

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

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|---|---|---------------------------------|
| ISO New England Inc. |) | Docket No. ER11-4336-000 |
| |) | ER11-4336-001 |
| |) | ER11-4336-002 |
| New York Independent System Operator, Inc. |) | Docket No. ER11-4338-000 |

**COMMENTS OF JOINT COMMENTERS
IN SUPPORT OF DEMAND RESPONSE PROGRAMS**

Pursuant to Rule 211 of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.211, ACEEE (the American Council for an Energy Efficient Economy) American Forest & Paper Association, Industrial Energy Consumers of America, U.S. Clean Heat & Power Association, Industrial (collectively "Joint Commenters") hereby file these Comments in response to ISO-New England Inc.'s ("ISO-NE") and New York Independent System Operator, Inc.'s ("NYISO") proposed compliance filings with the Commission in the dockets referenced herein related to Commission Order 745.

The Joint Commenters are national organizations, composed of industrial users of electricity, organizations promoting efficient use of energy and resources, and supporters of Combined Heat and Power and distributed and renewable generation. They also are strong supporters of the policy direction enunciated in Commission Order 745, which established full Locational Marginal Pricing ("LMP") as the appropriate compensation for demand response resources that perform in day-ahead or real-time energy markets. Order 745 convincingly discussed the economic, reliability, and environmental benefits provided by those entities participating in the DR program, and why it is appropriate to treat them comparably with

generation and compensate them with full LMP payments. It is because of these attributes of DR that Joint Commenters have long been such strong supporters of robust DR programs.

Some of these organizations have submitted separate filings highlighting certain DR issues, but they join together here to comment on one issue in particular--the participation in DR programs, established for the day-ahead or real-time energy markets, of those customers who rely wholly or in part on Behind the Meter Generation (BTMG) to satisfy their load.

Prior to the issuance of Order 745, many of the Regional Transmission Organizations (RTOs)/Independent System Operators (ISOs) allowed such customers to participate in demand response programs, clearly recognizing the value of the load reductions that could be provided by customers relying on BTMG to satisfy all or part of their loads. However, certain RTOs/ISOs have sought to use their compliance filings to argue, either explicitly or implicitly, that Order 745 allows them to discriminate against such customers. It is beyond ironic that some might use order 745 to erect new barriers to DR. The Commission should promptly reject any such suggestion. As long as any load can be reduced that helps to balance demand and supply, and meet the net benefits test, Order 745 clearly indicates that such load should be able to participate fully, and be compensated fully, in DR programs.

The issue of BTMG participation has been raised or otherwise implicated by both of the above dockets (and perhaps by omission, in all dockets related to Order 745), with the various RTOs/ISOs taking varying positions and allowing varying amounts of participation and compensation for loads served by BTMG. For example, while the NYISO compliance filing is silent on the issue of BTMG participation and compensation, since the inception of the DR program, Loads served by BTMG have been barred from participating in economic Demand Response. Under ISO-NE's proposed rules, the load interruptions of customers who host

generation resources would not be compensated at LMP to the extent those load reductions resulted in the export of generation previously used to serve such load (they would only be compensated for the electricity exported). It appears that the MISO filing adopts a different approach, but one which apparently was not briefed to MISO market participants or stakeholders. Finally, the PJM compliance filing does not facially appear to restrict compensation for DR associated with BTMG. That is, it appears that a facility that reduces consumption facilitated by BTMG would still be compensated at LMP for the reduction, as well as for the electricity it exports to the grid.

Joint Commenters believe that it is critical for FERC to establish a consistent national policy on this issue and ensure that all willing consumers can fully participate and be fairly compensated and the consumer benefits intended by Order 745 be maximized across all RTOs/ISOs. The attributes of DR described in the Order are especially apparent with respect to many industrial facilities that operate highly-efficient combined heat and power (CHP or cogeneration) facilities that provide added flexibility for grid operators, as well as electricity generation to balance the grid. These CHP facilities reduce consumer electricity cost and are much more efficient than traditional generation and peaking units, thus providing significant environmental benefits as well. FERC policy to promote expanded participation of BTMG—whether industrial CHP or otherwise—in DR programs, should not be allowed by FERC to be frustrated by RTOs/ISOs.

Because the filings of NYISO and, ISO-NE would have the opposite effect and restrict load served by BTMG from full DR participation, they should be rejected. Joint Commenters request that the Commission ensure that all ISOs/RTOs provide consistent opportunities for full participation and compensation for DR for all resources.

Dated at Portland, Maine this 9th day of September, 2011.

Respectfully Submitted,

/s/ Donald J. Sipe

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CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have electronically served a copy of the foregoing document to all persons designated on the electronic service list compiled by the Secretary in this proceeding.

Dated at Portland, Maine this 9th day of September, 2011.

Respectfully Submitted,

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