

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

**ISO New England Inc. and
New England Power Pool**

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**Docket No. ER14-1050-000
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**REQUEST FOR CLARIFICATION OF
THE NEW ENGLAND POWER POOL PARTICIPANTS COMMITTEE**

(June 30, 2014)

Pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure,¹ the New England Power Pool (“NEPOOL”) Participants Committee² hereby moves for clarification of the May 30, 2014 order³ in the above-captioned proceeding (the “May 30 Order”). Across the NEPOOL members, there is a very broad variety of passionately held views about many aspects of the May 30 Order, and the Commission will likely receive many pleadings in response to that Order expressing the views of individual members. NEPOOL institutionally acts by broad consensus, though, and on only one narrow issue alone was there virtually unanimous support for requesting clarification. In furtherance of that consensus, NEPOOL asks the Commission to clarify that the exemption from Forward Capacity Market⁴ (“FCM”) penalties is broader than the

¹ 18 C.F.R. § 385.212 (2014).

² NEPOOL is a voluntary association organized in 1971 pursuant to the New England Power Pool Agreement, and it has grown to include more than 430 members. The Participants include all of the electric utilities rendering or receiving services under the ISO-NE Tariff, as well as independent power generators, marketers, load aggregators, brokers, consumer-owned utility systems, demand response providers, developers, end users and a merchant transmission provider. Pursuant to revised governance provisions accepted by the Commission in *ISO New England Inc. et al.*, 109 FERC ¶ 61,147 (2004), the Participants act through the NEPOOL Participants Committee. The NEPOOL Participants Committee is authorized by Section 6.1 of the Second Restated NEPOOL Agreement and Section 8.1.3(c) of the Participants Agreement to represent NEPOOL in proceedings before the Commission. NEPOOL is the principal stakeholder organization for the New England RTO.

³ *ISO New England Inc. and New England Power Pool*, 147 FERC ¶ 61,172 (May 30, 2014) (the “May 30 Order”).

⁴ Capitalized terms used but not defined in this filing are intended to have the meanings given to such terms in the Second Restated New England Power Pool Agreement (the “Second Restated NEPOOL

exemption proposed initially for discussion by ISO New England (“ISO-NE”) in the ongoing stakeholder process for review of the compliance filing. While NEPOOL did not support ISO-NE’s proposed “pay-for-performance” (“PFP”) revisions to the Tariff, NEPOOL had concluded overwhelmingly that, if there were to be a PFP mechanism, there should be an exemption from performance penalties when certain transmission restrictions prevent resources from operating in Real-Time or providing reserves to the level which they are capable and available.⁵ The May 30 Order recognized a specific situation in which such an exemption was appropriate, and NEPOOL now requests clarification as to the appropriate scope of that exemption.

I. BACKGROUND

A. The NEPOOL-Supported Transmission Exemption

As described in its transmittal letter in this proceeding, NEPOOL spent over a year considering various improvements to the wholesale electric markets in New England, including the FCM, to enhance the performance incentives in those markets.⁶ The results of that long and careful consideration by NEPOOL and its individual Participants were numerous changes to the Real-Time Energy and Reserve Markets (“Real-Time Markets”) that were jointly filed by ISO-NE and NEPOOL and approved by the Commission in other proceedings, and the NEPOOL proposal in this proceeding, which included broadly supported changes to the FCM availability

Agreement”), the Participants Agreement, or the ISO New England Inc. Transmission, Markets and Services Tariff (“ISO-NE Tariff”).

⁵ There are other issues where broad consensus could not be reached and as such are not part of this request.

⁶ See NEPOOL Transmittal Letter (and attachments, Attachments N-1a – N-1h).

metric used in New England and increases to the Reserve Constraint Penalty Factor (“RCPF”) values used in the Real-Time Markets.⁷

NEPOOL did not support ISO-NE’s proposal to fundamentally change the FCM with its PFP revisions. One of the major concerns that drove NEPOOL’s lack of support for ISO-NE’s proposal was that PFP would provide no exemption from penalties in circumstances where capacity resources were unable to perform due to transmission limits resulting from transmission outages or de-rates outside of the control of the affected capacity resources.⁸ This concern was expressed throughout the stakeholder process leading up to the filing, and indeed, during NEPOOL votes on potential performance incentive changes to FCM, a motion was presented that would have provided an exemption from PFP penalties if transmission outages or de-ratings caused constraints that prevented resource performance. This motion was in the form of a motion to amend the ISO-NE PFP proposal and was overwhelmingly supported by NEPOOL.⁹

⁷ Reports since the conclusion of the 2013/14 Winter Period show that the changes to the Real-Time Markets had a positive impact on performance, as expected. *See, e.g.*, ISO-NE report to the NEPOOL Participants Committee for its May 2, 2014 meeting (“Winter 2013/14 Review and Winter 2014/15 Proposal Overview”), *available at*: http://www.nepool.com/uploads/NPC_20140502_Winter_Prog_Materials.pdf.

⁸ *See generally* NEPOOL Transmittal Letter and attachments, Attachments N-1a – N1h.

⁹ *See e.g.*, Attachment N-1g to NEPOOL Transmittal Letter. At the December 6, 2013 Participants Committee meeting, NEPOOL supported this amendment based on a show of hands vote, with only one opposition registered. Amendment language reads as follows (*see* “NU Amendment #1”):

III.13.7.2.7 Exception.

- (a) For internal New England Generators and Demand Response resources with a CSO, its Capacity Performance Score shall be set to zero if (i) that resource’s Capacity Performance Score would otherwise be negative, and (ii) the resource’s inability to deliver energy or reserves during that Capacity Scarcity Condition is due to an outage or de-rate of a Transmission Facility in the New England Control Area that is beyond the control of the resource.
- (b) For External Resources and External Transactions with a CSO, its Capacity Performance Score shall be set to zero if (i) that resource’s Capacity Performance Score would otherwise be negative, and (ii) the resource’s inability to deliver net energy into New England from an external Control Area during that Capacity Scarcity Condition is due to an outage or de-rate of a Transmission Facility in the New England Control Area.

That vote though was later superseded by a subsequent amendment that adopted the NEPOOL alternative to PFP.¹⁰

B. The May 30 Order on the Transmission Exemption

The May 30 Order at P 47 acknowledges the concerns of NEPOOL and others regarding an exemption for transmission outages:

However, several commenters state that there should be certain exemptions for non-performance due to reasons outside the resource's control. These requested exemptions include: (1) either all, or only unplanned, transmission outages; (2) non-performance due to following ISO-NE dispatch instructions; (3) force majeure events; (4) self-commitment denied by ISO-NE; (5) planned outages approved by ISO-NE; and, with the most support, (6) circumstances beyond the resource owner's control.¹¹

Focusing solely on the transmission exemption request, the May 30 Order concluded that, to be just and reasonable, PFP must provide an exemption from penalties whenever there is a binding transmission constraint within a zone. The Order explains that such an exemption is essential in order to avoid inefficient energy pricing signals within a zone.¹² The May 30 Order required ISO-NE to submit a compliance filing on or before July 14, 2014 to provide that exemption.¹³

The exemption from PFP penalties directed by the May 30 Order suggests that the Commission properly recognized that suppliers should not be penalized for intra-zonal constraints that did not result in a separate Capacity Zone in the related Forward Capacity Auction ("FCA"), since such penalties would result in inefficient energy pricing signals. Equally clear from the May 30 Order is the Commission's conclusion that penalties are properly assessed

¹⁰ *See id.*

¹¹ Footnotes omitted.

¹² May 30 Order at PP 62-67.

¹³ *Id.* at P 67. The May 30 Order did permit ISO-NE, alternatively, to explain why such an exemption was not needed, but ISO-NE has determined that it will comply with the direction to provide for an exemption.

when inter-zonal congestion is reflected through the identification of separate Capacity Zones,¹⁴ where price separation in capacity prices between zones could be both anticipated by capacity suppliers when they submitted their capacity offers and appropriate from a standpoint of energy pricing. The May 30 Order does not clearly address, however, whether an exemption from penalties should be afforded to capacity resources to the extent they cannot perform because of incremental increases in transmission congestion between or within capacity zones caused by transmission outages or de-rates that capacity suppliers could not reasonably have reflected in their FCA offers. In these circumstances, nodal congestion and reserve prices caused by the transmission outages or de-rates may not be reflected in final LMPs, and yet the generator has been required by ISO-NE dispatch either to stay off line or not to exceed a specific MW amount. (For ease of reference, these narrow circumstances are referred to herein as “un-modeled transmission constraints.”)

C. Stakeholder Consideration of Compliance Changes

At the June 20, 2014 Markets Committee meeting, ISO-NE provided an initial explanation of its plans to comply with this transmission exemption requirement. Specifically, ISO-NE has proposed for NEPOOL consideration changes that would implement this requirement through the tracking of shadow prices (LMPs or Reserve prices), which clearly signal intra-zonal transmission congestion, and to exempt from PFP penalties resources that would be providing power to that node to the extent they were not called on to perform because of intra-zonal congestion. NEPOOL is not contesting this proposal and acknowledges up-front (1) that this is just a preliminary ISO-NE proposal, (2) that ISO-NE can and does modify its proposals from time to time to reflect input it receives in the Participant Processes, and has

¹⁴ *Id.* at P 66.

signaled that it is considering changes based on input received, and (3) that the final proposal may be different from this preliminary proposal. Further, NEPOOL notes that it will not vote on an ISO-NE compliance proposal until the second week of July and cannot take a position ahead of that vote other than to note that preliminary feedback received to date from some NEPOOL members has been generally supportive of ISO-NE's initial proposal as far as it goes, but with many members seeking a broader proposal in accordance with this near-unanimously supported request for clarification.

II. REQUEST FOR CLARIFICATION

Among NEPOOL Participants and other parties to this proceeding, there was near unanimous opposition to the “no exemption” rule, particularly with the fact that PFP provides no exemptions for transmission outages that are wholly beyond the control of affected capacity resources.¹⁵ As explained in various filings submitted in this proceeding, a no-exemption rule in such circumstances serves no purpose in improving capacity resource performance in the Energy and Reserve Markets, and merely serves to unnecessarily increase risks and resulting costs to consumers.¹⁶ Whether through “negative Capacity Performance Payments” as described by ISO-NE,¹⁷ or performance penalties as they are commonly understood by NEPOOL members and the State regulators, a capacity resource that is unable to perform during a Capacity Scarcity Condition will be penalized for that failure to perform. These potential penalties increase risk and, accordingly, prices for capacity. While many Participants argued that any penalties in those

¹⁵ See e.g., NEPOOL Transmittal Letter at pp. 21-24, Attachment N-1c at pp. 6-7, and Attachment N-1g; Comments of Brookfield Energy Marketing (2/12/14), at pp. 6-9 and Affidavit of A. Mitreski at pp. 3-7; Comments of Dominion Resources Services, Inc. (2/12/14) at pp. 28-32; NRG Companies' Protest (2/12/14) at pp. 8-10, 37-38; Comments and Protest of Connecticut and Rhode Island Parties (2/12/14) at pp. 14-15, 20-26; Protest of Public Systems (2/12/14) at pp. 22-24, 36.

¹⁶ See *id.*

¹⁷ May 30 Order at P 6.

circumstances would be unwarranted, the May 30 Order makes clear that capacity price separation between Capacity Zones is to be expected by suppliers and is appropriate.¹⁸ NEPOOL does not seek rehearing of this issue (although individual members may). The May 30 Order goes on to recognize that PFP is not reasonable if intra-zonal congestion, which is not modeled by ISO-NE in the FCM or it would have resulted in separate zones, results in improper incentives to generators on the export side of a constraint.

NEPOOL is seeking clarification on the unaddressed circumstances where generators are prevented from operating to their performance obligation (whether through a cap on its output or a denial of a self-commitment to come online) because of un-modeled transmission constraints. More narrowly and specifically, NEPOOL requests clarification only in two instances: First, where an intra-zonal constraint forces limitations on generator output that are not reflected in shadow prices for reserves or congestion (e.g. where the ISO control room has explicitly requested that a generator run at a specified reduction to its capability, or not run at all); and second, where (1) there is a transmission outage or de-rate that reduces transfer capability between Capacity Zones, (2) a Capacity Scarcity Condition occurs in the zone, and (3) the incremental reduction in transfer capability adversely limits the performance of a generator on the export side of the interface. Stated differently, NEPOOL requests that the Commission clarify that resources whose performance is limited by un-modeled transmission constraints (as defined above) should be relieved of “negative Capacity Performance Payments” in the same way as resources whose performance is limited by intra-zonal congestion that is similarly not reflected in the definition of Capacity Zones. Such a clarification would result in resources being exempt from PFP penalties (with a Capacity Performance Score set to zero) only to the extent

¹⁸ *Id.* at PP 64-65.

there is any intra-zonal congestion or there is an incremental reduction in transfer capability between Capacity Zones resulting from unplanned transmission outages or de-rates that prevents a capacity resource from operating during a Capacity Scarcity Condition. By way of one hypothetical example, if there is a 1000 MW transfer limit between an import-constrained zone and a neighboring zone that is identified in the modeling of the transmission zones, and a transmission outage or de-rate reduces that transfer limit to 700 MW, 300 MW of performance obligations of capacity resources on the export limited side of the constraint that were prevented from operating to their performance obligation would be eligible for exemption from PFP penalties if a Capacity Scarcity Condition occurs and the resources were unable to perform because of that transmission outage or de-rate.¹⁹ By recognizing an exemption in these circumstances, the Commission would avoid inefficient energy pricing and improper generator incentives due to un-modeled transmission constraints, just as it does for intra-zonal transmission constraints. Such a clarification is broadly supported by NEPOOL.

¹⁹ It is possible that resources may be prevented from operating due to that transmission outage or limitation, yet the resource's node still reflects the Reserve Constraint Penalty Factor. This arises where the resource's minimum loading block cannot be accepted due to the transmission limitation and the resource is denied the opportunity to self-commit.

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing document to be served electronically upon each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission.

Dated at Hartford, Connecticut this 30th day of June 2014.



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