



For a thriving New England

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October 6, 2014

Eric Wilkinson  
ISO-New England  
One Sullivan Road  
Holyoke, MA 01040

Jon Black  
ISO-New England  
One Sullivan Road  
Holyoke, MA 01040

Dear Messrs. Wilkinson and Black:

I write on behalf of Conservation Law Foundation (CLF) which is a NEPOOL Participant and an active member of ISO-NE's Distributed Generation Forecast Working Group (DGFWG).

As you know, at the NEPOOL Participants' Committee (NPC) meeting on Friday, October 3, 2014, the NPC voted overwhelmingly not to endorse ISO-NE's projection for Net Installed Capacity Requirement (NICR) for Forward Capacity Auction-9 (FCA-9), to be held in February 2015 for the commitment period 2018-2019. In fact, only 38.5% of the NPC supported ISO-NE, with five out of six sectors voting against ISO-NE's NICR projections.

The sole reason expressed at the NPC meeting for the negative vote was the failure of ISO-NE to account for renewable energy Distributed Generation (DG) on the system in arriving at its NICR values. CLF and other stakeholders have repeatedly raised this issue in meetings of the DGFWG, but our comments and suggestions on this point have been consistently ignored. As the New England States Committee on Electricity (NESCOE) stated at the NPC meeting, "Over the past year, NESCOE and states have repeatedly raised the issue of using the DG forecast to accurately determine the ICR value." NESCOE Statement, page 1, ¶ 4, at [http://nescoe.com/uploads/ICR\\_Statement\\_October\\_2014.pdf](http://nescoe.com/uploads/ICR_Statement_October_2014.pdf).

CLF and other stakeholders renewed these comments at the October 3 NPC meeting. As CLF, NESCOE, consumer advocates, and others all pointed out at the meeting, ISO-NE's NICR calculation ignores its own conservative forecast of hundreds of megawatts of DG projected to come on line in New England before the relevant commitment period. See, e.g., NESCOE Statement, page 1, ¶ 3.

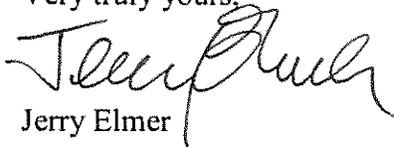


As was also stated at the October 3, 2014 NPC meeting, for every 100 MW of renewable DG that the ISO-NE fails to account for in its calculation of NICR for the auction, ratepayers are overcharged \$200 million. In this context, any clearing price in the auction will, ipso facto, not be “just and reasonable” within the meaning of Section 205 of the Federal Power Act (FPA), where the NICR procured is overstated by not accounting for DG. 16 U.S.C. § 824d(a).<sup>1</sup>

If and when one or more NEPOOL Market Participants challenge an FCA clearing price before FERC on the grounds that ISO-NE failed to account for renewable DG in setting its NICR values, ISO-NE will not be able to claim surprise.

One more important point must be made. On September 25, 2014, ISO-NE notified participants that both the October and November meetings of the DGFWDG had been cancelled. This comes after ISO-NE unilaterally, and without input from stakeholders, cancelled both the February and March 2014 meeting of the DGFWDG. As was stated at the October 3 NPC meeting, these repeated cancellations may fairly be viewed as evidence that ISO-NE does not place significant value on the stakeholder input provided through the DGFWDG. The unfortunate, but predictable, result of ISO-NE’s consistent failure to hear and act upon stakeholder input from the DGFWDG is the overwhelming rejection of ISO-NE’s NICR projections by the NPC on October 3.

CLF sincerely hopes that this unfortunate result can be avoided in the future. CLF respectfully, but strongly, urges ISO-NE to change course and use its own DG forecasts in calculating NICR – if not for FCA-9, then surely for FCA-10. If ISO-NE fails to do so, the resulting auction clearing prices will not be – indeed cannot be – just and reasonable; and, thus, those auction results will be subject to legal challenge before FERC.

Very truly yours,  
  
Jerry Elmer  
Senior Attorney

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<sup>1</sup> Capacity prices come within the ambit of the FPA’s just and reasonable standard. Maine PUC v. FERC, 520 F.3d 464, 476-477 (D.C. Cir. 2008) (as applied to ISO-NE), rev’d in part on other grounds sub nom. NRG Power Marketing LLC v. Maine PUC, 558 U.S. 158 (2010); Sithe New England Holdings, LLC v. FERC, 308 F.3d 71, 76 (1st Cir. 2002) (as applied to ISO-NE).