UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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ISO-New England Inc.	)	**Docket No. ER18-1509-000**
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MOTION TO INTERVENE AND COMMENTS
OF NATURAL GAS SUPPLY ASSOCIATION

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission[1] ("FERC" or the "Commission"), the Natural Gas Supply Association ("NGSA") hereby respectfully moves to intervene and comment in the above-captioned proceeding.[1]

ISO-New England ("ISO-NE") is asking the Commission to grant a waiver in order to allow it to enter into a reliability-must-run ("RMR") cost-based rate contract for two years with Exelon while the organization works with stakeholders to "develop a market-based solution to resolve the region's fuel security risk and properly value the contributions that resources like Mystic 8 & 9 make in ensuring fuel security."[2] For the reasons discussed below, NGSA asks the Commission to proceed cautiously in considering the proposed waiver and to not expand the use of Reliability-Must-Run (RMR) agreements based on "fuel security" concerns. Instead, ISO-NE's proposed waiver must be supported by a determination that future retirement of these facilities

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[1] 18 C.F.R. §§ 385.212 and 385.214 (2015).
[2] *Id.* at 17, fn 38.

(Mystic 8 & 9) would result in reliability – not fuel security -- problems that necessitate short-term out-of-market actions. Furthermore, if such a waiver is granted, the Commission should prohibit any attempts to extend the waiver beyond the proposed two-year period in order to ensure that market distortions are minimized.

I. MOTION TO INTERVENE

Founded in 1965, NGSA represents integrated and independent energy companies that produce and market domestic natural gas and is the only national trade association that solely focuses on producer-marketer issues related to the downstream natural gas industry. NGSA encourages the use of natural gas within a balanced national energy policy and supports the benefits of competitive markets. NGSA members trade, transact, and invest in the U.S. natural gas market in a range of different manners.

NGSA advocates for competitive wholesale power markets that provide the appropriate price signals that encourage natural gas-fired power generators to make investments that are needed to meet their performance obligations, including securing reliable contractual arrangements for delivered natural gas. As such, NGSA has a substantial interest in this proceeding that cannot be adequately served by any other party. Accordingly, NGSA respectfully moves to intervene and requests that it be granted full rights as a party to this proceeding.

II. COMMENTS

NGSA shares ISO-NE's concerns about the level of pipeline capacity in place to serve power market demand during peak periods and that ISO-NE's market structure has not been successful in addressing this issue. For those reasons, NGSA has supported ISO-NE's efforts to implement market enhancements such as pay-for performance in ISO-NE's capacity market. We also support the current stakeholder dialogue on fuel security. However, while we understand

ISO-NE's concerns, we must all be mindful that regulatory intervention should be used only as a last resort; recognizing that out-of-market actions are likely to make an already bad situation worse.

We cannot ignore the market impacts associated with introducing even more out-of-market payments, especially during a period in which the region is grappling with ways to improve market signals.[3] As the Commission's recent order approving ISO-NE's Competitive Auctions with Sponsored Policy Resources ("CASPR") proposal shows, the ISO-NE market is already affected by a high level of out-of-market contracts with certain generators.[4] Imposing market distortions to correct other market imperfections will result in a vicious cycle of more market distortions and the need for more out-of-market fixes -- until ISO-NE no longer has a market at all. Therefore, we urge the Commission to cautiously consider the proposed waiver and to refrain from taking actions that may exacerbate ISO-NE's current problems; making it all the more difficult for ISO-NE and its stakeholders to craft an effective long-term market-based solution.

Also, NGSA is concerned about expanding the use of RMR agreements based on the system's "fuel security" rather than on a substantiated "reliability" risk. Expanding RMRs qualification to include fuel security sets a bad precedent that opens the door for ISO-NE as well as other regional operators to inappropriately divert their focus to controlling upstream fuel issues rather than maintaining their focus on market design solutions that create an incentive for generators to obtain secure fuel and ensure reliable performance. The market should dictate what type of generation will take the place of the Mystic units – not the RTO. By doing so, ISO-NE is

[3] Mystic is retiring for economic reasons, which is not an unusual occurrence in a well-functioning market.

[4] *ISO-New England, Inc.*, Order on Competitive Auctions with Sponsored Policy Resources Filing, 162 FERC ¶ 61,205 at P. 4-5 (2018) (noting over 3,000 MW of out of market renewable contracts and ISO-NE's statement that such 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, such as Mystic 8 & 9).

fostering an environment that is not conducive to producing market signals required for generator investment in reliability.

Instead, ISO-NE's primary focus should be on creating a market structure that provides the proper price signals; allowing generators to commit and reliably perform in response to those price signals. Once the market sets the proper price signals, generators will devise the most cost-efficient ways to provide the most reliable power or "fuel-secure" resources they require to perform. For example, many generators have, or can develop, alternatives for ensuring reliable performance, such as dual-fuel capability, if they are sent the proper market signals. With the proper price signals in place, ISO-NE should have confidence in unit performance, with minimal need to second-guess whether generators have taken the proper steps required to reliably perform, including the security of their fuel procurement.

NGSA believes it is inappropriate for ISO-NE to portray the need for a waiver as a "fuel security" issue. In its filing, ISO-NE indicates that its tariff deems a resource to be needed for reliability if it is necessary to address "a local reliability issue" and that, although they claim it may be possible to support a finding of a local reliability issue, the reliability issue they will have if the Mystic 8 & 9 units retire is a fuel security issue. NGSA does not take issue with ISO-NE seeking RMR contracts if they can prove they are absolutely necessary to support local or systemwide reliability. However, we take issue with characterizing these retirements as a fuel security issue. It is the loss of power, not fuel, associated with the proposed retirements that would, at least theoretically, create a system reliability problem and as long as there is generation to replace Mystic 8 & 9's megawatts, the type of fuel that supports the generation replacing those units should be inconsequential. Exelon claims that it may need to retire the Mystic units for economic reasons, not because of a lack of fuel. Therefore, while we understand that ISO-NE is the midst of conversations directed at addressing fuel security, fuel cannot reasonably be the basis for system reliability concerns associated with a loss of power if these units retire. It is a generator's job – not the RTO's -- to ensure it has the fuel security it needs to perform and holding up the retirement of specific units in the name of fuel security is well outside the bounds of what a regional operator should do.

Given that Exelon does not intend to retire Mystic units 8 & 9 until 2022, it is unfortunate that ISO-NE feels compelled to take immediate action due to the three-year lead time for participation in the Forward Capacity Market. With some additional time to work with stakeholders on fuel security issues, ISO-NE may be in a much better position to determine if taking an out-of-market action is truly warranted, particularly since ISO-NE's Pay for Performance program is underway and ISO-NE has committed to consider market-based solutions to support reliability in its stakeholder process. Should the Commission be inclined to grant the requested waiver at this time, the waiver should be limited to no longer than the proposed two-year period, with no option to extend the RMR agreement beyond that time. Further, the Commission should closely scrutinize the cost-based contract filed in Docket No. ER18-1639 to ensure that ISO-NE's justifiable focus on reliability does not allow Exelon to extract unreasonable contract terms, *e.g.*, a contract with an unreasonable length or excessive allowance for capital expenditures or to cover imprudent costs.

III. CONCLUSION

For the reasons cited above, NGSA asks the Commission to proceed cautiously in considering the proposed waiver. The use of RMR agreements should be supported by a determination that future retirement of these facilities (Mystic 8 & 9) would result in reliability – not fuel security -- problems that necessitate short-term out-of-market actions. Furthermore, if the Commission decides to grant a waiver, ISO-NE should not be permitted to request an extension of the waiver beyond the proposed two-year period.

Dated: May 23, 2018

Respectfully submitted,

_*/x/ Patricia Jagtiani*_____

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