

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

ISO New England Inc.

)

Docket No. ER16-1041-000

**MOTION FOR LEAVE TO ANSWER
AND ANSWER OF ISO NEW ENGLAND INC.**

Pursuant to Rules 101(e), 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”),¹ ISO New England Inc. (the “ISO”) hereby submits its *Motion for Leave to Answer and Answer* (“Answer”) to the pleadings filed by: Dominion Resources Services, Inc. (“Dominion”); Northeast Energy Associates, a limited Partnership (“NEA”); and the Utility Workers Union of America, Local 464 and Robert Clark (collectively, the “Utility Workers Union”). These pleadings (referred to collectively herein as the “Protests”)² were filed in response to the tenth Forward Capacity Auction Results Filing submitted by the ISO in the above- referenced docket on February 29, 2016 (“FCA 10 Results Filing”).³

I. MOTION FOR LEAVE TO ANSWER

In this *Answer*, the ISO briefly responds to the Protests filed in response to the FCA 10 Results Filing. While the Commission’s Rules of Practice and Procedure allow parties to respond to comments,⁴ as a general matter, the Commission’s rules prohibit responses to protests.⁵ The Commission has the authority, however, to waive this prohibition for good

¹ See 18 C.F.R. §§ 385.101(e), 385.212 and 385.213 (2015).

² NEA’s pleading is entitled *Motion For Leave To Intervene Out-Of-Time And Comments* (“Comments”).

³ Capitalized terms not otherwise defined herein have the meanings ascribed thereto in the ISO New England Inc. Transmission, Markets and Services Tariff (the “ISO Tariff”).

⁴ See 18 C.F.R. § 385.213(a)(3) (2015).

⁵ See 18 C.F.R. § 385.213(a)(2) (2015).

cause.⁶ The Commission has found good cause to permit replies where they are otherwise prohibited in various circumstances, including where the answer would assure a complete record in the proceeding,⁷ provide information helpful to the disposition of an issue,⁸ permit the issues to be narrowed or clarified,⁹ or aid the Commission in understanding and resolving issues.¹⁰ The ISO believes that this *Answer* will clarify the issues, assure a more complete record in this proceeding, and otherwise assist the Commission in understanding and resolving the issues raised concerning the results of the Forward Capacity Auction (“FCA”). For these reasons, the ISO respectfully requests that the Commission grant the ISO’s motion to provide the following *Answer*.

II. ANSWER

The Protests raise two issues related to the FCA 10 Results Filing: the impact on the results of the tenth FCA if the Commission grants the complaints filed by Dominion and NEA in Docket Nos. EL16-38-000 and EL16-48-000, respectively, and the impact on the results of the tenth FCA of the retirement of the Brayton Point Station Units 1-4 (collectively, “Brayton Point”) in the eighth FCA. As explained below, the Commission should reject the Protests.

A. The Commission Should Deny Dominion’s and NEA’s Protests

Dominion filed a complaint against the ISO on February 5, 2016 requesting that the Commission direct the ISO to award 21 MW of incremental capacity at its Manchester Street Station Units 9, 10, and 11 Capacity Supply Obligations for the tenth FCA. NEA filed a complaint against the ISO on March 18, 2016, and amended it on March 21, 2016, requesting

⁶ See 18 C.F.R. § 385.101(e) (2015).

⁷ See, e.g., *Pacific Interstate Transmission Co.*, 85 FERC ¶ 61,378 at p. 62,444 (1998), *reh’g denied*, 89 FERC ¶ 61,246 (1999).

⁸ See, e.g., *CNG Transmission Corp.*, 89 FERC ¶ 61,100 at p. 61,287 n.11 (1999).

⁹ See, e.g., *PJM Interconnection, L.L.C.*, 84 FERC ¶ 61,224 at p. 62,078 (1998); *New Energy Ventures, Inc. v. Southern California Edison Co.*, 82 FERC ¶ 61,335 at p. 62,323 n.1 (1998).

¹⁰ See, e.g., *Tennessee Gas Pipeline Co.*, 92 FERC ¶ 61,009 at p. 61,016 (2000).

that the Commission direct the ISO to award 10 MW of incremental capacity at its Bellingham Energy Center a Capacity Supply Obligation for the tenth FCA. The ISO filed an answer to the Dominion complaint on February 25, 2016 and an answer to the NEA complaint on April 7, 2016. The ISO also filed an answer to NEA's answer on April 27, 2016.

In their protests, Dominion and NEA state that, if the Commission grants their complaints, the new incremental capacity should be included in the results of the tenth FCA. In addition, Dominion states that the lock-in election should apply so that it will receive the same Capacity Clearing Price for six additional Capacity Commitment Periods. For the reasons stated in the ISO's answers to Dominion's complaint, NEA's complaint, and NEA's answer, the Commission should deny Dominion's and NEA's protests. Dominion and NEA raise qualification issues that could have and should have been addressed prior to the ISO conducting the tenth FCA. The Tariff requires challenges to qualification determinations to be made no later than 15 days after submission of the Informational Filing. Specifically, section III.13.8.1 (b) of the Tariff provides that:

Any comments or challenges to the determinations contained in the informational filing described in Section III.13.8.1(a) or in the qualification determination notifications described in Sections III.13.1.1.2.8, III.13.1.2.4 and III.13.1.3.5.7 must be filed with the Commission no later than 15 days after the ISO's submission of the informational filing. If the Commission does not issue an order within 75 days after the ISO's submission of the informational filing that directs otherwise, the determinations contained in the informational filing shall be used in conducting the Forward Capacity Auction, and challenges to Capacity Clearing Prices resulting from the Forward Capacity Auction shall be reviewed in accordance with the provisions of Section III.13.8.2(c). If within 75 days after the ISO's submission of the informational filing, the Commission does issue an order modifying one or more of the ISO's determinations, then the Forward Capacity Auction shall be conducted no earlier than 15 days following that order using the determinations as modified by the Commission (unless the Commission directs otherwise), and challenges to Capacity Clearing Prices resulting from the Forward Capacity Auction shall be reviewed in accordance with the provisions of Section III.13.8.2(c).

This rule was put in place with the specific purpose of preventing out-of-time challenges to the ISO's determinations on FCA qualification. The ISO conducted the auction based on the inputs approved by the Commission in the Informational Filing.¹¹ Neither Dominion nor NEA challenged the determinations in the Informational Filing even though they received the capacity values for their resources in the Qualification Determination Notices issued on September 25, 2015, as well as their resources' FCA Qualified Capacity notices issued on October 19, 2015.

In this proceeding, Dominion and NEA are not challenging the Capacity Clearing Price resulting from the auction. Indeed, both Dominion and NEA claim that they should be paid the Capacity Clearing Price from the tenth FCA.¹² Instead, Dominion and NEA are challenging qualification determinations that, pursuant to the Tariff, should have been challenged no later than 15 days after submission of the Informational Filing (*i.e.*, November 25, 2015). As such, and for the reasons stated in the ISO's answers to the complaints, the Commission should deny Dominion's and NEA's protests and accept the FCA 10 Results Filing.

If the Commission grants the complaints, however, the Commission should still accept the FCA 10 Results Filing as filed. In that case, as directed by the Commission, the ISO would award Dominion and NEA Capacity Supply Obligations for the capacity at issue at the Capacity Clearing Price of \$7.03/kW-month as if the capacity had cleared in the auction. Dominion claims that the lock-in election should apply so that it will receive the same Capacity Clearing Price for six additional Capacity Commitment Periods.¹³ As the ISO stated in its answer to Dominion's complaint, if Dominion had corrected its error in a timely manner so that the incremental capacity could participate in the tenth FCA, the lock-in election would have been undone to allow Dominion to enter composite offers between its New Generating Capacity

¹¹ *Order Accepting Informational Filing*, 154 FERC ¶ 61,041 (2016).

¹² Dominion Protest at 4; NEA Comments at 1.

¹³ Dominion Protest at 4.

Resources and its Existing Generating Capacity Resources. Therefore, if the Commission decides to grant Dominion's complaint, Dominion's Capacity Supply Obligations and corresponding payments should be limited to the 2019-2020 Capacity Commitment Period.¹⁴

B. The Commission Has Previously Considered and Rejected the Arguments of the Utility Workers Union

The Utility Workers Union claims that the Commission should reject the results of the tenth FCA because the results appear to be the product of market manipulation by Energy Capital Partners, the former owners of Brayton Point in the eighth FCA. The Utility Workers Union made similar arguments with respect to the results of the ninth FCA. The Commission considered and rejected those arguments in the Order approving the ninth FCA.¹⁵ For the same reasons, the Commission should dismiss the Utility Workers Union's protest of the results of the tenth FCA.

III. CONCLUSION

For the foregoing reasons, the ISO requests that the Commission reject the Protests and approve the FCA 10 Results Filing without modification.

Respectfully submitted,

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¹⁴ ISO Answer to Dominion Complaint at 7.

¹⁵ *Order Accepting For Forward Capacity Auction Results Filing*, 151 FERC ¶ 61,226 (2015).

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 Commission Secretary in this proceeding.

Dated at Holyoke, Massachusetts this 29th day of April 2016.

/s/ Linda Morrison
Linda Morrison