UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

) ISO New England Inc. ) Docket No. ER18-1509-000
)

MOTION FOR LEAVE TO ANSWER AND ANSWER OF THE
MAINE PUBLIC UTILITIES COMMISSION

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal
Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.212 and 385.213, the Maine
Public Utilities Commission (“MPUC”) files this Motion for Leave to Answer and Answer in the
above-captioned proceeding.

This proceeding relates to the May 1, 2018 Petition of ISO New England Inc. (“ISO-
NE”) for Waiver of Tariff Provisions (“Petition”). ISO-NE filed the Petition in response to its
concerns regarding fuel security risks over a two-year period beginning on June 1, 2022 and
ending on May 31, 2024. ISO-NE is seeking authorization to retain for fuel security two gas-
fired electric generation units known as “Mystic 8 & 9.” (“Mystic Units”) The MPUC filed a
protest to ISO-NE’s Petition.

The MPUC seeks leave to answer the June 7, 2018 answer that ISO-NE filed (“ISO-NE
Answer”). Although Rule 213 of the Commission’s Rules of Practice and Procedure generally
prohibits an answer to an answer or protest, the Commission has exercised discretion to accept
answers such as this one where they provide information that assists the Commission in its
decision-making process.1 The MPUC’s answer to the ISO-NE Answer meets this standard
because it provides the Commission with a more complete and accurate record upon which to

1 See, e.g., ISO New England Inc., 161 FERC ¶ 61,123 at P 17 (2017); HORUS Central Valley Solar 1, LLC, et
base its decision in this proceeding. The MPUC’s answer explains why ISO-NE’s request to defer cost allocation determinations to “Chapter 2” stakeholder discussions is neither appropriate nor consistent with the tariff and addresses ISO-NE’s additional information regarding causes of ISO-NE’s fuel security concerns. Accordingly, the MPUC submits that there is good cause for the Commission to accept this answer.

I. ANSWER

ISO-NE states that cost allocation issues “are not directly triggered by the Waiver Petition,” but reiterates its position that “fuel security is a regional issue.” ISO-NE. It requests that cost allocation determinations be deferred to “Chapter 2” stakeholder discussions. ISO-NE also provides additional information regarding causes of its fuel security concerns.

For the reasons discussed below, ISO-NE’s request to defer a cost allocation determination to “Chapter 2” should be denied. The MPUC urges the Commission, instead, to decline to grant the waiver and direct the ISO to comply with the tariff to determine whether there is a local reliability need. While at some point ISO-NE may need to request a waiver to allow it to defer the construction of any transmission fix identified as a result of its study, such a waiver would be significantly less sweeping than those sought in the Petition. Further, as discussed below, the additional information provided by ISO-NE supports the argument in the MPUC protest that the Mystic Units’ retirement request is a local reliability concern and the costs of any Cost of Service (“COS”) agreement to retain the Mystic Units should be allocated locally.

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2 Answer at 18-19, n. 67.
A. ISO-NE’s Petition Does Require Consideration of Cost Allocation Because It Seeks Waiver of the Requirement to Undertake a Reliability Review.

In its Petition, ISO-NE asks the Commission for a waiver of Section III.13.2.5.2.5 “to allow the ISO to determine that Mystic 8 & 9 are needed for reliability without performing the evaluation contemplated in Section III.13.2.5.2.5." Specifically, ISO-NE asked that it be allowed to determine that Mystic 8 & 9 are needed for reliability without determining whether the units are necessary to address a local reliability issue. ISO-NE also states that its plan is to include the retirement of Mystic 8 & 9 in a future needs assessment, with the goal of resolving any transmission issue before the end of the term of the Mystic cost of service agreement. However, ISO-NE leaves out of its discussion the compensation and related cost allocation implications of Section III.13.2.5.2.5. Specifically, Section III.13.2.5.2.5.1 allows, in certain circumstances, a retiring unit to be compensated for its capacity under the terms of a COS agreement, the terms of which are contained in Appendix I to Market Rule 1. While ISO-NE states that “[t]he Waiver Petition includes no proposal to waive the Tariff’s current treatment of the costs of a resource that is retained for reliability,” the section in the form COS agreement that determines cost allocation is inextricably linked to the ISO’s determination of a local reliability need under the provision that ISO-NE seeks to waive.

Specifically, the form COS agreement states that the Supplemental Capacity Payment “shall be charged to Regional Network Load in the affected Reliability Region.” To be clear, the term “affected Reliability Region” refers to the area identified as having a local reliability

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3 Petition at 22.
4 Id.
5 ISO-NE Answer at 19.
6 ISO-NE OATT Section III, Appendix I, Schedule 3.
need as the result of the reliability review performed under Section III.13.2.5.2.5. Therefore, ISO-NE cannot divorce COS agreement cost allocation from its waiver request. Simply asserting that the Petition does not include a specific proposal to waive the current treatment of a resource that is retained for reliability does not change the fact that ISO-NE seeks to waive the provision that would likely lead to the local cost allocation of a resource that is retained for reliability. Accordingly, cost allocation is very much an issue in the ISO’s requested waivers and should be decided as part of the Petition.

B. Information Provided in ISO-NE’s Answer Confirms that Fuel Security Concerns Have Not Been Caused by the Entire Region.

ISO-NE states that it “stands by its view that fuel security is a regional issue,” however it has not contested any of the information relating to cost causation and local cost allocation provided by the MPUC in its protest regarding the need for retaining the Mystic units. Further, the additional information included in ISO-NE’s answer points to local causes for ISO-NE’s fuel security concerns. For example, ISO-NE states that,

Reliance on oil to backfill for non-firm gas fuel arrangements is limited by environmental policies that increasingly restrict emissions from oil-fired generators. If dual-fueled resources were to replace any meaningful part of Mystic’s output, the region would need to modify these restrictions to ensure the availability of these resources when the system is fuel constrained.

7 ISO-NE Answer at 19, n. 67.
8 For example, the MPUC demonstrated that flows over the North-south interface “were in a state of near constant export during this most recent period of fuel security concern.” Affidavit of Denis Bergeron, appended to the Notice of Intervention and Protest of the Maine Public Utility Commission (“MPUC Protest”), filed in this Docket on May 23, 2018. The MPUC protest also discussed the steps that the MPUC had taken to address fuel security and the roadblocks it had encountered in implementing these steps. MPUC Protest at 10-11.
9 ISO-NE Answer at 13.
However, these are not regional restrictions. Rather, as noted by ISO-NE, the environmental restriction limiting the availability of dual fuel or oil fueled resources is one promulgated by the Massachusetts Department of Environmental Protection.\textsuperscript{10}

ISO-NE also cites to the fact that gas pipeline expansion projects have not overcome regulatory hurdles or have stalled due to opposition and lack of support. In particular, it notes that “[a] plan to fund pipeline projects through state electric rate tariffs was challenged in the Massachusetts Supreme Court, which struck down the plan.”\textsuperscript{11} These examples support the MPUC argument that cost causation principles militate in favor of allocating the costs of any COS agreement for the Mystic Units to the local area that has caused the need for retaining the units.

\textbf{II. CONCLUSION}

For the reasons stated herein, the MPUC respectfully requests that the Commission accept and consider this Answer, deny the Petition and, as necessary, direct ISO-NE to undertake the transmission operability analysis provided for under the existing tariff.

Dated: June 21, 2018

Respectfully Submitted,

\textit{/s/ Lisa Fink}

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\textsuperscript{10} See, ISO-NE Answer at 13, n. 51, (citing Massachusetts’ greenhouse gas regulation, 310 CMR 7:74, Reducing CO\textsubscript{2} Emissions from Electricity Generating Facilities, as the environmental regulation that restricts emissions and stating that under the Massachusetts’ regulation, “the effective capacity of the resources subject to these regulations will decline from approximately 9500 MW in 2018 to approximately 7900 MW in 2024, and will continue to decline each year thereafter until 2050 at a rate of approximately 4.9%”).

\textsuperscript{11} Id. at 13, n. 50.
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 21st day of June, 2018.

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