

**Rebecca L. Tepper, Assistant Attorney General  
Chief, Energy and Telecommunications Division, Massachusetts Attorney General's Office  
Before the Subcommittee on Energy and Power  
House Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC**

***"Powering America: Consumer-Oriented Perspectives  
on Improving the Nation's Electricity Markets"*  
October 5, 2017**

## Summary of Testimony

- Decisions made by a Regional Transmission Operator (“RTO”) affect every family and every business in the region.
- It is important that consumers, who ultimately use and pay for the electric services regulated by the Federal Energy Regulatory Commission (“FERC”) have a voice in RTO decision-making.
- With FERC’s guidance, many RTOs have developed mechanisms to educate consumers and allow consumer participation in the stakeholder process.
- In New England, there are currently two main avenues for customer participation at ISO-NE, the Consumer Liaison Group (“CLG”) and New England Power Pool (“NEPOOL”) membership.
- The CLG
  - The CLG is a forum for sharing information between ISO-NE and consumers.
  - The CLG was formed to meet the need for heightened communication between the RTOs and their stakeholders pursuant to FERC Order No. 719, which required RTOs to increase their responsiveness to customers.
  - The CLG is primarily an educational entity. It provides opportunities for a wide range of stakeholders to gain a better understanding of the ISO-NE process and learn how ISO-NE actions impact consumers.
  - The CLG is not a substitute for NEPOOL membership and participation in the ISO-NE stakeholder process.
- NEPOOL Membership
  - Under the current ISO-NE construct, a customer who wants to influence and participate in ISO-NE decision-making must join NEPOOL and actively participate in the stakeholder process or hire a representative to do so on the customer’s behalf.
  - Not all state consumer advocates, and certainly not most consumers, can devote the resources necessary to be informed and productive contributors in a RTO stakeholder process. These processes are complicated, expensive and time-consuming.
- To increase consumer representation in the RTO stakeholder process, FERC and RTOs could start with the following:
  - Establish a program like the CLG that serves a broad range of customers through educational opportunities and access to RTO representatives and consumer-related data.
  - Establish a stable funding mechanism that allows all state consumer advocates to fully participate in the RTO stakeholder process.
  - Require RTOs to consider costs in their decision-making and provide cost impact analyses (including retail bill impacts) on all major proposals and reasonable alternatives offered by stakeholders.
  - Increase communication between consumers and RTO Boards.

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Chairman Upton, Ranking Member Rush, and members of the subcommittee, thank you for the opportunity to appear before you this morning. My name is Rebecca Tepper. I am the Chief of the Energy and Telecommunications Division in the Massachusetts Attorney General’s Office (“MA-AGO”). In Massachusetts, the Attorney General serves as the state’s ratepayer advocate. As the ratepayer advocate, the Attorney General represents customers’ interests in administrative and judicial proceedings regarding regulated industries, including the electric industry.

I also have the honor of serving as the Chair of the New England Independent System Operator’s (“ISO-NE”) Consumer Liaison Group (“CLG”).

Thank you for holding this hearing and recognizing the importance of consumer participation in the decision-making processes at our Regional Transmission Operators (“RTO”). RTO decisions affect every family and every business in their region. Decisions about market operations affect how much your grandmother on a fixed income must pay to keep her lights on. They also determine whether the manufacturing facility in your town can afford to keep employing your friends and neighbors, and whether clean, cost saving measures like energy efficiency are included in the mix of resources that power our schools and homes. Decisions about electric reliability can determine whether your local hospital can operate during and after a weather event

and whether your business will survive an unexpected or prolonged outage. Decisions about transmission affect your state's ability to bring electricity from a distant generation site to where the people live and work. All of these decisions affect whether our children will be safe and live on a healthy planet.

The Federal Energy Regulatory Commission ("FERC") and the RTOs have recognized the importance of giving voice to the people and businesses who ultimately use and pay for electricity. With FERC's guidance, many RTOs have developed mechanisms to educate consumers and allow customer participation in the stakeholder process.

In New England, there are currently two main avenues for customer participation at ISO-NE: the CLG and New England Power Pool ("NEPOOL") membership.

### **The History of the CLG**

The CLG is a forum for sharing information between ISO-NE and consumers. The CLG was formed to meet the need for heightened communication between the RTOs and their stakeholders pursuant to FERC Order No. 719, issued in 1998. Order No. 719 sought to enhance the "responsiveness of RTOs and ISOs to customers and other stakeholders, and ultimately to the consumers who benefit from and pay for electricity services." Order No. 719 at P 12. In Order No. 719, FERC required each RTO to "make reforms, as necessary, to increase its responsiveness to customers and other stakeholders." Order 719 at P. 7. Among other requirements, FERC directed each RTO to provide a forum for affected consumers to voice specific concerns (and to propose regional solutions) on how to improve the efficient operation of competitive markets. Order No. 719 P 2.

New England responded to Order No. 719's directive to examine RTO responsiveness by forming a working group that was open to all interested ISO-NE and NEPOOL stakeholders. The

MA-AGO's served as one of the four chairs of the Working Group representing the New England's state consumer advocates.

Through the Working Group, the MA-AGO outlined several concerns regarding ISO-NE's responsiveness and, working with other participants, offered solutions to the Working Group. The MA-AGO's expressed concerns that end-use consumers are not able to consistently provide effective input about their interests because the ISO-NE/NEPOOL decision-making process is complicated and extremely time-intensive. Additionally, the MA-AGO noted that most consumers and their advocates lack the resources required to meaningfully monitor and participate in the stakeholder process. Businesses and individuals simply cannot afford the time commitment that is required; they have their own lives and businesses to run.

The MA-AGO offered and/or supported several initiatives designed to address specific consumer concerns about the existing ISO-NE/NEPOOL stakeholder process. First, the MA-AGO, along with other state consumer advocates, sought more direct access to ISO-NE staff. Second, the MA-AGO, along with other state consumer advocates, requested that ISO-NE incorporate a cost concept into its mission statement and commit to providing economic analysis of ISO-NE initiated tariff changes and alternatives proposed by regional stakeholders. Third, the MA-AGO sought ISO-NE Board members with prior experience in consumer advocacy. Fourth, the MA-AGO requested that ISO-NE designate a consumer liaison representative within the ISO-NE organization. Finally, the MA-AGO recommended that ISO-NE open its board meetings to the public.

As a result of the Working Group process, the stakeholders agreed to a set of compromises to address ratepayer concerns. First, ISO-NE revised its mission statement, committing it to "strive to perform all its functions and services in a cost-effective manner, for the benefit of all those served by the ISO" and to provide "quantitative and qualitative information" on cost impacts for

proposed major initiatives. Second, ISO-NE and NEPOOL agreed to several procedural changes to increase Board transparency. Finally, the Working Group formed the Consumer Liaison Group.

### **CLG Governance**

To launch the CLG, the Working Group drafted by-laws, which are still in effect today. The CLG is governed by a Coordinating Committee of twelve members. These members represent various stakeholder groups, with no more than four members coming from any one New England state. The Coordinating Committee has at least one representative of residential ratepayers and one representative of commercial and industrial ratepayers. Members must be either a ratepayer (or directly represent ratepayers), a member of a consumer organization, or a government consumer or ratepayer advocate.

The CLG selects the Coordinating Committee members at one of its quarterly meetings in an even-numbered calendar year. Coordinating Committee members serve for a term of two years or until successors are selected. The Coordinating Committee annually designates a chairperson from its membership. Should a vacancy occur on the Committee, the chairperson fills the vacancy with the approval of a majority of the remaining members. Current CLG Coordinating Committee members include state consumer advocates, business and industry associations, individual businesses, trade groups, educational institution nonprofit organizations, and other end users.

### **CLG Meetings**

The CLG meets quarterly and attracts a diverse group of approximately 75-100 attendees at each meeting, both in person and via teleconference. CLG meetings are open to the public and are held throughout New England to allow broad participation. CLG meetings follow the same general format:

- Opening remarks from a keynote speaker—typically, an industry or business executive, policymaker, or regulator.

- An ISO-NE update on regional energy issues and initiatives that have or will be taking place at NEPOOL and ISO stakeholder meetings.
- A panel discussion facilitated by a moderator that provides different perspectives on particular issues.

With input from CLG members, the Coordinating Committee selects the meeting topics and panel members. ISO-NE facilitates and funds the meetings. Although there is no fee to attend a CLG meeting, attendees must pay for their own travel expenses. Recent CLG meetings have addressed (1) the growth of solar PV and distributed generation; (2) electricity security for consumers and protecting against cybersecurity threats; (3) the progress of energy infrastructure in New England; (4) New England states' clean energy initiatives; (5) the role of nuclear power in the region's energy mix; and (6) transmission development under FERC Order 1000.

### **CLG Funding**

The CLG has no independent budget. Coordinating Committee members are volunteers and pay for their own travel and other CLG-related expenses. The CLG does not have an independent professional staff or executive director. ISO-NE has a dedicated staff person within its External Affairs Department to work with the Coordinating Committee. In addition, since the CLG's inception, the MA-AGO has performed many of the responsibilities typically performed by an executive director.

### **Other CLG Communications**

In addition to the quarterly meetings, consumers can obtain CLG materials from a dedicated CLG page on the ISO-NE website. The Coordinating Committee also prepares an annual report summarizing the CLG activities and presenting an inventory of ISO-NE actions during the year. ISO-NE also issues a memorandum each month that provides timely updates on regional energy issues, stakeholder meetings, and other information that may be relevant to consumers.

### **What the CLG Is; What it is Not**

The CLG is primarily an educational entity. It provides opportunities for a wide range of stakeholders, not just state consumer advocates, to gain a better understanding of the ISO-NE process and learn how ISO-NE actions impact consumers. The meetings are specifically designed for consumers. The Coordinating Committee emphasizes the importance of clear, easy to understand explanations of industry issues. CLG meetings are an opportunity for consumers to hear directly from and question ISO-NE representatives. The ISO-NE provides consumers with useful pricing data, including the relationship between retail bills and the wholesale markets. The CLG has successfully taken some of the mystery out of the ISO-NE process and has increased transparency.

The CLG is not an advocacy group that represents consumers' interests. It is also not a substitute for NEPOOL membership and participation in the ISO-NE stakeholder process. As it operates today, the CLG has no formal role in the ISO-NE stakeholder decision-making process. Thus, the CLG does not alleviate the need for state consumer advocates to engage in the NEPOOL process. Under the current ISO-NE construct, a customer who wants to influence and participate in ISO-NE decision-making must join NEPOOL and actively participate in the stakeholder process or hire a representative to do so on the customer's behalf.

### **NEPOOL Participation**

The MA-AGO has been a voting member of NEPOOL since 2009. The MA-AGO devotes significant office resources to participate in the NEPOOL stakeholder process. This investment has resulted in tangible benefits for Massachusetts customers. In the last five years, the MA-AGO's NEPOOL and FERC work has resulted in over \$60 million in refunds for Massachusetts customers.



In addition, the MA-AGO's NEPOOL membership has provided the opportunity for the MA-AGO to advocate for and obtain increased transparency in NEPOOL and ISO-NE processes.

### **Constraints in NEPOOL Participation**

Not all state consumer advocates, and certainly not most consumers, can devote the resources necessary to be informed and productive contributors in a RTO stakeholder process. These processes are complicated, expensive and time-consuming. In New England, NEPOOL has hundreds of committee, subcommittee, and work group meetings per year covering a wide range of highly-technical issues. Many state consumer advocates simply cannot afford to devote the resources necessary to effectively monitor, evaluate, and influence the RTO stakeholder process.

### **Suggestions for expanding consumer participation to allow more meaningful input**

To increase consumer representation in the RTO stakeholder process, FERC and RTOs could start with the following: First, establish a program like the CLG that serves a broad range of customers through educational opportunities and access to RTO representatives and consumer-related data. To be most effective, a CLG should have its own executive director.

Second, establish a stable funding mechanism that enables all state consumer advocates to fully participate in the RTO stakeholder process. This could be done by providing funds to individual offices or through an association of consumer advocates. One example of the latter approach is the Regional State Committees formed by FERC to coordinate and advance state participation in the RTO processes. In New England, the New England States Committee on Electricity ("NESCOE") is actively involved in the ISO-NE and RTO decision-making process. Its professional and technical consultants fully participate in the NEPOOL committee process and provide the New England states with the means to proactively identify issues and conduct independent evaluations of ISO-NE initiatives. Another example is the Consumer Advocates of the

PJM States (“CAPS”). CAPS supports the active participation of state consumer advocate offices in the PJM stakeholder process. Both NESCOE and CAPS are funded through FERC tariffs and the costs are minimal. Indeed, CAPS’s funding amounts to approximately a penny per year for a residential customer in PJM.

Third, require all RTOs to consider costs in their decision-making and provide cost impact analyses (including retail bill impacts) on all major proposals and reasonable alternatives offered by stakeholders. Such an analysis, performed early in the process, would increase transparency and provide consumers with access to the cost information most relevant to them. In Massachusetts, transmission and generation costs account for approximately 60 percent of a customer’s bill. Cost considerations and ways to reduce customers’ costs should be a part of every RTO’s mission.

Fourth, increase communications between RTO Boards and consumers. This could be achieved by requiring that at least one Board member has experience in consumer issues. In addition, one Board member could be designated as the Board consumer liaison.

### **Conclusion**

Thank you again for conducting this important hearing and allowing me to participate. I am happy to answer any questions you may have today or in the future.