s approval of the Market Rule 10 amendment on or before March 31, 2016, is critical to the provision of standard offer service under the bid accepted by the MPUC.

6 2016 Outlook at 9.
B. The Commission Should Give Deference to NMISA’s Determination that Elimination of the Firm Reservation Requirement Will Not Harm Reliability

In its Answer, filed on November 28, 2016, (“NMISA Answer”), NMISA explains why ReEnergy is mistaken in its claim that eliminating the firm reservation requirement for resources located in the New Brunswick balancing area will harm reliability. NMISA corrects ReEnergy’s figures regarding Northern Maine load and transfer capability from New Brunswick to Northern Maine. The NMISA Answer also makes clear that the scenario posed by ReEnergy, in which 100 percent of the load in Northern Maine is required to be served by imports, is unrealistic. NMISA points out that there is no reasonably likely scenario in which all of Northern Maine’s 16 generation facilities would be unavailable at the same time. NMISA further informs the Commission regarding the schedule for placing the Tinker transformer upgrade into service. NMISA concludes that the combination of existing in-region generation and the current New Brunswick-Northern Maine interface transfer capability “is more than adequate to meet the Northern Maine region’s capacity requirements until the Tinker transformer upgrade is placed into service in spring 2017.” The Commission should accord this NMISA conclusion deference, since NMISA is the entity charged with ensuring that the Northern Maine Transmission System has adequate transmission and generation capacity to satisfy applicable reliability standards. Accordingly, the proposed Market Rule 10 amendment should be approved because the firm reservation requirement is no longer needed to assure reliability.

C. ReEnergy’s Effort to Retain the Firm Transmission Requirement Favors NMISA Region Resources at the Expense of Consumers

While ReEnergy complains that the proposed amendment “would result in undue discrimination against resources” in other balancing areas such as ISO-NE, retaining the firm

7 NMISA Answer at 4.
8 ReEnergy Protest at 6.
transmission requirement would actually provide an advantage to NMISA resources such as ReEnergy. If the firm transmission requirement continues for supply resources located in New Brunswick, even though the requirement is not necessary to ensure reliability, CEPs will be required to purchase from NMISA region suppliers such as ReEnergy. Such an outcome would reduce competition among supply resources and thus would have an adverse impact on consumers, and on the market in the long term.

III. CONCLUSION

The MPUC respectfully requests that the Commission accept this answer to the ReEnergy Protest and approve the Market Rule amendment as filed by NMISA.

Dated: November 29, 2016

Respectfully submitted,

/s/ Lisa Fink

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document either by first class mail or electronic service upon each party on the official service list compiled by the Secretary in this proceeding.

Dated at Hallowell, Maine, this 29th day of November, 2016.

/s/ Lisa Fink

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