NESCOE
New England States Committee on Electricity

To: NEPOOL
From: NESCOE
Date: September 30, 2016
Subject: State IMAPP Objectives

NESCOE appreciates the effort NEPOOL participants have put into the IMAPP work effort to date. The states have long been, and will continue to be, interested in exploring whether a market mechanism(s) can be developed as an alternative approach to the status quo and other mechanisms available to states to meet states' going-forward statutory mandates.

We recognize that possible outcomes of exploring potential IMAPP solutions range from identifying an ideal solution to no solution that is a significant improvement to the status quo or other state jurisdictional tools, or something in between that states would find useful. States' continuing examination of proposed IMAPP and other possible solutions will focus on consumer costs, legal and regulatory risks, the ability to maintain uncompromised and categorical individual state determinations about those mandates for which each state will incur costs, flexibility to respond to changing state mandates over time, and other short-term and longer term implications on consumers.

To date, stakeholder ideas have driven constructive dialogue and have helped spotlight issues of core importance to the states. These include, for example, the need to achieve at states' direction specific state mandates at the lowest overall cost to consumers, and the unconditional need to ensure consumers in states without mandates are not forced by a mechanism (or a regulatory outcome in connection with the execution of state laws that is not determined by state officials) to fund other states' mandates.

NESCOE provides this preliminary feedback on the discussion to date to help focus proposals and/or to inform development of additional analysis or even other mechanisms.

Carbon Adder Proposals

Based on the information available and discussion to date, NESCOE does not anticipate arriving at collective state support for a proposal that includes pricing carbon into the locational marginal price. Absent new information, these proposals present several risk factors which, taken together, counsel toward alternative designs. These risk factors include but are not necessarily limited to the following:

1. Consumer cost concerns driven by the level of adder that would be needed to facilitate new entry and risks to consumers that such an adder would increase costs and not lead to the procurement of sufficient new resources needed to meet state statutory mandates.

2. Complex cost allocation that would be required to make absolutely certain that no state is required, directly by the mechanism or otherwise, to fund the mandates adopted by any other state(s).
3. Potential duplication of existing carbon-related market mechanisms.
4. Threshold legal concerns, such as for example, questions about the FERC's or ISO-NE's authority to establish and impose a carbon adder in the locational marginal price of energy.

States continue to support further discussion on the remaining proposed mechanisms that do not rely on a carbon adder, keeping in the mind the objectives below.

State Objectives

Each of the objectives described below is supported by one or more states. Further, each of the objectives assumes a cost allocation mechanism such that each state, if it made an affirmative decision to "opt in," could advance its own statutory mandates through a wholesale market mechanism(s) and that no state could be compelled to fund other states' mandates, whether through the operation of the mechanism or by the result of a federal regulatory order.

In addition, each of the objectives below assumes any proposed design is on solid legal ground. It would be helpful for proponents of each proposal to provide a clear explanation of FERC's authority to approve the design elements and discussion of the likelihood of FERC approval of the mechanism in a form that does not 1) have the potential for any entity other than state officials to define or to interpret state laws, or 2) have the effect of imposing the costs of one states' mandates on any other state.

Objective 1

To maintain reliability at the least cost to consumers in the competitive wholesale market structure while accommodating consumer investments made at states' direction to satisfy one or more state policy mandates. Create a mechanism or modify current market rules able to be implemented in the short-term to allow for state-contracted resources to be accommodated in New England's competitive markets.

Discussion: Some state statutes impose explicit and binding near-term deadlines that require procurement of certain clean energy resources. To the extent that the IMAPP process results in mechanisms that meet Objective 2, below, that the states can support, it is highly unlikely that such mechanisms could secure regulatory approval and become operational in time to meet the near-term state statutory mandates. Accordingly, states will meet their statutory obligations to issue competitive solicitations and possibly award power purchase agreements through the use of long-term competitively awarded power purchase agreements.

The renewable exemption is an example of a market rule mechanism that reasonably accommodates specific states' policy mandates. Any short-term mechanism needs to continue to include the current renewable exemption.

Objective 2

Over the long-term, to implement a wholesale ISO-NE administered market auction or procurement mechanism that one or more states could use, at states' specific direction, as an alternative to individual or joint state procurements and contracts. Such wholesale auction mechanism would be sufficiently flexible to enable individual states to define their purchasing requirements such as, for example, quantity, technology, and/or location based on then-current public policy requirements. State statutes would continue to provide the basis for procurement requirements, and this mechanism would not displace any state statutory requirements (e.g., soliciting long-term contracts for clean energy).

Discussion: States understand that an ISO-NE market for policy mandates should embrace the broadest resource eligibility possible while respecting limitations rooted in state laws. While understanding that broader eligibility drives more competitive outcomes, states are bound by state laws.

Any mechanism must incorporate the following design criteria: (1) revenues paid by consumers must be considered "in-market" for FCM mitigation purposes, (2) states must maintain full control, as contemplated in state laws, over the definition and implementation of their own state statutory requirements (neither FERC nor ISO-NE may define, interpret, impose or attempt to create or confer authority about the requirements or implementation of state laws), and (3) the mechanism must be structured to enable a transparent comparison between bids that require transmission and bids that do not require transmission, including specification of how any transmission that may be needed would be funded and allocated and be distinguishable from Order 1000 projects.

Objective 3

To implement a wholesale market mechanism that would enable one or more states to retain those existing resources that such state or states determine would satisfy their public policy mandates. Such mechanism would include a form of a "trigger" that would implement such incremental payments only when needed to retain a resource and to eliminate such incremental payments when not needed by a resource. As noted above such mechanism would need to be cost allocated to the state or states that determine the need to "trigger" the mechanism.