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November 13, 2017

The Honorable Fred Upton, Chairman  
Committee on Energy and Commerce  
Subcommittee on Energy  
2125 Rayburn House Office Building  
Washington, DC 20515-6115

**Re: October 5, 2017 Hearing – Response to Additional Questions for the Record**

Dear Chairman Upton,

Thank you for the opportunity to respond to additional questions following my testimony before the Subcommittee on Energy on Thursday, October 5, 2017 at the hearing entitled “Powering America: Consumer Oriented Perspectives on Improving the Nation’s Electricity Markets.”

Attached are my responses to the additional questions set forth in your letter dated October 30, 2017. If you have any questions regarding the attached responses, please do not hesitate to contact me.

Thank you and the Subcommittee for your time, effort, and the opportunity to participate in this important matter.

Sincerely,

/s/ Rebecca L. Tepper

Rebecca L. Tepper  
Chief, Energy and Telecommunications Division

Enclosure

## **Additional Questions for the Record**

Rebecca Tepper, Assistant Attorney General,  
Massachusetts Attorney General's Office

### **The Honorable Fred Upton**

**1. In response to Order 719, the RTO's and ISO's established a range of programs and functions to comply with FERC's consumer-focused reforms. For example, PJM now has a Consumer Advocate liaison on staff and the other RTO's have other ways to receive feedback from consumer interests.**

**a. Has FERC Order 719 increased the responsiveness of RTOs and ISOs to customers and stakeholders?**

**b. Does FERC need to undertake additional steps to represent consumer interests? What steps?**

(a) FERC 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.

New England responded to FERC's directive to examine RTO responsiveness by forming a working group that was open to all interested ISO-NE and New England Power Pool (“NEPOOL”) stakeholders. The Working Group process resulted in a set of compromises: 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 ISO-NE Board transparency. Finally, the Working Group formed the Consumer Liaison Group (“CLG”).

New England's implementation of these FERC Order No. 719 initiatives has enhanced responsiveness to customers by providing them with more educational and communication opportunities and by increasing transparency. For example, the CLG

provides opportunities for a wide range of stakeholders to learn about the ISO-NE process and how ISO-NE actions impact consumers. The CLG also provides a forum for consumers to hear directly from and question ISO-NE representatives. In addition, ISO-NE has dedicated a staff person to serve as a liaison to the CLG Coordinating Committee. The liaison helps facilitate CLG meetings and communications between the Coordinating Committee and ISO-NE. A dedicated webpage, annual reports, and monthly updates provide customers with additional educational opportunities.

However, as noted in my testimony, as it operates today, the CLG has no formal role in the ISO-NE stakeholder 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. Not all consumer advocates, and certainly not most consumers, can afford to devote the resources necessary to effectively monitor, evaluate, and influence this complicated, expensive, and time-consuming process.

Thus, while the CLG and other initiatives have improved responsiveness, additional measures are needed to expand consumer participation in the RTO stakeholder process. This participation is necessary to ensure (1) a level-playing field in the RTO decision-making process for the customers that ultimately pay for the electricity; and (2) RTO policies that are driven by the public interest.

- (b) To increase consumer representation in the RTO stakeholder process, FERC could take the following steps. First, FERC could encourage/require RTOs to establish programs like the CLG. To be most effective, a CLG should have some independence from the RTO, including a dedicated CLG executive director. Second, as further outlined in my testimony, FERC could establish a stable funding mechanism that enables all state consumer advocates to fully participate in the RTO stakeholder process. Third, FERC could 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. Cost considerations and reducing customers' cost should be a part of every RTO's mission. Fourth, FERC could require RTOs to develop initiatives to improve communications between customers and consumer advocates and RTO executives and Boards. Fifth, FERC could seek additional opportunities for its staff to directly communicate with state consumer advocates and customers. For example, in an RTO with a CLG-like organization, FERC staff could hear directly from customers at a CLG meeting, which could be followed by a meeting with the region's state consumer advocates.

Thank you for the opportunity to provide answers to these supplemental questions.