

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

ISO New England Inc.)	
)	
New England Power Pool Participants Committee)	Docket No. ER22-1528-000
)	

COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.212 (2021), the Electric Power Supply Association (“EPSA”)¹ submits the following comments on the filing submitted to the Commission on March 31, 2022, from the ISO New England Inc. (the “ISO” or “ISO-NE”), joined by the New England Power Pool (“NEPOOL”) Participants Committee (together, the “Filing Parties”), *Revisions to ISO New England Transmission, Markets and Services Tariff of Buyer-Side Market Power Review and Mitigation Reforms*. Therein, the Filing Parties propose revisions to the ISO-NE Transmission, Markets and Services Tariff which would eliminate New England’s current minimum offer price rule (“MOPR”) in the Forward Capacity Market over a two-year period. During that time (the “Transition Mechanism”), a substantial quantity of state-sponsored policy resources would be allowed to enter the capacity market without buyer-side market power mitigation review – for Forward Capacity Auctions (“FCAs”) 17

¹ EPSA is the national trade association representing competitive power suppliers in the U.S. EPSA members provide reliable and competitively priced electricity from environmentally responsible facilities using a diverse mix of fuels and technologies. EPSA seeks to bring the benefits of competition to all power customers. This pleading represents the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue. EPSA submitted a separate doc-less intervention in this proceeding on April 21, 2022.

and 18 – with a reformed buyer-side market power mitigation review construct (“BSMPR Reforms”) to be implemented for FCA 19.

The two-year Transition Mechanism addresses the ISO’s concerns that immediate elimination of MOPR could undermine confidence in the competitive ISO market and threaten regional reliability by causing retirement of resources needed in the near term, and also allows ISO-NE and stakeholders the opportunity to address “steps that can be taken to protect the overall competitiveness of the market, and avoid attendant reliability concerns...”² The Transition Mechanism, to be in place for FCA 17 and FCA 18, and the BSMPR Reforms to be in place for FCA 19 and auctions thereafter, represent a negotiated comprehensive package from the Filing Parties and thus should be approved as a package. As discussed herein, EPSA supports the ISO-New England and NEPOOL filing (“the Joint Filing”) as a balanced set of revisions based on our understanding that the identified market reforms will be addressed through the additional transition efforts contemplated by the Joint Filing. Additionally, EPSA has reviewed the comments of the New England Power Generators Association (“NEPGA”) and supports those comments in this proceeding particularly as to the description and support of the ISO-NE and NEPOOL stakeholder process resulting in the Joint Filing.

I. **COMMENTS**

Over many years, EPSA has ardently supported Minimum Offer Price Rules (“MOPR”) as a just and reasonable mechanism to protect against buyer-side market

² ISO New England, Inc. and New England Power Pool Participants Committee, *Revisions to ISO New England Transmission, Markets and Services Tariff of Buyer-Side Market Power Review and Mitigation Reforms*, Docket No. ER22-1528, (filed March 31, 2022), Transmittal letter, p. 35.

power in New England and other organized markets. While we continue to maintain that position, the Joint Filing package is an acceptable comprehensive approach to revise ISO-NE's capacity market to eliminate the current MOPR construct because it includes a transition mechanism and period to address identified related market reforms. As the Filing Parties point out, the proposed Tariff revisions are not required to be the "only reasonable methodology."³ In this instance, the Joint Filing is the product of an extensive stakeholder process approved by a supermajority (69.56%) of NEPOOL stakeholders.⁴ Importantly, as approved by stakeholders, the two-year transition period acknowledges the negative market impacts that would result from simply removing the MOPR without making accompanying market changes. This is critically important – EPSA strongly agrees that simply eliminating the MOPR without a just and reasonable replacement or accompanying market reforms is untenable. ISO-NE itself posits that elimination of the MOPR could prompt the near-term retirement of existing resources upon which the region relies to maintain reliability which could produce a "significant reliability gap."⁵

The transition period will afford ISO-NE and NEPOOL stakeholders the time needed to focus efforts on developing and filing with the Commission two key market enhancements (capacity accreditation and day-ahead ancillary services). EPSA views these two market mechanisms as critical aspects of any transition away from MOPR as the buyer-side mitigation mechanism in ISO/RTO markets.⁶ The proper development

³ Transmittal letter, p. 4, citing *Oxy USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995).

⁴ Transmittal letter, p. 75.

⁵ *Id.*, p. 38

⁶ See Post-Conference Comments of the Electric Power Supply Association at 5, *Resource Adequacy in the Evolving Electricity Sector: ISO New England*, May 25, 2021 Conference, Docket No. AD21-10-000 (filed July 19, 2021) ("[I]t is critical that ISO-NE expedite its efforts to develop an "ELCC"

and deployment of these policies will provide capacity market participants with an opportunity to earn just and reasonable rates for their services when the MOPR is removed while helping to provide market revenues to resources that the region needs to keep the lights on.

In sum, the totality of the ISO's plan – its filing and planned market enhancements – importantly acknowledges that MOPR elimination should be timed as closely as possible to the introduction of concomitant reforms. Given that context, EPSA respectfully requests that the Commission urge ISO-NE and NEPOOL to use the time allotted through the Transition and ensure that these reforms are put in place to address any market or reliability impacts created by buyer-side mitigation reform.

Further, in this instance as in many others, New England's unique approach to revising its buyer-side mitigation paradigm represents the appropriate proposal for the regional market.⁷ FERC precedent allows for regional differences in ISO/RTO capacity market design proposals, and the Joint Filing should be considered and accepted in keeping with that precedent. EPSA has also recognized regional differences, including

framework to be put in place in conjunction with the removal of the MOPR. Absent such action, as [Dr. David Patton] further noted, "there's just no way we can deliberately over-accredit resources and still expect the market to perform well."

⁷ *Id.*, pp 3 and 5. ("[I]t is critical that the [ISO-NE] pair any effort to remove the MOPR with the development and implementation of durable, long-term market reforms that utilize efficient market signals and sufficient pricing to preserve reliability and energy security. These reforms will ultimately lead to better retirement signals and likely lessen the ISO's potential reliance on future Reliability Must Run ("RMR") agreements to retain critical resources. No gap or lag-time should be allowed between any MOPR elimination and implementation of market improvements. Any staggering of such changes will only perpetuate the potential for RMRs and lead to under-investment in other resources needed for reliability." *Also*, "While implementation of an ELCC is a critical component of any post-MOPR market, it is not the only necessary reform. The ISO and New England stakeholders must take additional steps to ensure that the Forward Capacity Auction ("FCA") can provide the necessary revenue opportunities and price signals following the price-suppression caused in the both the capacity and energy markets by increasing quantities of state sponsored renewable and intermittent generation. The FCA exists to ensure that New England has a reliable electric system and thus it is critical that it be healthy enough to attract capital investment in both new and existing resources that preserve reliability in the region."

in its own pleadings dealing with MOPR in the Eastern RTOs. While EPSA has taken issue with the approach to MOPR elimination in PJM,⁸ EPSA recently supported New York Independent System Operator, Inc. (“NYISO”) buyer-side market power mitigation rule changes, again taking into consideration FERC precedent on regional differences and the fact that such changes were proposed in conjunction with other reforms.⁹

NYISO’s efforts offer guidance for the instant proceeding. In NYISO’s proceeding, EPSA supported the ISO’s filing on the basis that it represented a balanced set of revisions that ensured that competitive generators are neither under nor over-compensated to preserve the long-term reliability of the system – a principle not reflected in PJM’s Focused MOPR proposal. NYISO’s proposal represented a stakeholder supported proposal which acknowledged that MOPR elimination without attendant market reforms is not just and reasonable and would have deleterious impacts on the market. For that reason, EPSA supported the NYISO proposal as a “balanced, comprehensive approach to capacity market reform.”¹⁰ The ISO-NE proposal was supported by stakeholders and also includes a transition mechanism and timeline so that these additional market reforms can be made, which include capacity accreditation and ancillary services.

⁸ *PJM Interconnection, Inc.*, Protest of the Electric Power Supply Association, Docket No. ER21-2582, (Filed on August 20, 2021) (“Moreover, if PJM were pursuing a balanced approach to reforming the RPM construct, it would not be racing ahead with MOPR elimination without concurrently addressing these and other important issues as part of a more holistic review.”).

⁹ *New York Independent System Operator, Inc.*, Comments of the Electric Power Supply Association, Docket No. ER21-2582, (Filed on January 26, 2022).

¹⁰ *Id.*, p. 5.

II. **Conclusion**

Wherefore, EPSA respectfully requests that the Commission consider these comments and accept the joint ISO-NE/NEPOOL filing as submitted consistent with the requirements of Section 205 of the FPA and Commission precedent.

Respectfully submitted,

**ELECTRIC POWER SUPPLY
ASSOCIATION**

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Dated: April 21, 2022

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

Dated at Washington DC, this 21st day of April, 2022.

/s/ Bill Zuretti
Bill Zuretti