

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

ISO-New England Inc.

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**Docket Nos. ER18-1509-000
EL18-182-000**

**REQUEST FOR REHEARING
OF THE NATURAL GAS SUPPLY ASSOCIATION AND
THE AMERICAN WIND ENERGY ASSOCIATION**

Pursuant to Section 313(a) of the Federal Power Act, 16 U.S.C. § 825l(a)(2012), and Rule 713 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. § 385.713 (2018), the Natural Gas Supply Association (“NGSA”) and the American Wind Energy Association (“AWEA”) respectfully submit this Request for Rehearing of the Commission’s order issued July 2, 2018 in the above-captioned proceeding.¹ For the reasons cited below, NGSA and AWEA ask the Commission to refrain from pursuing short-term market interventions in this proceeding until parties have had an opportunity to more fully examine the reasonableness of the fuel security impacts associated with the Mystic units’ retirement as well as an opportunity to more fully explore the possibility of a longer-term market solution.

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

¹ *ISO New England Inc.*, 164 FERC ¶ 61,003 (2018) (“July 2 Order”).

gas market in a range of different manners. NGSAs 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.

AWEA is a national trade association comprised of about 1,000 member companies representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States. AWEA members include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, utilities, marketers, customers, and their advocates.

I. Specification of Errors.

1. The Commission erred in finding that ISO-New England's ("ISO-NE") fuel security study and subsequent impact analysis of fuel security was reasonable without further examination.
2. The Commission erred in its preliminary finding that a short-term out-of-market solution to keep Mystic Units 8 and 9 in operation is needed to address fuel security issues.

II. Statement of Issues.

1. Did the Commission err in finding that ISO-NE's fuel security study and subsequent impact analysis of fuel security was reasonable without further examination?

Yes, the Commission erred in finding that ISO-NE's fuel security study and subsequent impact analysis of fuel security was reasonable without further examination. The Commission's review of the fuel security study should have included a closer examination of whether the study's modeling used reasonable and fact-based inputs that produce reasonable outcomes. The Commission's acceptance of the study at face value ignored both stakeholder concern with the inputs relied on by ISO-NE as well as the original, limited purpose of the study as a "starting point" for discussions between ISO-NE and its stakeholders. The need for a more thorough

examination is underscored by the Commission-acknowledged absence of any established methodological framework, industry standards or best practices for fuel security analyses and the still-evolving definitions of such concepts as "resilience" and "fuel security." On rehearing, the Commission should direct ISO-NE to take a more holistic approach to studying how reliability can be achieved.

2. Did the Commission err in its preliminary finding that a short-term out-of-market solution to keep Mystic Units 8 and 9 in operation is needed to address ISO-NE fuel security issues?

Yes, the Commission erred in finding that a short-term out-of-market solution to keep Mystic Units 8 and 9 in operation was needed to address ISO-NE fuel security issues. The Commission should have provided ISO-NE and its stakeholders a year to pursue a market-based solution before adopting a short-term "fix," that further distorts the market. The Commission recently recognized the importance of protecting competitive wholesale capacity markets in PJM, *see Calpine Corp. v. PJM Interconnection, L.L.C.*, 163 FERC ¶ 61,236 (2018). On rehearing, the Commission should reconsider its premature bailout of uneconomic units in favor of fully exploring market-based alternatives that preserve a level playing field for all market participants.

III. Argument

A. The Commission erred by accepting ISO-NE's fuel risk scenarios at face value without further examination to support out-of-market actions on their system.

To support its waiver request, ISO-NE submitted an evaluation of the risks associated with the retirement of Mystic 8 and 9 prior to the 2022-2023 and 2023-2024 winter periods using the scenarios modeled in its Operational Fuel-Security Analysis ("OFSA").² In the fuel-security

² See ISO-NE's Petition for Waiver at 9-15, Docket No. ER18-1509 (filed May 2, 2018); "The Mystic Retirement Studies use the same system model employed by the ISO's Operational Fuel-Security Analysis

evaluation submitted in support of the waiver, ISO-NE looked at 18 scenarios that show possible outcomes if Mystic 8 and 9 were to retire; with 17 of the 18 scenarios resulting in depletion of ISO-NE's 10-minute operating reserves, purportedly violating NERC reliability criteria, and the need to shed load in eight of those scenarios. In the July 2 Order, the Commission concluded that ISO-NE's methodology and assumptions in the OFSA and Mystic Retirement Studies are reasonable and accepted ISO-NE's conclusions that the retirement of Mystic 8 and 9, may cause ISO-NE to violate mandatory reliability standards.³ This determination, in turn, provided support for FERC's preliminary finding that the current tariff may be unjust and unreasonable by failing to provide a mechanism by which to address specific fuel security issues.

NGSA and AWEA are very concerned with the Commission's immediate acceptance of ISO-NE's scenarios as justification for short-term out-of-market actions that did not include a closer examination of whether the modeling used reasonable and fact-based inputs that result in reasonable outcomes. Contrary to the Commission's finding that ISO-NE "used a reasonable methodology to analyze the available data under a rational set of assumptions to arrive at its conclusions in the OFSA and Mystic Retirement Studies,"⁴ nowhere in the order do we see an analysis of the various inputs in the scenarios to determine if they were within a range of reasonableness. We disagree with the Commission that the mere fact that ISO-NE simply ran a lot of scenarios is an indicator of the reasonableness of the inputs (which were the same in each scenario except for changing a few parameters). On the contrary, the fact that stakeholders requested that ISO-NE run numerous alternative scenarios should be a major indication that

(sometimes referred to herein as the "OFSA") regarding winter 2024-2025." *Id.* at 9; *see also* Petition for Waiver, Ex. No. ISO-1, Testimony of Peter T. Brandien at 4-5, 30-31.

³ July 2 Order at P 49.

⁴ *Id.* at P 51.

stakeholders were uncomfortable with the inputs ISO-NE relied upon. This holds true regardless of whether a deterministic or probabilistic analysis was performed.

In its submission, ISO-NE asserts that the assumptions underlying the OFSA reflect the best data available to ISO-NE at the time and represent observed historical data or well-established projections. However, the Commission should not just simply take such assertions at face value. As an example, after reviewing the OFSA, NGSA was concerned that ISO-NE used an input that assumed that a pipeline compressor station outage would last over an entire winter, which is something that NGSA questioned, and we are not aware of a circumstance in which such an outage has been historically observed. For this reason, the Commission must be cautious in accepting potential outcomes that may be based on inputs that are arbitrary, especially when such inputs were originally intended for discussion purposes only.

When ISO-NE released its OFSA, they made clear to all parties that this study was to be used as a starting point for discussion. Page 8 of the study states, “[t]he study results are not **precise predictions**. Rather, they help compare different possible future fuel scenarios so that the ISO and the region can discuss a level of tolerable risk and plan appropriate mitigation.”⁵ As Commissioner Powelson stated in his partial dissent, the study should be viewed as “a good-faith effort by ISO-New England to inform all interested stakeholders on potential concerns the region could face in years to come” and provides a foundation for stakeholder discussion.⁶

As noted above, NGSA had concerns with a specific input used in the OFSA study and raised those concerns informally to ISO-NE.⁷ Given the intended and stated purpose of the study,

⁵ OFSA at 8, https://www.iso-ne.com/static-assets/documents/2018/01/20180117_operational_fuel-security_analysis.pdf.

⁶ July 2 Order, Commissioner Powelson dissenting statement at 2.

⁷ NGSA questioned ISO-NE modeling a compressor outage over a full winter period and how they supported such a long duration as a reasonable timeframe to model. This assumption resulted in a pipeline

NGSA chose to not publicly take issue with what we believed to be an assumption that appeared to be outside a range of reasonableness. However, the Commission's acceptance of the results of this study at face value turns the table on stakeholders that trusted the stated intent of this study, and instead allows randomly-selected scenarios to be utilized to determine real-life actions that stand to dramatically impact real-life market implications. Given that other RTOs are in the process of modeling scenarios,⁸ this raises significant concerns about whether these modeling results and others to come in the name of "fuel security" are biased toward one fuel over another and can be blindly accepted without an opportunity for thorough examination and stakeholder input.

NGSA and AWEA are not suggesting that, after a more thorough review, the Commission will not find that ISO-NE used reasonable assumption or that there are fuel security concerns that warrant some type of intervention.⁹ However, accepting the modeling outcomes at face value without a more thorough review is a dangerous precedent to set in this proceeding given that the purported outcomes have the very real potential to impact changes in the market.

In the July 2 Order, the Commission notes that there is not an established methodological framework for fuel security analyses and that there are no industry standards or best practices for conducting such an analysis.¹⁰ Nor has the Commission defined what fuel security entails. We

compressor outage having the highest number of load-shedding hours in the reference case apart from the unlikely worst-case scenario. *See* OFSA at 44.

⁸ For instance, PJM has a fuel security effort underway with stakeholders that, based on modeling outcomes, PJM plans to devise a way to ensure sufficient "fuel secure" units at vulnerable locations.

⁹ In footnote 144 of the July 2 Order, the Commission points out that ISO-NE identified a possible fuel security emergency resulting from the outages of Mystic 8 and 9 and the Distrigas Facility several months prior to the instant proceeding when it first published the OFSA in January 2018 and that subsequent analysis in response to Exelon's De-List Bid, confirmed this prior finding. One has to wonder if the initial OFSA analysis may have in fact spurred Exelon's de-list bid and corresponding demand for cost-of-service treatment for continued operations.

¹⁰ July 2 Order at P 52.

agree and that is precisely why it is so imperative that the Commission afford time to explore the validity of the assumptions underlying ISO-NE's fuel-security analysis to ensure that the purported fuel-security implications are based on reasonable and non-discriminatory assumptions and not arbitrary inputs.

The Commission must look at this study in the broader perspective because we are at a time when multiple regulators, government agencies and industry players are introducing new and ambiguous terms into the regulatory arena such as "resilience" and "fuel-secure," which while not yet defined, are likely to be measured based on *potential*, as opposed to proven, problems and where certain participants have an incentive to influence the potential outcomes to gain a market preference. Thus, when markets can be diverted from competitive outcomes based on modeling assumptions, it is imperative, especially in this time of introducing new industry attributes, that FERC remain fuel neutral and ensure the inputs and outcomes are both fact-based and within a range of reasonableness rather than merely conjecture.

For these reasons, NGS and AWEA wholeheartedly agree with Commissioner Glick that the Commission should initiate a process to allow for more thorough examination prior to making a determination that there is a fuel security issue that requires immediate market interference.

A better course of action would have been for the Commission to institute a proceeding to thoughtfully examine the potential fuel security problem in ISO-NE rather than rush to impose immediate solutions. I would convene a technical conference or other process to explore fuel security in ISO-NE in order to understand the causes and contours of the issue before dictating solutions. Such a proceeding would provide for a full discussion of the analysis and assumptions that underlie ISO-NE's fuel security analysis. As noted, several parties have raised fundamental concerns about ISO-NE's analysis and I believe we do all stakeholders—other than Exelon, Mystic's parent company—a disservice by concluding that the study demonstrates that the ISO-NE

Tariff is unjust and unreasonable, without addressing those fundamental concerns.”¹¹

B. The Commission erred in its preliminary finding that an immediate short-term out-of-market solution is needed to maintain fuel security.

In the July 2 Order, the Commission preliminarily found ISO-NE’s tariff may be unjust and unreasonable and directed ISO-NE to either submit within 60 days of the date of the order interim tariff revisions that provide for the filing of a short-term, cost-of-service agreement to address demonstrated fuel security concerns or to show cause why the current tariff is just and reasonable.¹² As noted in the section above, absent further examination, NGSA and AWEA do not believe that ISO-NE has adequately proven that there is a fuel security issue associated with the retirement of Mystic Units 8 and 9. However, even if the Commission accepts ISO-NE’s analysis at face value and concludes that there is a fuel security issue associated with the retirement of the Mystic units, there is still ample time to explore long-term market solutions as opposed to prematurely seeking a short-term out-of-market action.

In initial comments in this proceeding, NGSA and AWEA expressed concern that ISO-NE felt compelled to take immediate action given the three-year lead time for participation in the Forward Capacity Market. We stated that, with some additional time to work with stakeholders on fuel security issues, ISO-NE would likely 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 considering market-based solutions to support reliability in its stakeholder process. Also, NGSA and AWEA stated that regulatory intervention should be used only as a last resort—recognizing that out-of-market actions are likely to make an

¹¹ July 2 Order, Commissioner Glick dissenting statement at 4 (citations omitted).

¹² July 2 Order at P 55 (“Based on the evidence in this proceeding, including ISO-NE’s OFSA and Mystic Retirement Studies, we are concerned that ISO-NE’s Tariff does not sufficiently address the fuel security issues currently facing the region, which could result in a violation of mandatory reliability standards.”).

already bad situation worse, particularly if other potential capacity in a better position to perform is displaced. For that reason, we urged the Commission 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.

ISO-NE supports its request for a short-term market intervention by stating that it cannot provide reasonable assurance that necessary changes to replace Mystic 8 and 9 will be in place in the 2022-2024 timeframe.¹³ Even if that is true, rather than rushing to conclusions, the Commission should have at least have given ISO-NE and stakeholders a year to pursue a market-based solution before resorting to a short-term “fix” that further distorts the market. During this one-year period, parties would also be able to further examine whether new or existing resources can adequately and reliably replace Exelon's units, in a more updated and cost-efficient manner.¹⁴

The Commission should not act prematurely to rely on out-of-market actions to keep uneconomic units in service without first fully exploring market solutions, including whether the existing FCM can adequately deliver the needed capacity. Such actions in the name of fuel security are likely to lead to additional pressures on FERC and RTOs to continue to provide one-off bailouts as more uneconomic units are approaching retirement. Absent steps to protect the competitive markets in ISO-NE, we wonder what will ultimately become of them.

Performance, regardless of the specific driver, is the key measure of reliability and ISO-NE's long-term solution should encompass all manner of performance and reliability issues, not just the narrow issue of fuel security. When working with stakeholders on a long-term market-based approach, ISO-NE needs to take a more holistic approach that addresses reliability rather

¹³ July 2 Order at P 38.

¹⁴ Commissioners Powelson and Glick, in their separate statements, agreed that prior to filing an interim out-of-market mechanism, time should spend exploring alternatives that allow the market to work, such as enhancing Pay for Performance.

than relying on piecemeal solutions as isolated issues may arise. Otherwise, ISO-NE's tariff will remain deficient until the next problem arises and parties are again pursuing short-term measures that fail to adequately address fundamental problems, such as the short-term fix proposed in this proceeding.

IV. CONCLUSION

For the reasons cited above, NGSA and AWEA ask the Commission to refrain from pursuing short-term market interventions in this proceeding until parties have had an opportunity to more fully examine the reasonableness of the fuel security impacts associated with the Mystic units' retirement as well as to more fully explore the possibility of a longer-term market solution.

Respectfully submitted,

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Dated: August 1, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon those parties on the official Service List compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 1st day of August 2018.

/s/ Patricia Jagtiani