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February 12, 2010

VIA ELECTRONIC FILING

The Honorable Kimberly D. Bose, Secretary
The Honorable Nathaniel J. Davis, Sr., Deputy Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: ISO New England, Inc.; Docket No. ER08-830-000
Motion for Leave to Respond and Responsive Comments of the New England
Power Pool Participants Committee

Dear Secretary Bose and Deputy Secretary Davis:

Attached for filing in the above-captioned proceeding is the Response of the New England Power Pool (“NEPOOL”) Participants Committee to Request of the Consumer Demand Response Initiative. A copy of the foregoing has been served on all parties included on the official service list for this proceeding maintained by the Secretary. Please contact me if you have any questions or need any further information regarding this filing.

Respectfully submitted,

Emile G. Buzaid,
Counsel to the NEPOOL Participants
Committee

cc: Official Service List

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

ISO New England Inc.

)

Docket No. ER08-830-000

**RESPONSE OF THE NEW ENGLAND POWER POOL PARTICIPANTS COMMITTEE
TO REQUEST OF THE CONSUMER DEMAND RESPONSE INITIATIVE**

(February 12, 2010)

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure,¹ the New England Power Pool ("NEPOOL") Participants Committee² hereby submits its response to the request filed by the Consumer Demand Response Initiative ("CDRI") that the Commission provide policy guidance and make certain determinations relating to compensation for demand response resources in the region's energy markets ("CDRI Pleading"). As the Commission is well-aware, NEPOOL, ISO New England Inc. ("ISO-NE") and the New England Conference of Public Utility Regulators ("NECPUC") have been working through price-responsive demand issues for over a year as part of the NEPOOL stakeholder process to determine the future treatment of price-responsive demand.

NEPOOL files its responsive comments to state that while some members may seek advance guidance from the Commission, NEPOOL has not been directly asked if it would support CDRI's current filing request, which, if granted by the Commission, would represent a departure from the normal NEPOOL stakeholder process. NEPOOL notes, however, that a similar process request for Commission guidance prior to the development of and filing of any Market Rules had been made earlier in the stakeholder process, as more fully described herein,

¹ 18 C.F.R. § 385.213 (2010).

² Capitalized terms used but not defined in this response are intended to have the meanings given to such terms in the Second Restated New England Power Pool Agreement (the "Second Restated NEPOOL Agreement"), the Participants Agreement, the ISO New England Inc. Transmission, Markets and Services Tariff (the "ISO-NE Tariff").

which process request was not supported by NEPOOL. NEPOOL requests that Commission allow the region to complete its stakeholder review, culminating in a filing of Market Rule changes under Section 205 of the Federal Power Act, without prejudging or predetermining what should be reflected in those Market Rule changes through any ruling on CDRI's request. As noted below, NEPOOL's review at this time is scheduled to result in the filing of an initial set of Market Rule changes on or about April 30, 2010 that address the very issues upon which CDRI seeks policy guidance.

II. RESPONSE

CDRI requests that the Commission provide policy guidance and make determinations on several issues regarding compensation for demand response resources that participate in the region's energy markets, issues that according to CDRI have been thoroughly vetted in the stakeholder process and are ripe for Commission input. CDRI states that such action will greatly improve the efficiency and productivity of the ongoing stakeholder process on these issues and will focus resources and time on the development of appropriate market rules and designs, particularly given the need for a viable and robust market for price-responsive demand in New England.

NEPOOL agrees with CDRI that there has been a great deal of time and effort expended to date in the stakeholder process regarding the future treatment of price-responsive demand. NEPOOL and state regulators have been working together with ISO-NE on these issues since late 2008. NEPOOL and ISO-NE have filed three status reports in this proceeding, one on March 27, 2009, one on July 31, 2009 and one on December 18, 2009, updating the Commission of its progress, most notably reporting on NEPOOL's recent votes in December 2009 on a "design basis document" for price-responsive demand (the "PRD DBD"). The PRD DBD

outlined two options available for market participants with demand resources to participate in the region's wholesale energy markets, a "Supply-Side Option" and a "Demand-Side Option." Under the Demand-Side Option, Market Participants could purchase a voluntary wholesale product in which the energy component is priced on an hourly, real-time basis. Under the Supply-Side Option, Market Participants could offer load reductions into the wholesale energy markets in a manner similar to supply offers of generation resources, which would be integrated into the market-clearing, price-setting, and resource-scheduling algorithms.

At its December 11, 2009 meeting, the NEPOOL Participants Committee voted 82.7% in favor of a Demand-Side Option "design" but was unable to agree on a "design" for the Supply-Side Option, with a vote of 54.21% in favor of what the ISO-NE had proposed (and a vote of 31.88% in favor of the joint proposal by CDRI and EnerNOC and a vote of 50.27% in support of NECPUC's proposal). Support for the CDRI and EnerNOC and NECPUC proposals generally came from those that sought greater levels of compensation for price-responsive demand than that which would have resulted under the ISO-NE's proposal. More detailed results of these votes were included as Attachments 2 and 3 to the status report filed by ISO-NE and NEPOOL on December 18, 2009 in this proceeding.

NEPOOL agrees with CDRI that these stakeholder efforts have produced a variety of design proposals on the Supply-Side Option, and have identified several important policy disagreements that have yet to be resolved in the stakeholder process. One of the key disagreements relates to compensation for price-responsive demand under the Supply-Side Option. More particularly, there are differences of opinion as to the level of payments for price-responsive demand in the region's energy markets. There are other related issues as well that may not be resolved in the stakeholder process and/or are that are intrinsically related to the

questions on compensation, including cost allocation, product definition, and product eligibility, or participation thresholds (e.g., minimum offer price).

The concerns of CDRI have been raised in earlier stakeholder meetings.³ Whether or not CDRI's request might produce more efficient stakeholder deliberations, the members who had organized CDRI had not proposed that request for vote by NEPOOL. NEPOOL has an accepted procedure for addressing issues through the stakeholder process and the Commission should allow that procedure to be followed. Specifically, NEPOOL asks that the Commission allow for the development of new Market Rules to address these issues as part of its stakeholder process without prejudging or predetermining the outcome of that process through any ruling on CDRI's request. This request is particularly justified here where no complaint has been filed, there has been no petition for declaratory order pursuant to the Commission's Rules of Practice and Procedure, and no Market Rule change is pending before the Commission for approval.⁴ While no action by the Commission is necessary at this time, if the Commission concludes there is a reason to act now on CDRI's request, NEPOOL urges the Commission to reject CDRI's request at this time without prejudice to allowing CDRI to re-raise its substantive concerns, preferably at

³ The NEPOOL Participants Committee considered and failed to support by a vote of 31.34% in favor a similar request by CDRI in September 2009 to modify its schedule for reviewing the future treatment of price-responsive demand by requiring the filing of the PRD DBD on or after January 1, 2010 (or any ISO-NE proposal if the PRD DBD fails to receive sufficient support) to be treated by the Commission as an adjudicatory docket, with full rights to protest and a subsequent order that would comply the filing of Market Rules.

⁴ See *Governors of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont*, 112 FERC ¶ 61,049 at P 26 (2005) (deferring consideration of a petition for declaratory order to form a New England Regional State Committee in favor of continued vetting of issues of scope and structure through the stakeholder process); *Rumford Power Associates, L.P., et al*, 97 FERC ¶ 61,173 at p.18 (2001) (declining to circumvent the stakeholder process by refusing to order the ISO to file a monthly, versus hourly, netting rule in connection with station power as advocated in a petition submitted by generators).

the conclusion of the stakeholder process and the filing of any Market Rules, but at the very least in a procedurally proper way under the Commission's Rules of Practice and Procedure.

Further, NEPOOL notes that ISO-NE last Friday reported to the NEPOOL Participants Committee its intention to file an initial set of Market Rules on or about April 30, 2010 on the issues of product definition, eligibility, payment rate and cost allocation, for its Supply-Side Option. That filing would be made pursuant to Section 205 of the FPA and would occur only after completion of the NEPOOL stakeholder process for consideration of those proposed Market Rule changes. ISO-NE also reported that it would thereafter develop and file additional Market Rules on all remaining implementation details regarding its Supply-Side Option but only after the Commission has ruled on its Section 205 filing. This proposal by the ISO appears to be responsive to concerns that stakeholders not spend unnecessary time and energy on implementation details or further Market Rule development prior to Commission guidance on key policy disagreements, while fully respecting and accommodating NEPOOL's Commission-approved stakeholder process.

II. RELIEF REQUESTED

For the reasons stated herein, NEPOOL respectfully requests that the Commission defer acting on the CDRI request at this time, or deny CDRI's request at this time without prejudice to allowing CDRI to re-raise any of its remaining substantive concerns on these issues, at the conclusion of the stakeholder process in response to the filing of any resulting Market Rule changes.

Respectfully submitted,

NEPOOL Participants Committee

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Its Attorneys

Dated: February 12, 2010

CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2010, I caused a copy of the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in the captioned proceedings.

Dated at Hartford, CT, this twelfth day of February 2010.

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