UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England	)	ER18-1509-000

PROTEST OF THE CLEAN ENERGY INDUSTRY ASSOCIATIONS OF ISO NEW ENGLAND INC.'S REQUEST FOR WAIVER OF TARIFF PROVISIONS

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission" or "FERC"),[1] the American Council on Renewable Energy,[2] American Wind Energy Association,[3] Energy Storage Association,[4] RENEW Northeast,[5] and Solar Energy Industries Association[6] (collectively, "Clean Energy Industry Associations")[7] respectfully submit this protest to ISO New England's ("ISO-NE") Petition for Waiver of Tariff Provisions ("Petition").[8] The Petition: (1) does not meet the Commission's standard for granting waiver requests and (2) runs counter to settled Commission precedent regarding the criteria that must be satisfied before it will approve the issuance of a reliability-must-run ("RMR") cost-based rate contract.

As explained more fully below, the Commission should reject the Petition because ISO-NE fails to meet the high bar necessary to support out-of-market action,

---

[1] 18 C.F.R. §§ 385.211 and 214.
[2] American Council on Renewable Energy is a national non-profit organization dedicated to advancing the renewable energy sector through market development, policy changes and financial innovation.
[3] American Wind Energy Association is the national trade association that represents the interests of the nation's wind energy industry.
[4] The Energy Storage Association is the national trade association representing the U.S. energy storage industry.
[5] RENEW Northeast is a non-profit association uniting the renewable energy industry and environmental interest groups whose mission involves coordinating the ideas and resources of its members with the goal of promoting and increasing renewable energy in New England and New York.
[6] The Solar Energy Industries Association is national trade association of the U.S. solar energy industry.
[7] This protest reflects the views of the trade associations generally; individual member companies may file additional protests or comments that reflect the company's views more granularly.
[8] ISO New England Inc. *Petition of ISO New England Inc. for Waiver of Tariff Provisions*, Docket No. ER18-1509 (Hereinafter "Petition"). The Commission noticed the ISO-NE Request as filed on May 2, 2018.

particularly through the procedural vehicle of a request for waiver of existing tariff provisions. The Clean Energy Industry Associations believe competitive market solutions should be relied on, where at all possible, to supply any identified reliability needs. The Commission must ensure that out-of-market solutions are only employed as a backstop to competitive market solutions. For the foregoing reasons and those discussed further herein, the Clean Energy Industry Associations encourage the Commission to reject the Petition.

I. INTRODUCTION

The Petition relies on the Commission's precedent for waiver of Tariff provisions to request the authority to take out-of-market action and compensate a specific generator for a service that is not clearly defined in the Tariff. While the Clean Energy Industry Associations take reliability concerns very seriously, we question ISO-NE's conclusion that the Mystic Generating Stations ("Mystic Units") are needed for reliability given the owner's commitment to keep it on line for four years. Such a conclusion appears to be based on conservative and incorrect assumptions about future needs.[9]

The Petition fails to justify why it satisfies the Commission's standard for granting tariff waivers; even if it satisfied those standards, there would be no impact on reliability if ISO-NE instead made this same application in 2021 when much more will be known about supply options to meet the alleged needs. ISO-NE appears to have conflated "fuel security" with "reliability," and the Clean Energy Industry Associations respectfully request that the Commission continue to

[9] Paul Peterson, et al., Synapse Energy Economics, Inc., *Understanding ISO New England's Operational Fuel Security Analysis* (May 3, 2018) *available at* http://www.synapse-energy.com/sites/default/files/Understanding-ISO-NE-OFSA-18-028.pdf.

ensure that reliability solutions are designed on a technology-neutral basis so that all resource types can compete on a non-discriminatory basis to provide the reliability product or service.

Instead of requesting a narrow waiver of the Tariff, the Petition, in effect, sets up sweeping changes to ISO-NE's Market Rules in order to provide out-of-market cost recovery to the Mystic Units for an indefinite period of time in the name of "fuel security." Specifically, ISO-NE fails to support the claim in the proposed waiver that the future retirement of the Mystic Units would result in reliability – not fuel security – problems that necessitate short-term out-of-market actions.

The Clean Energy Industry Associations respectfully request the Commission resist the Petition's unsupported request to expand the use of RMR agreements based on "fuel security" concerns. Consistent with precedent, the type of regulatory intervention (out-of-market actions) sought by ISO-NE in the Petition should be used only as a last resort, especially to rescue units that are retiring for economic reasons (which is a normal and expected occurrence in a well-functioning market). Accordingly, ISO-NE can only provide compensation to units providing fuel security on a prospective basis by filing a change to its Tariff under either section 205 or 206 of the Federal Power Act ("FPA") – not by submitting a waiver request as it has done here.

For the reasons presented herein, we urge the Commission to reject the Petition as procedurally and substantively improper. To the extent the Commission believes there is any merit in the Petition, ISO-NE should be required to first explore other options that would be more consistent with its Tariff and that will cause less distortion to the market or harm to other resources than the option currently presented.

II. PROTEST

A. The Petition Does Not Meet the Commission's Standard for Granting Waiver Requests.

In order for the Commission to grant a waiver request, such a request must: (1) be made in good faith; (2) be of limited scope; (3) address a concrete problem; and (4) not have undesirable consequences, such as harm to third parties.[10] While the Clean Energy Industry Associations do not doubt that ISO-NE has submitted the Petition in good faith, it fails the other prongs of the Commission's standard: the requested waiver is not of limited scope (either substantively or temporally), is designed to address an issue that is not in need of an immediate solution, and would have undesirable consequences in the form of price suppression that will deprive other suppliers of their right to just and reasonable rates.

i. The Requested Waiver is Not of Limited Scope and is Overly Broad.

The Petition requests that the Commission ignore multiple sections of its filed rate[11] in order to allow ISO-NE to provide cost recovery to the Mystic Units because ISO-NE asserts these facilities are needed for "fuel security." Rather than being "of limited scope," the waiver request has the potential to broadly and arbitrarily modify the policy environment for generation in New England.

The Mystic Units present a potential issue that is not contemplated in ISO-NE's Tariff, and further is not forecasted to occur until 2022 at the earliest. Under the ISO-NE Tariff, "held for reliability" is specifically defined and a broader definition cannot simply be asserted or, as ISO-NE is attempting to do in its request, a waiver fashioned to fit a new circumstance: "fuel security."

---

[10] *See e.g.*, Petition at 29, n. 57 (citing *Gateway Cogeneration 1, LLC*, 161 FERC ¶ 61,028, at P 14 (2017) ("*Gateway Cogeneration*"); *Consumers Energy Co.*, 150 FERC ¶ 61,125, at P 42 (2015) ("*Consumers Energy*"); *DTE Electric Co.*, 150 FERC ¶ 61,127, at P 39 (2015) ("*DTE Electric*").

[11] *See* Petition at 6 (summarizing 10 sections of Market Rule 1 that ISO-NE is requesting waiver of).

The Commission has historically allowed for a limited level of price suppression to occur in approving RMR agreements in order to implement a solution to a pressing, imminent reliability concern. However, the Commission also has long recognized that RMR-type agreements should be used only as a last resort, for a limited amount of time, and when justified, because they suppress market clearing prices and deter investment in new generation.[12] In fact, the distortion caused by RMRs is so severe that the Commission has actively worked to minimize their use and stated repeatedly they should only be used as a last resort. Specifically, the Commission has acknowledged "[c]ost-based, reliability must-run contracts are appropriate in a region with competitive wholesale markets only as a last resort."[13]

If approved, the proposed criterion of "fuel security" for RMR agreements could apply to many generators in the region. Just because no other similarly situated generators have announced their intent to retire does not mean they would not, especially if they are able to receive highly desirable cost-of-service payments by doing so. No clear boundary is established in the Petition identifying which units would qualify for such treatment. In fact, it appears that every generator in New England could potentially provide energy to the region in the winter of 2022-23.

The two-year duration of the RMR agreement sought in the Petition is also unwarranted, unprecedented, and appears to be weighted in favor of the demands from the units' owner, rather than demonstrated reliability needs in the 2022-23 and 2023-24 periods.[14] RMR agreements are typically entered into on a yearly basis at most, in part to discourage units from relying on RMR revenues as a means to mitigate the competitive market signals to exit. ISO-NE notes that if

---

[12] *See, e.g., Bridgeport Energy, LLC*, 118 FERC ¶ 61,243 at P 41 (2007).
[13] *Berkshire Power Co., LLC*, 112 FERC ¶ 61,253 at P 22 (2005) ("an RMR agreement should be viewed as a tool of last resort for a generator")*; see also Devon Power LLC*, 110 FERC ¶ 61,315 at P 40 (2005).
[14] Petition at 15.

transmission solutions exist, the reliability problem is likely to change, and may potentially be resolved entirely in the coming years.[15] This suggests that a waiver is not needed in this instance, and at a minimum, is not justified for multiple years, as requested.

The Petition requests an unjust and unreasonable solution in that it does not specify an end date for when the waiver would no longer be needed. While ISO-NE believes that market-rule changes will be implemented in the future to provide compensation for fuel security, ISO-NE admits that "it is difficult to predict when the market may reach a sufficient level of maturity to resolve the fuel security issues that require [the Mystic Units'] retention."[16] When read as a whole it appears that the ISO-NE is requesting that the Commission take out-of-market action to provide compensation to units for a service that is not defined in its filed rate, and to provide that service for an indefinite period of time. Granting the Petition has the potential to set the precedent for other market participants that have similarly situated resources to make similar demands. Given this breadth, the request for a Tariff waiver is not "of limited scope," but instead represents a tariff revision that is more appropriately addressed through a section 205 or 206 filing.

While ISO-NE states that it is committed to developing "a market-based solution for fuel security,"[17] it nonetheless is requesting a broad waiver of numerous Tariff provisions in order to provide out-of-market compensation to certain units, which provides parties incentives to delay competitive solutions and pursue unit-specific out-of-market payments. We appreciate ISO-NE's commitment to work towards a market-based solution, but do not agree that the extraordinary action requested here is necessary. The Mystic Units have a capacity supply obligation through

[15] *Id.* at 23.
[16] *Id*.at 24.
[17] *Id*. at 17.

May 31, 2022, which leaves time for ISO-NE to craft an equitable, market-based solution to its fuel security concerns – a process that is already underway. There would be no harm to reliability if this same request were considered in 2021, at which point more will be known about fuel supply options in the region, as well as the capabilities of advanced technologies to achieve efficiencies in reliable electric delivery.

At a time in which the Commission is considering the market impacts associated with out-of-market payments, [18] we encourage the Commission to refrain from taking actions that may make it more difficult for ISO-NE and its stakeholders to craft an effective long-term market-based solution. ISO-NE's primary focus should be on creating a market structure that provides the proper price signals, thereby allowing all resources to commit and reliably perform in response to those price signals. Once the market sets the proper price signals, market participants will devise the most cost-efficient ways to provide the solution to the identified reliability need. If no in-market approach can be developed over the next few years, ISO-NE could at that time seek waivers from the Commission to issue an RMR agreement to address an imminent reliability need.

As detailed below, a waiver of numerous tariff provisions now, as ISO-NE proposes, could possibly create unwarranted, extensive, and avoidable harm to its markets and third parties. The Clean Energy Industries Associations believe that such out of market solutions should only be utilized as an absolute last resort, the case for which has not been made in this instance.

ii. The Petition Does Not Address a Concrete Problem.

The Petition fails to identify with specificity a reliability need that would necessitate the extraordinary out-of-market action. As noted, the Petition's earliest alleged concern is roughly

[18] *ISO-New England, Inc.*, Order on Competitive Auctions with Sponsored Policy Resources Filing, 162 FERC ¶ 61,205 at P. 4-5 (2018) (noting that out-of-market actions could result in price suppression and negatively impact the ability of the market to retain and justly compensate needed existing resources).

four and a half years in the future. The Mystic Units will keep operating through the term of their current capacity obligations (May 2022), and are only being considered for retirement after that date.[19]

The Petition grounds its request in a number of material subjective assumptions as to the options available to meet demand in the winters of 2022-23 and 2023-24[20] The assumptions about load growth, gas demand, renewable penetration, and many other factors highlight the uncertainties in determining what will happen to generation in a six-state region four and a half years from now.

The Petition has identified no specific North American Electric Reliability Corporation ("NERC") standards that would be violated, but instead the Petition states that violations may result, based on these subjective and debatable assumptions.[21] The Petition alleges the ISO needs "fuel security," which is a new term that is not defined in the NERC or Northeast Power Coordinating Council ("NPCC") standards nor ISO-NE's Tariff and appears to discriminate against fuel-less resources such as wind, solar, and storage. This term is currently being debated in the Commission's resilience docket AD18-7-000,[22] and there is no Commission resolution at this time.

iii. Granting the Petition Could Lead to Undesirable Consequences and Harm Third Parties.

If granted, the Petition has the potential to distort markets, as the proposed RMR agreement would provide cost-of-service payments to some competitors and not others. As the

---

[19] Testimony of Peter T. Brandien on Behalf of ISO New England Inc., Docket No. ER18-1509, 3 (May 1, 2018).
[20] *See* Protest of Clean Energy Advocates, Docket No. ER18-1509 (May 23, 2018).
[21] *See* Petition at 13, 19, and 22.
[22] Grid Resilience in Regional Transmission Organizations and Independent System, Docket No. AD18-7-000 (Mar. 9, 2018).

Commission has acknowledged "RMR agreements suppress market clearing prices and deter investment in new generation."[23] ISO-NE recognizes this issue; "The ISO appreciates that an RMR agreement, by allowing a generation facility to recover its costs regardless of the market price for capacity, raises the potential for market distortions.''[24] These consequences would be undesirable and harm the integrity of the markets that ISO-NE, New England states, and the Commission have fostered, as well as harming many participants in those markets.

iv. Commission Precedent on Waiver Requests, Including Precedent Cited by ISO-NE, Does Not Support Granting the Petition.

The very precedent cited by ISO-NE as examples of waiver requests that meet the Commission's standard demonstrate why the Commission must reject the Petition. First, in *Gateway Cogeneration*, the Commission granted a one-time request to waive certain provisions of PJM's tariff addressing the security deposit deadline for interconnection requests because the petitioner was unable to make the payment on the required date due to circumstances related to Hurricane Harvey.[25] This one-time waiver of a procedural deadline for one party's security deposit which was unable to be paid on time due to events caused by one of the most severe and damaging hurricanes in United States history is a far cry from the Petition, which as discussed, imagines a broad rewrite of ISO-NE's Tariff to provide new compensation for units that allegedly provide an undefined and unspecified service. Further, the waiver requests in *Consumers Energy* and *DTE Electric* were of far more limited scope than the Petition. These requests related to relieving certain generation resources of capacity-related obligations in MISO

---

[23] *Milford Power Co.*, 119 FERC ¶ 61,167, at P 31 (2007); *Devon Power LLC*, 103 FERC ¶ 61,082, at P 29.
[24] Petition at 33.
[25] *See Gateway Cogeneration* at 1.

for less than seven weeks, which was required primarily as a result of a mismatch between the timing of certain Environmental Protection Agency mandates going into effect and the dates of MISO's planning year.[26]

Moreover, the Commission's rejection of waiver requests made by Duke Energy Corporation ("Duke") and Old Dominion Electric Cooperative ("ODEC") related to events stemming from the 2014 Polar Vortex are particularly instructive to the Commission in this proceeding. There, both Duke and ODEC filed waiver requests of several provisions of PJM's tariff to compensate them for certain gas-related operational costs incurred during the Polar Vortex of 2014 that were not permitted under PJM's tariff at the time.[27] While both waiver requests were supported by PJM as a matter of policy because both companies followed PJM's dispatch instructions and given the severe weather events of the Polar Vortex of 2014,[28] the Commission ultimately rejected both waiver requests on the grounds that granting them would have violated the filed-rate doctrine and the Commission's prohibition against retroactive ratemaking.[29]

Further, recognizing that changes to PJM's governing documents that would have allowed market participants to better account for the types of operational losses incurred by Duke and ODEC may be needed, the Commission instituted a proceeding under section 206 of the FPA to make certain changes to PJM's tariff on a prospective basis only.[30] Thus, even assuming *arguendo* that the Commission were to believe that ISO-NE's tariff should require changes that would allow it to compensate units for providing "fuel security" (which, as explained further

---

[26] *See Consumers Energy* at 42-51; *DTE Electric* at 38-49.
[27] *See e.g. Duke Energy* at 1, 68; *Old Dominion Electric Cooperative*, 151 FERC ¶ 61,207, 4 (2015) ("*ODEC*").
[28] *See ODEC* at 22; *see also Duke* at 23.
[29] *See Duke* at 68; *ODEC* at 47.
[30] *See Duke* at 69-74.

herein, is unnecessary), the Commission would need to institute a section 206 proceeding to enable such changes, *but could not grant the Petition*.

B. The Petition Runs Counter to Settled Commission Precedent Regarding the Criteria That Must Be Satisfied Before It Will Approve the Issuance of a RMR Cost-Based Contract.

Assuming, *arguendo*¸ that the Commission finds that the Petition does satisfy the standard for granting the waiver, it still does not satisfy the criteria for issuance of a RMR cost-based contract. RMR agreements have been applied for the purpose of targeted mitigation of local market power. The Commission has approved RMR agreements in limited instances when the loss of a unit would cause a violation of a well-established reliability requirement.

In certain situations created by the physical characteristics of electrical networks, there can be a lack of alternative suppliers to supply a service. Such situations are exceptions to the rule that the generation sector exhibits the necessary characteristics of a competitive market to expect unregulated prices to be at efficient levels. A unit that is uniquely able to provide a local service has an unusually high amount of market power, so a cost-based rate, even with long term fixed cost recovery, would be lower than the expected profit-maximizing voluntary bid or price from that unit. RMRs were created for these unique circumstances to mitigate the market power that exists in such situations while providing ample compensation to keep such generators in operation for a temporary period.

The Commission has sought to limit the use of RMRs because of the harm they cause markets.[31] The acceptable use of RMRs over the last 20 years has been in situations where there

---

[31] In *Devon Power LLC*, 103 FERC ¶ 61,082, at P 31 (2003), the Commission emphasized the detrimental effect of RMR agreements and stated:

> RMR contracts suppress market-clearing prices, increase uplift payments, and make it difficult for new generators to profitably enter the market . . . . [E]xpensive generators

was *near-term*, *local market power* arising from a unit's *unique* ability to provide a service *required to meet reliability criteria,* and the request is not a form of *economic withholding*. In this case, the issue is neither near-term, local, unique to the generators in question, one of violating defined reliability criteria, nor has it been shown not to be any form of economic withholding.[32] Accordingly, the Petition is contrary to the limited and targeted application of RMR agreements.

i. The Claimed Fuel-Security Service is not needed to help meet NERC or Regional Reliability Counsel Reliability Criteria.

RMR agreements are awarded in cases where a well-defined NERC or Regional Reliability Counsel ("RRC") reliability criterion would be violated based upon a study of the system with the unit(s) in question removed. Thus, to be eligible for an RMR agreement, a generator must demonstrate that its units are needed for "reliability." Here, the Petition does not show any harm to reliability given the commitment to keep the plant on line through 2022, or point to a defined reliability criteria violation, but instead is seeking an RMR based on the system's "fuel security."[33] However, as noted, the term "fuel security" has not been defined in NERC or NPCC standards or the ISO's Tariff. "Fuel security" is being considered by the Commission and there has not yet been a resolution on this matter.[34]

---

under RMR contracts receive greater revenues than new entrants, who would receive lower revenues from the suppressed spot market price. In short, extensive use of RMR contracts undermines effective market performance. In addition, suppressed market clearing prices further erode the ability of other generators to earn competitive revenues in the market and increase the likelihood that additional units will also require RMR agreements to remain profitable.

[32] *See* Michael Giberson, *Integrating Reliability Must-Run Practices into Wholesale Electricity Markets*, R Street Policy Study No. 114, (Oct. 2017), *available at* http://2o9ub0417chl2lg6m43em6psi2i.wpengine.netdna-cdn.com/wp-content/uploads/2017/10/114.pdf.

[33] "The capacity shall be deemed needed for reliability reasons if the absence of the capacity would result in the violation of any NERC or NPCC criteria, or ISO New England System Rules." ISO-NE Transmission, Markets, and Services Tariff, Market Rule 1, Section III.13.2.5.2.5.

[34] *See* supra note 22 and accompanying text.

The Commission should not expand, without further justification, the use of RMR agreements based on a system's "fuel security," rather than a substantiated "reliability" risk. Expanding RMR qualifications to include fuel security would lead to ISO-NE, as well as other regional grid operators, inappropriately diverting their focus to controlling upstream fuel issues rather than focusing on market design solutions that create an incentive for generators to obtain secure fuel and ensure reliable performance. The market should instead dictate what type of generation will take the place of the Mystic Units.

In addition, the Petition incorrectly portrays the "fuel security" issue. ISO-NE alleges that if the Mystic Units retire, New England will face a fuel security issue. However, it is the loss of power, not fuel, associated with the proposed retirements that could, at least theoretically, create a system reliability problem. As long as there is generation to replace the Mystic Units' megawatts, the type of fuel that supports the generation replacing those units should be inconsequential. That being the case, any potential reliability issues would be associated with the loss of power, not the loss of fuel; therefore, fuel should not reasonably be the basis for system reliability concerns associated with these retirements.

ii. The Claimed Fuel-Security Service is Not Needed in the Near-Term.

RMR agreements are awarded in cases where there is a near-term need. We are unaware of a situation where an RMR was used for a speculative concern that may occur at some time well into the future. Typically, an immediate situation exists where some reliability criterion would be violated as soon as an existing unit retires in the near-term, and would continue to be violated until new transmission or some market solution came into effect. RMRs are most often interim measures prior to long-term solutions being in place.[35]

Because the Mystic Units have a capacity supply obligation through May 31, 2022, ISO-NE appears to have sufficient time to craft an equitable, market-based solution to its fuel security concerns. In addition, the Commission appears to have ample time to delay approval of a non-tariff, out-of-market action, such as this Petition, until a time when a more informed and properly timed decision can be made. This is particularly true since ISO-NE's Pay for Performance program is underway and there is a commitment to consider other market-based solutions to support reliability.

The Commission could deny this waiver request without prejudice to allow a proposal in 2021, at which point much more will be known about the reliability need. Either way, as the Petition concedes, the issue at hand does not appear to rise to the level of an immediate reliability concern because there is no threat to reliability over the next three years. Thus, out-of-market action is not justified at this point in time and through this procedural request for a waiver of tariff compliance obligations.

ii. The Claimed Fuel-Security Service is Not Needed to Address Local Issues.

RMRs agreements are awarded in cases where the service is needed to address local issues. As stated in a study done by R Street Institute, "RMR agreements are contracts between the ISO and a generation unit that is planning to retire. They are intended to keep the unit in

[35] New York Independent System Operator, Inc., 150 FERC ¶ 61,116 at P 11 (2015) ("RMR filings should be made only to temporarily address the need to retain certain generation until more permanent solutions are in place and that all alternatives should be considered to ensure that designating a generator for RMR service is a last resort option for meeting immediate reliability needs.").

operation in cases in which retirement may lead to *local reliability issues*."[36] The local nature of RMRs reflects the Commission's goal of minimizing out-of-market payments, balanced with the reality of the electrical network that sometimes services needed for reliability can only come from units at a given location. The Petition nevertheless seeks a waiver from the ISO-NE tariff provision requirement that RMRs be used only for local situations, appearing to seek RMR contracts to support a region-wide provision of energy.

iii. The Units do not Uniquely Provide a Needed Service.

RMRs agreements are awarded for units that uniquely provide a service. We are unaware of any instance where RMRs were used outside of a generator-specific need. They have been used to compensate specific generators when that generator's removal from the system would cause a reliability criteria violation in the system model. Here, the Petition has demonstrated no generator-specific need. The Petition relies on a fuel security study that does not appear to fully consider the many other potentially viable options.[37] There are many other ways that energy can be provided well into the future and certainly in time for the winter of 2022-23.[38]

The Commission has found generally, and in New England specifically, that when it granted market-based rate authority to each seller in the region there are many alternative sellers

[36] Michael Giberson, *Integrating Reliability Must-Run Practices into Wholesale Electricity Markets*, R Street Policy Study No. 114, 2017, p. 2, http://2o9ub0417chl2lg6m43em6psi2i.wpengine.netdna-cdn.com/wp-content/uploads/2017/10/114.pdf (emphasis added).

[37] *See* Paul Peterson, et al., Synapse Energy Economics, Inc., *Understanding ISO New England's Operational Fuel Security Analysis* (May 3, 2018), *available at* http://www.synapse-energy.com/sites/default/files/Understanding-ISO-NE-OFSA-18-028.pdf.

[38] *See* Paul Peterson, et al., Synapse Energy Economics, Inc., *Understanding ISO New England's Operational Fuel Security Analysis* (May 3, 2018), *available at* http://www.synapse-energy.com/sites/default/files/Understanding-ISO-NE-OFSA-18-028.pdf;
ISO New England, *2018 Regional Electricity Outlook* (Jan. 2018), *available at* https://www.iso-ne.com/static-assets/documents/2018/02/2018_reo.pdf.

of power. All of these other sellers of power are potential alternatives to the Mystic Units, and ISO-NE has not shown otherwise. The Petition acknowledges there are other options:

> There are many infrastructure solutions that can address the fuel system constraints in the region in the long term. These include additional gas pipelines, LNG storage, dual-fuel capability (with appropriate air permits), firm renewable energy (e.g., imports of hydro energy, or off-shore wind coupled with significant electricity storage), and investments in energy efficiency measures.[39]

These "other" options should be applied in the market and should not be dismissed by granting contracts to just one supply source.

The fuel-security study referenced by ISO-NE to demonstrate that the Mystic units are needed is currently being hotly debated and should not serve as the basis for Commission action here. It is worth noting that the model was developed by ISO-NE and has not been shared with parties for full review and feedback, and legitimate concerns have been raised as to the assumptions in the model.[40] The Mystic reliability study conducted to support the Petition employs the Operational Fuel Security Analysis ("OFSA") model, but is different from that model in several respects.[41] First, while the OFSA addressed winter 2024-25,[42] the Mystic reliability analysis supporting this Petition looks at the two preceding winters: winter 2022-2023 and winter 2023-2024. While ISO-NE also corrected several of its assumptions to reflect more accurate, recent data, numerous significant errors in the assumptions remain, including:

[39] Petition at 24-25.
[40] Paul Peterson, et al., Synapse Energy Economics, Inc., *Understanding ISO New England's Operational Fuel Security Analysis* (May 3, 2018), *available at* http://www.synapse-energy.com/sites/default/files/Understanding-ISO-NE-OFSA-18-028.pdf.
[41] Testimony of Peter T. Brandien on Behalf of ISO New England Inc., Docket No. ER18-1509, 31 (May 1, 2018). ("The underlying model used to simulate system operations during the 2022-2023 winter . . . and 2023-2024 winter . . . is the same as that used in the OFSA Reference Case, except that certain model inputs were adjusted for the two relevant winter periods.").
[42] Because the OFSA does not evaluate the time period for which the reliability agreement is sought, it is not evidence of the need for Mystic 8 & 9 during winters 2022-2023 and 2023-2024, even aside from its other deficiencies.

- Assumptions about the growth of gas usage by local distribution companies are far in excess of recent historical growth rates;
- Assumptions about LNG imports are unreasonably low;
- Failure to recognize all of the renewable energy resources expected to enter the market as a result of state policy;
- Failure to account for 500 MW of demand response currently in New England's markets, which is expected to grow.

In addition, when ISO-NE re-ran its model using more realistic and recent data for key inputs, significantly fewer or zero reliability problems were identified.[43] Even though ISO-NE updated some of the flawed OFSA assumptions for the Mystic reliability study, critical assumptions, such as the inflated LDC growth rates and artificially low LNG import capacity, continue to invalidate the results of this study.

The gas load growth assumption is a key variable and is not justified. For the Mystic reliability analysis, ISO-NE assumed that "annual demand for natural gas from the local gas utility would rise at an average of about 2 percent per year."[44] This assumption is based on a 2016 study by ICF International, Inc. However, this growth rate far exceeds what has been observed since 2010, which is closer to 0.7% per year.[45] ISO-NE has not provided any basis to assume that LDC usage will grow at more than twice the rate observed in recent years. This is a serious flaw in the ISO-NE's claim that a reliability issue exists absent the availability of the Mystic Units.

---

[43] *See* Paul Peterson, et al., *Understanding ISO New England's Operational Fuel Security Analysis* (May 3, 2018).
[44] Testimony of Peter T. Brandien on Behalf of ISO New England Inc., Docket No. ER18-1509, 32 (May 1, 2018).
[45] *See* Joint Requesters, Request for Modification to ISO New England Operational Fuel-Security Analysis Assumptions and Analysis of Additional Scenarios (Feb. 15, 2018) ("An analysis of recent EIA gas data since 2010, normalized for weather, appears to show an annual LDC gas use growth rate in recent years of approximately 0.7%/yr, reduced from the 1.26% used in ISO's draft reference case.").

When the ISO reran its OFSA model using this lower LDC growth rate, along with other changes to reflect current regulations and laws, there were no 10-minute reserve violations or load shedding, or other OP4 and OP7 actions needed.[46] ISO-NE found the OFSA model outputs to be "significant[ly]" affected by changes in LDC demand inputs.[47]

LNG import assumptions are also key to ISO-NE arriving at its results, and the assumptions made are unjustified. The Mystic reliability analysis assumes as little as 1.0 Bcf/day of LNG imports, even with Distrigas remaining in service.[48] This is far below the high of 1.26 Bcf/day flow that has been achieved in ISO-NE, which LNG providers have shown is achievable.[49] As with the other input variables discussed in the Petition, ISO-NE's supplemental analysis shows that the OFSA results are very sensitive to changes in LNG import rates.[50] ISO-NE has offered no reason for why existing LNG import capacity would not be used to its fullest extent during the kind of cold weather conditions that trigger ISO-NE's concerns.[51]

Another key variable is electricity imports. As Mr. Peter Brandien, Vice President of System Operations for ISO-NE, explains in his testimony, "[f]or each winter period, the scenarios assume energy imports across the external ties ranging from 2,500 MW to 3,500 MW," and that 2,500 MW is the average amount flowing into New England "just over 60 percent of the time," while acknowledging that as much as 3,000 MW flowed in during the 2017-2018 Cold

---

[46] See ISO-NE, *Addendum to ISO Operational Fuel-Security Analysis*, 45-46(OFSA) (Apr. 26, 2018).
[47] *Id.* at slide 29 ("As the LDC Demand was adjusted in the model, it showed significant increases in the expected energy shortages (OP7) if the LDC Demand was increased and it showed decreases in the expected energy shortages (OP7) if the LDC Demand decreased").
[48] Testimony of Peter T. Brandien on Behalf of ISO New England Inc., Docket No. ER18-1509, 33 (May 1, 2018).
[49] Vamsi Chadalavada, *LNG and Imports Historical Data for Winter 2013/14 through 2017/18*, 2, chart entitled "LNG Injections 5-yr history," available at http://www.nepool.com/NPC_2018.php.
[50] *Id.* at slide 28.
[51] For purposes of the Mystic and Distrigas retirement scenario, lower import rates are obviously appropriate to evaluate.

Spell.[52] However, recent data released by ISO-NE show that the winter daily import into New England averaged 2,938 MW from winter 2013 through February 2018.[53] Thus, actual average imports over the last five years are 17% higher than ISO-NE's baseline assumption.

ISO-NE also considered a high case of 3,500 MW of imports to reflect a pending request for proposals for about 1,200 MW of clean energy imports.[54] Given that state law requires these resources to be delivered by a certain date, it is incorrect for ISO-NE to employ a forecast of electricity imports that does not include them.[55] Adding these 1,200 MW to the actual recent 5-year average yields 4,138 MW of daily winter imports. ISO-NE's Supplemental OFSA results show that the extent of energy shortages predicted by the model is highly sensitive to changes in assumptions about energy imports.[56] Thus, ISO-NE's unreasonably low assumptions about electricity imports may be determinative in the apparent energy shortages absent the Mystic Units and must be corrected.

In short, taken together these flawed assumptions discount various alternative sources of supply in the winters of 2022-23 and 2023-24. In fact, any services provided by the Mystic Units have not been shown to be unique.

III. CONCLUSION

For the foregoing reasons, the Clean Energy Industry Associations respectfully request that the Commission deny the ISO-NE's Petition for the reasons explained herein.

---

[52] Testimony of Peter T. Brandien on Behalf of ISO New England Inc., Docket No. ER18-1509, 33 (May 1, 2018).

[53] Vamsi Chadalavada, *LNG and Imports Historical Data for Winter 2013/14 through 2017/18*, at slide 4, chart entitled "Daily Winter Imports, 5 yr history," available at http://www.nepool.com/NPC_2018.php

[54] ISO-NE, *Operational Fuel-Security Analysis* (Jan. 17, 2018).

[55] We also note an apparent error in ISO-NE's calculation of a high case of 3,500 MW of imports, as 1,200 plus 2,500 is actually 3,700.

[56] *See* ISO-NE, *Addendum to ISO Operational Fuel-Security Analysis (OFSA)*, 26 (Apr. 26, 2018), ("Effect on Energy Shortages (OP7) due to Changes in Resource Capacity: Imports").

Respectfully submitted,

Todd Foley
Senior Vice President, Policy & Government Relations
Tim Olson
Policy and Research Manager
American Council On Renewable Energy
1600 K St., NW
Washington, DC 20006
(202) 777-7581
foley@acore.org

Katherine Gensler
Director of Government Affairs
Solar Energy Industries Association
600 14th Street NW
Suite 400
Washington, DC 20005
(202) 682-0556
kgensler@seia.org

Gene Grace
Senior Counsel
Lauren Bachtel
Associate Counsel
American Wind Energy Association
1501 M Street NW, Suite 900
Washington, DC 20005
(202) 383-2521
ggrace@awea.org

Rob Gramlich
President
Grid Strategies LLC
(202) 821-6943
rgramlich@gridstrategiesllc.com

Jason Burwen
Vice President, Policy
Energy Storage Association
1800 M Street, NW, Suite 400S
Washington, DC 20036
(202) 580-6285
j.burwen@energystorage.org

Francis Pullaro
Executive Director
RENEW Northeast
PO Box 383
Madison, CT 06443
(646) 734-8768
fpullaro@renew-ne.org

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 Secretary in this proceeding.

Dated at Washington, D.C. this 23rd day of May 2018.

/s/ Gene Grace

Gene Grace