

EXECUTIVE SUMMARY
Status Report of Current Regulatory and Legal Proceedings
as of August 5, 2015

The following activity, as more fully described in the attached litigation report, has occurred since the report dated June 24, 2015 was circulated. New matters/proceedings since the last Report are preceded by an asterisk '*'. Page numbers precede the matter description.

I. Complaints			
1	NRG Canal 2 2015/16 ARA3 Complaint/Waiver Request (EL15-57)	Jul 16	FERC denies complaint/waiver request
4	Base ROE Complaints (2012 & 2014) Consolidated (EL14-86 & EL13-33)	Jun 25 Jun 25-Jul 2 Jul 13 Jul 15 Jul 23 Jul 29	Judge Sterner adopts unopposed motion for protective order Hearings held Parties submit joint transcript corrections and final index of exhibits Judge Sterner issues order adopting transcript corrections TOs file motion to lodge portion of testimony filed in Southwestern Public Service Co. ROE proceeding Parties submit Joint Procedural History; Complainant-Aligned Parties, TOs, EMCOS, FERC Staff file initial briefs
5	206 Investigation: Consistency of ISO-NE (DA) Scheduling Practices with Natural Gas Scheduling Practices to be Adopted in Docket RM14-2 (EL14-23)	Jul 23	ISO files response explaining why changes to the ISO Tariff in response to the FERC's rule-making are not necessary
II. Rate, ICR, FCA, Cost Recovery Filings			
6	FCA9 Results Filing (ER15-1137)	Jul 20	UWUA requests rehearing of <i>FCA9 Results Order</i>
6	Opinion 531-A Compliance Filing: TOs (ER15-414)	Jul 8	FERC accepts amended compliance filing, effective Oct 16, 2014
7	FCA1 Results Remand Proceeding (ER08-633)	July 15-17	ISO submits initial brief; initial briefs also submitted by Bridgeport Energy, Dominion, PSEG; reply briefs due Aug 17
* 7	2015/16 Power Year Transmission Rate Filing (ER09-1532; RT04-2)	Jul 31	PTO AC submits informational filing identifying adjustments to regional transmission service charges for the Jun 1, 2015 to May 31, 2016 period; this filing will not be noticed for public comment
III. Market Rule and Information Policy Changes, Interpretations and Waiver Requests			
* 8	CSO Terminations: Enerwise Global Technologies (ER15-2232)	Jul 21 Jul 27	ISO files to terminate Enerwise CSOs for Resource #s 16700, 37922 NEPOOL intervenes
* 9	CSO Termination: Hampshire Council of Gov'ts (ER15-2229)	Jul 21 Jul 27	ISO files to terminate CSO for Resource # 38110 NEPOOL intervenes
* 9	Jump Ball Filing: Winter Reliability Program (ER15-2208)	Jul 15 Jul 17- Aug 5 Aug 4-5	NEPOOL and ISO submit jump ball filing; comment date Aug 5 Brookfield, ConEd, Calpine, CT OCC, Emera, Exelon, Eversource, GDF Suez Energy North America, Noble Americas, NRG, UI, VT DPS intervene NESCOE, CT PURA, TransCanada support NEPOOL Proposal; Essential Power supports NEPOOL Proposal in part; Energy/NextEra/Dominion support ISO Proposal; Dynegy/Brayton Point support ISO Proposal in part; NEPGA/EPGA and PSEG protest both Proposals
10	CSO Terminations: Enerwise Global Technologies (ER15-1944)	Jun 29 July 16	NEPOOL intervenes FERC accepts termination

10	Waiver Request: FCM Interconnection Deposit Qualification Deadline (Bellingham) (ER15-1934)	Jun 29-Jul 2 Jul 1 Jul 16	NRG, NESCOE intervene ISO opposes waiver request NEA answers ISO's Jul 1 answer
10	CSO Terminations: Direct Energy Business (ER15-1867)	Jul 1	FERC accepts terminations
10	CSO Termination: Efficiency Maine Trust (ER15-1866)	Jul 1	FERC accepts termination
10	eTariff Corrections (ER15-1768)	Jul 15	FERC accepts corrections
10	IMM FCM Mitigation Package (ER15-1650)	Jun 30 Jul 22 Jul 30	FERC accepts in part, and rejects in part, proposed changes; ISO directed to file tariff changes removing proposed Static De-List Bid changes by Jul 30 MC unanimously recommends Participants Committee support for proposed compliance changes ISO files compliance changes; comment date Aug 20
11	DNE Dispatch Changes (ER15-1509)	Jul 23	FERC accepts, in part, and rejects, in part, MR1 revisions; FERC directs compliance filing due on or before Aug 24
12	Demand Curve Changes (ER14-1639)	Jul 2 Jul 7 Jul 8	ISO answers NEPGA request that the FERC order Zonal Curves for effect in FCA-10 EPSA submits comments supporting NEPGA request NEPOOL submits comments

IV. OATT Amendments / TOAs / Coordination Agreements



* 13	ISO <i>Order 676-H</i> Compliance: Additional Schedule 24 Revisions (ER15-519)	Jul 20	ISO submits additional compliance filing; comment date Aug 10
13	TOs <i>Order 676-H</i> Compliance: Additional OATT Revisions (ER15-517)	Jul 16	TOs submit additional compliance filing; comment date Aug 6
14	Second <i>Order 1000</i> Interregional Compliance Filings (ER13-1960; ER13-1957)	Jul 13 Aug 3	ISO files revisions to ISO-NE Tariff and Protocol in response to the <i>Order 1000 Interregional Compliance Filing Order</i> NEPOOL files comments supporting Protocol changes
14	<i>Order 1000</i> Compliance Filing (ER13-193; ER13-196)	Jun 26	LS Power answers ISO Jun 18 answer

V. Financial Assurance/Billing Policy Amendments



No Activity to Report

VI. Schedule 20/21/22/23 Changes



* 15	Schedule 23: GMP SGIA (ER15-1838)	Jul 28	ISO and GMP file SGIA; comment date Aug 18
15	Schedule 21-NEP: MECO/Paxton Facilities Coord. & Backup Service Agreement (ER15-1838)	Jul 15	FERC accepts Agreement, effective Apr 1, 2015
15	Schedule 21-UI: Pootatuck Project Non-Pool Supported Cost Recovery (ER15-1808)	Jul 1	FERC accepts Pootatuck revisions to Schedule 21-UI

16	LGIA – NU/CPV Towantic (ER15-200)	Jun 29 Jul 1 Jul 14 Jul 17 Aug 4	FERC Staff supports Settlement Agreement CPV Towantic submits reply requesting prompt FERC order accepting Settlement Agreement Trial Judge Sterner certifies uncontested settlement to the Commission Chief Judge Wagner terminates settlement judge procedures FERC approves settlement
16	Schedule 21-FG&E Annual Informational Filing (ER09-1498)	Jun 25	FG&E submits annual update to its Revenue Requirement recovered through the ISO Tariff and Schedule 21-FG&E for the Jun 1, 2015 – May 31, 2016 period
* 16	Schedule 21-NSTAR Annual Informational Filing (ER09-1243; ER07-549)	Jun 30	NSTAR submits CWIP supplement to Jun 1 annual informational filing
* 16	Schedule 21-CMP Annual Informational Filing (ER09-938)	Jun 30	CMP files updated formula rates reflecting actual 2014 cost data and estimated 2015 cost data

VII. NEPOOL Agreement/Participants Agreement Amendments

No Activity to Report

VIII. Regional Reports

* 17	Opinion 531-A Refund Report: FG&E (EL11-66)	Jun 29	FG&E files refund report
17	Capital Projects Report - 2015 Q1 (ER15-1710)	Jun 26	FERC accepts 2015 Q1 Report
* 17	LFTR Implementation: 26 th Quarterly Status Report (ER07-476)	Jul 15	ISO files its 27th quarterly report

IX. Membership Filings

* 18	August 2015 Membership Filing (ER15-2339)	Jul 31	Memberships: AmericaWide Energy; CLEARResult Consulting; Guzman Energy; and Harborside Energy of Massachusetts; comment date Aug 21
18	July 2015 Membership Filing (ER15-2088)	Jun 30 Jul 27	Memberships: Bucksport Generation; Bath Iron Works and Longreach Energy; Interstate Gas Supply; Terminations: Great Bay Energy IV, LaBree's Inc. and LaBree's Energy, Solios Power FERC accepts filing
18	June 23, 2015 Membership Filing (ER15-1959)	Jul 22	FERC accepts New England Energy Connection membership and Talen Energy Marketing name change
18	June 2015 Membership Filing (ER15-1807)	Jul 2	FERC accepts May 1 termination of New England ITC


X. Misc. - ERO Rules, Filings; Reliability Standards

* 19	FFT Report: July 2015 (NP15-32)	Jul 30	NERC files report
* 19	FFT Report: June 2015 (NP15-30)	Jun 30	NERC files report
* 19	Revised Reliability Standards: PRC-004-5; PRC-010-2 (RD15-5)	Jul 7	NERC files revised VRFs; comment date Aug 7
19	Revised Reliability Standard: CIP-014-2 (RD15-4)	Jul 14	FERC approves CIP-014-2, effective Jul 14
20	NOPR: Revised CIP Reliability Standards (RM15-14)	Jul 16	FERC issues NOPR proposing to approve Revised CIP Standards (includ. Supply Chain Cyber Controls); comment date Sep 21


20	NOPR: New Reliability Standard: TPL-007-1 (RM15-11)	Jul 20-28	Over 20 parties submit comments, including ISO-NE with other RTO/ISOs, EEI, Exelon, and NERC
22	NOPR: Revised Reliability Standard: PRC-002-2 (RM15-4)	Jul 13	NERC submits reply comments
* 23	Compliance Filing: BES Exclusions for Local Network Configurations (RM12-6)	Jul 1	NERC identifies in detail the types of local network configurations that may be excluded from the bulk electric system
* 23	Removal of LSEs from Compliance Registry (RR15-4)	Jul 17	NERC files to remove the LSE category from the NERC Compliance Registry; comment date Aug 17
* 23	Revised Regional Delegation Agreements (RR15-12)	Jun 26 Jul 27	NERC files revised RDAs APPA/TAPS, Large Public Power Council, PUD1 of Snohomish County, WA, and Avista, Idaho Power, Portland General Electric, Puget Sound Energy, and the Tri-State Generation Association submit comments

XI. Misc. - of Regional Interest	
---	---


* 25	Study Agreement Termination: Eversource/Brookfield (ER15-2218)	July 16	Eversource files notice of termination of Study Agreement; comment date Aug 6
* 25	E&P Agreement MEPCO/Number Nine Wind Farm (ER15-2060)	Jun 29	MEPCO files Amended and Second Restated E&P Agreement
* 26	FERC Enforcement Action: Staff Notices of Alleged Violations (Etracom/M. Rosenberg)	Jul 27	Staff issues notice of preliminary determination that Etracom violated the FERC's Anti-Manipulation Rule (CAISO trades)
27	FERC Enforcement Action: City Power Marketing and Tsingas (IN15-5)	Jul 2	FERC finds City Power Respondents violated Anti-Manipulation Rules by engaging in fraudulent PJM Up To Congestion transactions; disgorgement of \$1,278,358 and \$15 million in civil penalties

XII. Misc. - Administrative & Rulemaking Proceedings	
---	---

28	AWEA Petition for LGIA/LGIP Rulemaking (RM15-21)	Jul 23	FERC extends date for comments on AWEA Petition to Sep 8
* 28	<i>Order 812</i> : Revisions to Public Utility Filing Requirements (RM15-3)	Jul 16	FERC issues <i>Order 812</i> ; effective date Oct 6, 2015

XIII. Natural Gas Proceedings	
--------------------------------------	---

31	<i>Order 809</i> : Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities (RM14-2)	Jul 31	FERC issues order clarifying <i>Order 809</i> 's implementation date and directing initial comments on the proposed default recall rights for capacity release transactions by Aug 20; reply comments by Aug 31
* 32	Enforcement Actions: Columbia Gas Transmission, LLC (IN15-7)	Jul 16 Jul 30	FERC Staff issues notice of alleged violation FERC approves \$350,000 civil penalty for Columbia Gas failure to post notices of auctions of its available firm capacity on the public side of its electronic bulletin board

XIV. State Proceedings & Federal Legislative Proceedings	
---	---

No Activity to Report

XV. Federal Courts



*	34	Base ROE Complaints (2012 and 2014) (15-1212)	Jul 13 Jul 16	TOs appeal 2012 and 2014 Base ROE Complaint decisions Court issues scheduling order
	34	<i>Order 1000</i> Compliance Filings (15-1139**)	Jul 2 Jul 16	Court grants all motions to intervene Court directs parties to submit proposed briefing formats within 30 days
	34	Base ROE Complaint (2011) (15-1118)	Jul 9	Court directs parties to file proposed briefing formats by Aug
	35	Demand Curve Changes (15-1070**)	Jun 26	CT PURA requests permission to file its own brief in support of FERC; NESCOE, CPV, NHEC file statement re: briefing format
	35	FCA8 Results (14-1244, 14-1246 (consolidated))	Jul 1	Court issues briefing schedule
	36	Orders 745 and 745-A (FERC v. EPSA, Supreme Court, 14-840 and 14-841)	Jul 9 Jul 16 Jul 29	EnerNOC, FERC, CA PUC, Joint States, PJM submit briefs Amicus curiae briefs submitted Oral argument scheduled for Oct 14, 2015

M E M O R A N D U M

TO: NEPOOL Participants Committee Member and Alternates

FROM: Patrick M. Gerity, NEPOOL Counsel

DATE: August 6, 2015

RE: Status Report on Current Regional Wholesale Power and Transmission Arrangements Pending Before the Regulators, Legislatures, and Courts

We have summarized below the status of key ongoing proceedings relating to NEPOOL matters before the Federal Energy Regulatory Commission (“FERC”), state regulatory commissions, and the Federal Courts and legislatures through August 5, 2015. If you have questions, please contact us.¹

I. Complaints

- **NRG Canal 2 2015/16 ARA3 Complaint/Waiver Request (EL15-57)**

On July 16, the FERC denied the emergency complaint and alternative waiver request filed by GenOn Energy Management, which related to the third annual reconfiguration auction (“ARA”) for the 2015/16 Capacity Commitment Period (“2015/16 ARA3”).² As previously reported, GenOn requested that the FERC find that the ISO violated the Tariff in conducting the 2015/16 ARA by submitting a demand bid into the March 2015 ARA as if Unit 2 at the Canal Generating Plant (“NRG Canal 2”) was still de-rated (303 MW), rather than treating Canal 2 at its full capability (577 MW). Absent that finding, GenOn requested waiver of all necessary Tariff provisions to permit the ISO to recalculate the results of the 2015/16 ARA3 to reflect NRG Canal 2’s full capability.

In denying the Complaint and waiver request, the *Canal 2 Order* found that the ISO reasonably determined GenOn’s restoration plans were not submitted within the 10-day window required by the Market Rules and reasonably interpreted “in effect after the most recently completed winter period” with respect to Canal 2’s winter Seasonal Claimed Capability as requiring the use of a figure in effect “as of or very shortly after” the most recently completed winter period, rather than the value taken eight months after the end of the winter period as GenOn had argued.³ The *Canal 2 Order* denied GenOn’s waiver request because GenOn’s request did not meet the FERC’s standards for such a waiver and the FERC found “no reason to disrupt market participants’ settled expectations under the circumstances presented.”⁴ The FERC again emphasized that “[i]t is important to abide by the FCM rules, including deadlines, in order to enable ISO-NE to effectively administer its capacity market.”⁵ Challenges, if any, to the *Canal 2 Order* are due on or before August 17.

If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dt_doot@daypitney.com) or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

¹ 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 Agreement”), the Participants Agreement, or the ISO New England Inc. (“ISO” or “ISO-NE”) Transmission, Markets and Services Tariff (the “Tariff”).

² *GenOn Energy Management, LLC v. ISO New England Inc.*, 152 FERC ¶ 61,044 (July 15, 2015) (“*Canal 2 Order*”).

³ *Id.* at PP 41-46.

⁴ *Id.* at PP 48-49.

⁵ *Id.* at P 50.

- **NEPGA Peak Energy Rent (PER) Complaint (EL15-25)**

Rehearing remains pending of the FERC's January 30 order denying NEPGA's PER Complaint.⁶ As previously reported, the *PER Complaint Order* found that NEPGA had failed to meet its burden under Section 206 of the Federal Power Act to demonstrate that the existing ISO Tariff provisions were unjust and unreasonable.⁷ On March 2, NEPGA and Entergy challenged the *PER Complaint Order*. NEPGA argued the FERC should "reverse its finding ... that NEPGA did not satisfy its Section 206 burden in the Complaint with respect to the relief sought for Capacity Commitment Periods 5 through 8" and "clarify that the [FERC], not the complainant, carries the burden under Section 206 of establishing a just and reasonable "replacement" rate". If rehearing is denied, NEPGA asked the FERC to clarify that it "did not intend to prejudge any future proceeding on the PER Adjustment issue by establishing a required evidentiary standard" in the *PER Complaint Order*. In its request, Entergy, adopting and incorporating NEPGA's request, provided additional bases to support its request for rehearing of the *PER Complaint Order*. Entergy challenged further the FERC's reliance on (i) the ISO's assessment of the PER adjustment's reliability impacts and, with respect to Capacity Commitment Periods 5-8, (ii) the stakeholder process considering changes to the PER rules. On April 1, 2015, the FERC issued a tolling order affording it additional time to consider NEPGA's and Entergy's rehearing requests, which remain pending before the FERC. If you have any questions concerning this matter, please contact Joe Fagan (202-218-3901; jfagan@daypitney.com) or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

- **New Entry Pricing Rule Complaint (EL15-23)**

Exelon and Calpine's request for rehearing of the FERC's January 30 order denying the New Entry Pricing Rule Complaint⁸ remains pending. As previously reported, the *New Entry Pricing Rule Complaint Order* found that Exelon and Calpine had failed to show that the existing pricing rules governing lock-in capacity result in unjust, unreasonable or unduly discriminatory price suppression. In their rehearing request, Exelon and Calpine assert, among other things, that the *New Entry Pricing Rule Complaint Order* (i) did not provide a reasoned basis for finding that there is no artificial price suppression in post-entry FCAs; (ii) did not address Exelon/Calpine's arguments regarding artificial price suppression in the entry FCA; and (iii) ignored arguments regarding the undue discrimination that results from the current Market Rules. On April 1, 2015, the FERC issued a tolling order affording it additional time to consider Exelon's and Calpine's rehearing request, which remains pending before the FERC. If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dt_doot@daypitney.com) or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

- **NEPGA DR Capacity Complaint (EL15-21)**

NEPGA's November 14, 2014 complaint remains pending before the FERC. As previously reported, the complaint requests that (i) Demand Response ("DR") Capacity Resources be disqualified from FCA9 and (ii) the Tariff be revised to exclude DR from FCM participation going forward (as a result of *EPSA v. FERC*). Interventions were filed by AEP, Brookfield, Calpine, ConEd, CSG, Direct, Dominion, EEI, ELCON, Emera, EnergyConnect, EnerNOC, Entergy, Exelon, FirstEnergy, Maryland Public Service Commission ("MD PSC"), NextEra, NRG, PPL, and Wal-Mart stores. NEPOOL filed comments on November 26 asking the FERC to reject the NEPGA Complaint without prejudice to a complaint being resubmitted if and as

⁶ *New England Power Generators Assoc., Inc. v. ISO New England Inc.*, 150 FERC ¶ 61,053 (Jan. 30, 2015) ("*PER Complaint Order*"), *reh'g requested*.

⁷ NEPGA's Dec. 3, 2014 complaint requested that the ISO be directed (i) to increase the daily PER Strike Price by \$250/MWh for Capacity Commitment Periods 5 through 8, and (ii) to eliminate the PER Adjustment for FCA9 and beyond, or, alternatively, to continue the \$250 per MWh increase in the PER Strike Price for FCA9. The changes proposed in the Complaint were considered but not supported by the Participants Committee at its Oct. 3, 2014 meeting.

⁸ The FERC stated that much of the complainants' argument rested on the assertion that ISO-NE's lock-in resource requirements differ from PJM's. The FERC acknowledged that ISO-NE's and PJM's differing mechanics may yield different prices paid to existing resources, but the FERC was not persuaded that the difference itself renders ISO-NE's rules unjust and unreasonable. *Exelon Corp. and Calpine Corp. v. ISO New England Inc.*, 150 FERC ¶ 61,067 at P 35 (Jan. 30, 2015) ("*New Entry Pricing Rule Complaint Order*"), *reh'g requested*.

appropriate following consideration of specifically-proposed changes to the Tariff within the Participant Processes. Eversource and UI jointly protested the complaint on December 3, requesting that the FERC either dismiss or hold the Complaint in abeyance. The ISO answered the Complaint on December 4. Also on December 4, Advanced Energy Management Alliance, NESCOE, Conn/RI,⁹ Enerwise, Environmental Advocates,¹⁰ NGrid, Public Systems, and the Sustainable FERC Project opposed the Complaint; EPSA and PSEG supported the Complaint; Genbright submitted comments. On December 15, CT PURA moved to lodge the December 15 DC Circuit Court order extending the stay of the mandate in *EPSA v. FERC*. On December 19, NEPGA answered the ISO response and the other pleadings submitted in response to its Complaint. On January 7, just as they had on December 23 in the FirstEnergy Complaint (*see* Section XI below), Environmental Advocates moved to lodge the US Solicitor General's application for an extension of time in which to file a petition for writ of certiorari, the Supreme Court Clerk's notice to the DC Circuit that the extension had been granted, and the DC Circuit's order extending the stay of its mandate pending the Supreme Court's final disposition of the writ of certiorari. As noted, this matter remains pending before the FERC. If you have any questions concerning these matters, please contact Dave Doot (860-275-0102; dtdoot@daypitney.com) or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

- **206 Proceeding: Importers' FCA Offers Review/Mitigation (EL14-99; ER15-117)**

As previously reported, the FERC initiated this proceeding, on September 16, 2014, pursuant to Section 206 of the Federal Power Act ("FPA"). The FERC directed the ISO to either revise its Tariff to provide for the review and potential mitigation of importers' offers prior to each annual Forward Capacity Auction ("FCA") or show cause why it should not be required to do so.¹¹ The FERC directed the ISO to submit those Tariff revisions or support for why Tariff revisions should not be required on or before October 16, 2014. September 24, 2014 was the refund effective date.¹² On October 16, the ISO submitted Tariff revisions in response to the Show Cause Order and Public Citizen requested that the FERC expand this proceeding (i) to determine whether the rates produced by FCA8 are just and reasonable and if not, to fix the just and reasonable rates to be charged; and (ii) to include in this proceeding "stakeholder reform and transparency". On December 15, 2014, the FERC conditionally accepted, subject to two additional compliance filings, the ISO's October 16 Tariff revisions.¹³ Each of the additional compliance filings have been filed and accepted.¹⁴ All remaining requests and protests, including those of Public Citizen, were rejected. Public Citizen requested rehearing of the *Imports Mitigation Order* on January 14, 2015 (ER15-117-003). On January 26, NEPGA answered Public Citizen's request. On February 12, 2015, the FERC issued a tolling order affording it additional time to consider Public Citizen's rehearing request, which remains pending before the FERC. Other than FERC action on the January Public Citizen rehearing request, this matter is concluded. If you have any questions concerning these matters, please contact Dave Doot (860-275-0102; dtdoot@daypitney.com), Pat Gerity (860-275-0533; pmgerity@daypitney.com), or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

⁹ "Conn/RI" is the Connecticut Public Utilities Regulatory Authority ("CT PURA"), George Jepsen, Att'y Gen. for the State of Conn. ("CT AG"), the Conn. Department of Energy and Environmental Protection ("CT DEEP"), the Conn. Office of Consumer Counsel ("CT OCC"), and the Rhode Island Div. of Public Utilities and Carriers ("RI PUC").

¹⁰ "Environmental Advocates" are the Sustainable FERC Project, Sierra Club, Environmental Defense Fund, and Acadia Center.

¹¹ *ISO New England Inc.*, 148 FERC ¶ 61,201 (Sep. 16, 2014) ("*September 16 Order*").

¹² The Sep. 17 notice of this proceeding was published in the *Fed. Reg.* on Sep. 24, 2014 (Vol. 79, No. 185) p. 57,075.

¹³ *ISO New England Inc.*, 149 FERC ¶ 61,227 (2014) ("*Imports Mitigation Order*"), *reh'g requested*.

¹⁴ The first compliance filing corrected an incorrect cross-reference in Section III.13.1.3.5.7 (Qualification Determination Notification for New Import Capacity Resources). The second compliance filing included tariff revisions "which allow importers to submit up to five price-quantity pairs, together with any necessary mitigation provisions to address the exercise of market power" for implementation in FCA-10.

- **Base ROE Complaints (2012 and 2014) Consolidated (EL13-33 and EL14-86)**

As previously reported, the FERC, in response to second (EL13-33¹⁵) and third (EL14-86¹⁶) complaints regarding the TOs' 11.14% return on equity ("Base ROE"), issued orders establishing trial-type, evidentiary hearings and separate refund periods. The first, in EL13-33, was issued on June 19, 2014 and established a 15-month refund period of December 27, 2012 through March 27, 2014;¹⁷ the second, in EL14-86, was issued on November 24, 2014, established a 15-month refund period beginning July 31, 2014,¹⁸ and, because of "common issues of law and fact", consolidated the two proceedings for purposes of hearing and decision, with the FERC finding it "appropriate for the parties to litigate a separate ROE for each refund period."¹⁹ The TOs requested rehearing of both orders. On May 14, the FERC denied rehearing of both orders.²⁰ On July 13, the TOs appealed those order to the DC Circuit Court of Appeals (see Section XV below).

Hearings. The hearings in this mater began June 25, 2015 and were completed on July 2. Just prior to the commencement of the hearing, pursuant to an unopposed motion of the TOs, Judge Sterner adopted a proposed protective order to permit the exchange and use during hearing of certain confidential materials provided by Thomson Reuters. Joint Transcript Corrections and a Final Index of Exhibits were submitted on July 13, 2015. Judge Sterner adopted the transcript corrections on July 15. On July 23, the TOs filed a motion to lodge portion of testimony filed in the Southwestern Public Service Co. ROE proceeding (EL15-8) to show inconsistent positions of FERC Trial Staff. On July 29, 2015, a Joint Procedural History was submitted, as were initial briefs by the Complainant-Aligned Parties, TOs, EMCOS and FERC Staff. The next procedural milestone will be the submission of Reply Briefs and a Joint List of Appearances, which are due on August 26, 2015. As noted previously, an initial decision is to be issued by December 30, 2015. If you have any questions concerning this matter, please contact Joe Fagan (202-218-3901; jfagan@daypitney.com) or Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **206 Investigation: FCM Performance Incentives (Compliance Proceedings) (EL14-52; ER14-2419)**

Rehearing remains pending of the FERC's May 30, 2014 *PI Order*²¹ on the FCM PI Jump Ball Filing and its *October 2 Order*²² on the first compliance filing in response to the *PI Order*. As previously reported, the FERC instituted this proceeding, pursuant to Section 206 of the FPA, in its May 30 *PI Order* on the FCM

¹⁵ The 2012 Base ROE Complaint, filed by Environment Northeast (now known as Acadia Center, "ENE"), Greater Boston Real Estate Board, National Consumer Law Center, and the NEPOOL Industrial Customer Coalition ("NICC", and together, the "2012 Complainants"), challenged the TOs' 11.14% return on equity, and seeks a reduction of the Base ROE to 8.7%.

¹⁶ The 2014 Base ROE Complaint, filed July 31, 2014 by the Massachusetts Attorney General ("MA AG"), together with a group of State Advocates, Publicly Owned Entities, End Users, and End User Organizations (together, the "2014 ROE Complainants"), seeks to reduce the current 11.14% Base ROE to 8.84% (but in any case no more than 9.44%) and to cap the Combined ROE for all rate base components at 12.54%. 2014 ROE Complainants state that they submitted this Complaint seeking refund protection against payments based on a pre-incentives Base ROE of 11.14%, and a reduction in the Combined ROE, relief as yet not afforded through the prior ROE proceedings.

¹⁷ *Environment Northeast, et al. v. Bangor Hydro-Elec. Co., et al.*, 147 FERC ¶ 61,235 (June 19, 2014) ("2012 Base ROE Initial Order"), *reh'g denied*, 151 FERC ¶ 61,125 (May 14, 2015).

¹⁸ *Mass. Att'y Gen. et al. -v- Bangor Hydro et al.*, 149 FERC ¶ 61,156 (Nov. 24, 2014), *reh'g denied*, 151 FERC ¶ 61,125 (May 14, 2015).

¹⁹ *Id.* at P 27 (for the refund period covered by EL13-33 (i.e., Dec. 27, 2012 through Mar. 27, 2014), the ROE for that particular 15-month refund period should be based on the last six months of that period; the refund period in EL14-86 and for the prospective period, on the most recent financial data in the record).

²⁰ *Environment Northeast, et al. v. Bangor Hydro-Elec. Co., et al. and Mass. Att'y Gen. et al. -v- Bangor Hydro et al.*, 151 FERC ¶ 61,125 (May 14, 2015).

²¹ *ISO New England Inc. and New England Power Pool*, 147 FERC ¶ 61,172 (May 30, 2014) ("*PI Order*"), *clarif. and reh'g requested*.

²² *ISO New England Inc.*, 149 FERC ¶ 61,009 (Oct. 2, 2014) ("*October 2 Order*"), *reh'g requested*.

Performance Incentives Jump Ball filing. In the *PI Order*, the FERC concluded that the ISO's FCM payment design was "unjust and unreasonable, because it fails to provide adequate incentives for resource performance, thereby threatening reliable operation of the system and forcing consumers to pay for capacity without receiving commensurate reliability benefits."²³ The FERC directed the ISO to submit "Tariff revisions reflecting a modified version of its [PFP] proposal and an increase in the Reserve Constraint Penalty Factors, consistent with NEPOOL's proposal."²⁴ The FERC-established refund effective date was June 9, 2014.²⁵ Requests for clarification and/or rehearing of the *PI Order* were filed by: NEPOOL, Connecticut and Rhode Island,²⁶ Dominion, MMWEC, Indicated Generators,²⁷ NEPGA, NextEra, Potomac Economics, and PSEG/NRG. On July 28, the FERC issued a tolling order affording it additional time to consider the rehearing requests, which remain pending before the FERC.

FCM PI Jump Ball Compliance Filing I (ER14-2419-001). On October 2, 2014, the FERC accepted in part, subject to condition, and rejected in part, the ISO's July 14, 2014 compliance filing ("Compliance Filing I") that, as previously reported, had been filed in response to directives in the *PI Order*. While accepting nearly all of the provisions proposed in Compliance Filing I, the *October 2 Order* rejected the ISO's compliance proposal concerning improper price signals caused by binding intra-zonal transmission constraints.²⁸ The FERC found that an exemption was not necessary for resources on the export side of an intra-zonal transmission constraint during a Capacity Scarcity Condition and directed the ISO to submit a further compliance filing (since filed and accepted) to revise Market Rule Section 13.7 by removing the language that reflected that aspect of the ISO's July 14 compliance proposal and restoring language in Sections III.13.7.2.2(a) and III.13.7.2.2(b) ISO-NE originally proposed by the ISO in its January 17 Filing. The Tariff sections accepted were accepted effective June 9, 2014, December 3, 2014, and June 1, 2018, as requested.²⁹ Connecticut/Rhode Island³⁰ and Public Systems³¹ requested rehearing of the *October 2 Order* on November 3, 2014. On December 3, 2014, the FERC issued a tolling order affording it additional time to consider the rehearing requests, which remain pending before the FERC.

If you have any questions related to these proceedings, please contact Dave Doot (860-275-0102; dttdoot@daypitney.com), Pat Gerity (860-275-0533; pmgerity@daypitney.com), or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

- **206 Investigation: Consistency of ISO-NE (DA) Scheduling Practices with Natural Gas Scheduling Practices to be Adopted in Docket RM14-2 (EL14-23)**

As previously reported, on March 20, 2014, the FERC initiated this proceeding, pursuant to Section 206 of the FPA, to ensure that the ISO's scheduling, particularly its Day-Ahead scheduling practices, correlate with any revisions to the natural gas scheduling practices to be ultimately adopted by the FERC in RM14-2 (*see* Section XIII below).³² Noting its concern about the lack of synchronization between the Day-

²³ *PI Order* at P 23.

²⁴ *Id.* at P 1.

²⁵ The June 3 notice of this proceeding was published in the *Fed. Reg.* on June 9, 2014 (Vol. 79, No. 110) pp. 32,937-89.

²⁶ "Connecticut and Rhode Island" are: the CT PURA, CT OCC, CT AG, CT DEEP, the United Illuminating Company ("UI") and the RI PUC.

²⁷ "Indicated Generators" are: Exelon Corp. ("Exelon"), EquiPower Resources Management, LLC ("EquiPower"), Essential Power, LLC ("Essential Power"), and Dynegy Marketing and Trade, LLC and Casco Bay Energy Company, LLC (together, "Dynegy").

²⁸ *October 2 Order* at P 56.

²⁹ *October 2 Order* at P 1; Ordering Paragraph (A).

³⁰ "Connecticut/Rhode Island" are the CT PURA, CT AG, CT OCC, CT DEEP, and the RI PUC.

³¹ "Public Systems" are CMEEC, MMWEC, NHEC, and VEC.

³² *Cal. Indep. Sys. Op. Corp. et al.*, 146 FERC ¶ 61,202 (Mar. 20, 2014). The New England 206 proceeding was docketed as EL14-23.

Ahead scheduling practices of interstate natural gas pipelines and electricity markets, the FERC directed each ISO and RTO, including ISO-NE, within 90 days after publication of a Final Rule in Docket RM14-2 in the *Federal Register* (or, as discussed in Section XIII below, Thursday, July 23, 2015):

(1) to make a filing that proposes tariff changes to adjust the time at which the results of its day-ahead energy market and reliability unit commitment process (or equivalent) are posted to a time that is sufficiently in advance of the Timely and Evening Nomination Cycles, respectively, to allow gas-fired generators to procure natural gas supply and pipeline transportation capacity to serve their obligations, or (2) to show cause why such changes are not necessary. In their responses, each ISO and RTO must explain how its proposed scheduling modifications are sufficient for gas-fired generators to secure natural gas pipeline capacity prior to the Timely and Evening Nomination Cycles.³³

ISO Response to Show Cause Order. On July 23, the ISO filed its response. In that filing, the ISO described why changes to the time at which the results of the Day-Ahead Energy Market and RAA process are posted are not necessary in response to the FERC's rule making. Comments on the ISO's filing are due on or before August 18, 2015. The FERC expects to issue a final order in this Section 206 proceeding by October 21, 2015 (or within 90 days of the filings required under the March 20 order). If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dt_doot@daypitney.com), Joe Fagan (202-218-3901; jfagan@daypitney.com), or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

II. Rate, ICR, FCA, Cost Recovery Filings

- **FCA9 Results Filing (ER15-1137)**

As previously reported, the FERC accepted, on June 18, the results of the ninth FCA ("FCA9"), effective June 27, 2015, as requested.³⁴ On July 20, 2015, the Utility Workers Union of America Local 464 and Robert Clark ("UWUA") requested rehearing of the *FCA9 Results Order*. The UWUA request for clarification is pending before the FERC, with FERC action required on or before August 19, 2015, or the UWUA request will be deemed denied. If you have any questions concerning this matter, please contact Sebastian Lombardi (860-275-0663; slombardi@daypitney.com) or Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Opinion 531-A Compliance Filing: TOs (ER15-414)**

On July 8, the FERC accepted the TO's amended *Opinion 531-A* compliance filing. As previously reported, the New England TOs submitted, on November 17, 2014, tariff changes to both the regional and local rates in the ISO OATT in response to *Opinion 531-A*.³⁵ Protests to that filing were submitted by EMCOS and the Complainant-Aligned Parties. In light of *Opinion 531-B*, the TOs indicated in a March 31 motion that further amendments would be required (and that such amendments would likely resolve the contested issues raised by EMCOS and Complainant-Aligned Parties) and requested that the FERC defer action on the compliance filing until after the amendments were filed and the corresponding period for comments passed. The TOs submitted their amended *Opinion 531-A* compliance filing on April 22. They indicated that the April 22 filing reflected certain clarifications provided in *Opinion 531-B* and amended the

³³ *Id.* at P 19.

³⁴ *ISO New England Inc.*, 151 FERC ¶ 61,226 (June 18, 2015) ("*FCA9 Results Filing*").

³⁵ Specifically, Section II.A.2.(a)(iii) of the Attachment F Implementation Rule was revised to reflect an ROE of 11.07% – the 10.57% base ROE directed by the Commission in *Opinion 531-A* plus the 50 basis point adder for ISO-NE participation. The TOs also revised Section II.A.2.(a)(iii) of the Attachment F Implementation Rule to require the PTOs to calculate their total ROE each year under both regional and local rates and to reduce any ROE incentives included in regional rates to the extent necessary to ensure that the PTOs' total ROE does not exceed 11.74% (the TOs' maximum ROE as identified by the FERC). The TOs also revised a number of provisions of the Attachment F Implementation Rule to include cross-references to Section II.A.2.(a)(iii).

Attachment F Annual Transmission Revenue Requirements used for determining RNS rates and the Schedule 21 Local Service Schedules for determining revenue requirements applicable to the TOs. No comments on the amended *Opinion 531-A* compliance filing were filed. As noted above, the amended *Opinion 531-A* compliance filing was accepted on July 8, effective October 16, 2014, as requested. Unless the July 8 order is challenged, with any challenges due on or before August 7, this proceeding will be concluded. If you have any questions concerning these matters, please contact Joe Fagan (202-218-3901; jfagan@daypitney.com) or Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **2015/16 Power Year Transmission Rate Filing (ER09-1532; RT04-2)**

On July 31, 2015, the Participating Transmission Owners (“PTOs”) Administrative Committee (“PTO AC”) submitted a filing identifying adjustments to regional transmission service charges under Section II of the ISO Tariff for the period June 1, 2015 through May 31, 2016. The filing reflected the charges to be assessed under annual transmission formula rates, reflecting actual 2014 cost data, Forecasted Annual Transmission Revenue Requirements associated with projected PTF additions for the 2015 Forecast Period, and the Annual True-up including associated interest. The PTO AC states that the annual updates results in a Pool “postage stamp” RNS Rate of \$98.70 /kW-year effective June 1, 2015, an increase of \$8.90 /kW-year from the charges that went into effect on June 1, 2014. In addition, the annual update to the Schedule 1 formula rate results in a charge of \$1.61 kW-year, a \$0.09/kW-year decrease over the Schedule 1 charge that last went into effect on June 1, 2014. This filing was reviewed at the July 14-15 RC/TC Summer Meeting. The filing will not be noticed for public comment. If there are questions on this proceeding, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **2014/15 Power Year Transmission Rate Filing: Public Representatives’ Protest (ER09-1532; RT04-2)**

On April 28, 2015, “Public Representatives”³⁶ filed a protest, in part, of the July 31, 2014 PTO AC filing identifying adjustments to regional transmission service charges under Section II of the ISO Tariff for the period June 1, 2014 through May 31, 2015. Specifically, Public Representatives protest the Annual Transmission Revenue Requirements calculation and the resulting RNS rates to the extent they included planning costs for NHT’s proposed “SeaLink” project, costs they asserted were contrary to the terms of the TOA and should be disallowed from RNS rate recovery. Public Representatives stated that the partial protest was filed in April 2015, rather than closer to the July 2014 informational filing, due to lengthy, but unsuccessful, discussions between the MA AG’s office and NHT to resolve this dispute. Interventions were filed by CMP, Eversource, National Grid, and UI. NESCOE filed comments on May 8. On May 15, NHT answered Public Representatives’ protest. There has not been any activity since the last Report and this matter is pending before the FERC. If there are questions on this proceeding, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **FCA1 Results Remand Proceeding (ER08-633)**

As previously reported, the DC Circuit issued on December 23, 2011, a *per curiam* order³⁷ that PSEG’s May 2010 petition for review be granted, remanding the FERC’s orders in this proceeding³⁸ for further consideration. In particular, the FERC was directed to (i) determine whether PSEG’s position (that it should receive the full (unprorated) floor price for all its resources that it could not prorate) would be an appropriate way to interpret the then-existing Market Rules and, if not, (ii) respond to PSEG’s objections that

³⁶ “Public Representatives” are the MA AG, CT OCC, CT PURA, the RI PUC, the Attorney General of the State of Rhode Island (“RI AG”), the Maine Public Advocate (“MOPA”) and the Vermont Department of Public Service (“VT DPS”).

³⁷ *PSEG Energy Res. & Trade LLC and PSEG Power Conn. LLC v. FERC*, No. 10-1103, 2011 U.S. App. LEXIS 25659, (D.C. Cir. Dec. 23, 2011).

³⁸ *ISO New England Inc., 123 FERC ¶ 61,290 (2008); reh’g denied, 130 FERC ¶ 61,235 (2010), remanded, PSEG Energy Res. & Trade LLC and PSEG Power Conn. LLC v. FERC*, No. 10-1103, 2011 U.S. App. LEXIS 25659, (D.C. Cir. Dec. 23, 2011).

any contrary result would result in “undue discrimination” and would be “inconsistent with the fundamental policy goals” of FCM.

On June 2, 2015, in a long-awaited order, the FERC reversed its prior determination and found that, given that the ISO had prohibited resources needed for reliability from prorating quantity based on its interpretation of the Proration Rule, it was appropriate to consider resettlements to those resources that were not able to prorate quantity.³⁹ “[W]here resources needed for reliability were prohibited from prorating quantity under the Proration Rule, they should have received the full market clearing price for each megawatt offered.”⁴⁰ Although the FERC found that the ISO reasonably interpreted the Proration Rule as allowing it to limit certain suppliers’ ability to prorate quantity, in order to maintain reliability, and the FERC disagrees with PSEG’s argument that it would be unduly discriminatory under the FPA to make unavailable to certain resources the option to choose quantity proration instead of price proration, the FERC found that resources prevented from prorating quantity must also receive “a just, reasonable, and not unduly discriminatory or preferential rate,” (i.e. the full clearing price for each megawatt offered).

Accordingly, the FERC established a briefing schedule to permit the parties to address issues relating to the amounts of such resettlements (i.e., the difference between a resource’s actual payment and what the payment would have been had proration of the resource not been rejected for reliability reasons), and the parties to which those payments should be charged and to whom they should be paid (taking into consideration any possible changes in ownership, retirements, or similar new circumstances of the resources in question).

In its initial brief filed on July 17, the ISO identified:

- the Connecticut resources that were unable to prorate quantity in FCA1, and the number of MWs for which each resource received a CSO;
- the resettlements due to each such entity, based on the difference between (1) the prorated price that the resources did receive (4.254/kW-mo.), and (2) the un-prorated capacity clearing price that the resources would have received absent price proration (4.50/kW-mo.), plus interest (total refunds with interest will total approximately \$ 20.4 million);
- the parties to whom the resettlements would be charged (those with Regional Network Load within Connecticut during that time); and
- the mechanism by which the ISO would make such resettlements.

The ISO did not identify any considerations that would render the resettlements inappropriate or difficult. For purposes of its brief, the ISO assumed a December 14, 2015 resettlement date. Initial briefs were also submitted by Bridgeport Energy, Dominion, and Bridgeport Energy. Reply briefs are due on or before August 17, 2015. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com) or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

III. Market Rule and Information Policy Changes, Interpretations and Waiver Requests

- **CSO Terminations: Enerwise Global Technologies (ER15-2232)**

Pursuant to Market Rule 1 § 13.3.4(c), the ISO filed on July 21 to terminate CSOs for Resource #s 16700 and 37922 held by Project Sponsor Enerwise Global Technologies (“Enerwise”). The ISO indicated that, upon FERC acceptance of the filing, the ISO will draw down the applicable amount of financial assurance provided by Enerwise with respect to the CSOs and portions of the CSOs being terminated. NEPOOL filed a doc-less

³⁹ *ISO New England Inc.*, 151 FERC ¶ 61,196 (June 2, 2015) (“*FCA1 Remand Order*”).

⁴⁰ *Id.* at P 14.

intervention on July 27. Comments on this filing are due on or before August 11, 2015. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **CSO Termination: Hampshire Council of Governments (ER15-2229)**

Also pursuant to Market Rule 1 § 13.3.4(c), the ISO filed on July 21 to terminate a CSO for Resource # 38110 held by Project Sponsor Hampshire Council of Governments. The ISO indicated that, upon FERC acceptance of the filing, the ISO will draw down the applicable amount of financial assurance provided by the Hampshire Council of Governments with respect to the CSO being terminated. NEPOOL filed a doc-less intervention on July 27. Comments on this filing are due on or before August 11, 2015. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Jump Ball Filing: Winter Reliability Program (ER15-2208)**

On July 17, the ISO and NEPOOL submitted two alternative versions of Market Rule changes intended to establish a winter reliability program for winters 2015/16, 2016/17 and 2017/18 -- the "NEPOOL Proposal" and the "ISO-NE Proposal".

Both Proposals are intended to address reliability challenges created by the region's increased reliance on natural gas-fueled generation and to be stop-gap measures until revised incentives for capacity resources (PFP) become fully effective in 2018. The NEPOOL Proposal is based on the design of the 2014/15 program, with three main components: (1) compensation for certain oil inventory that remains in New England following the end of each winter period; (2) compensation for unused liquefied natural gas ("LNG") contract volumes; and (3) a supplemental demand response ("DR") program. The ISO Proposal also includes the first two components of the NEPOOL Proposal, but eliminates the DR component, and provides compensation not only for fuel oil and LNG, but also for nuclear, hydro, biomass and coal-fired resources. The NEPOOL Proposal was supported by the Participants Committee at the June 25 session of the Summer Meeting; the ISO Proposal was not. The Proposals were submitted pursuant to "jump ball provision" of the Participants Agreement (Section 11.1.5). Both NEPOOL and the ISO requested a FERC order by Monday, September 14, 2015.

Protests and comments on the Jump Ball Filing were due on or before August 5, 2015. Pleadings and comments supporting the NEPOOL Proposal were filed by **NESCOE**, **CT PURA**, and **TransCanada**. **Essential Power** supported the NEPOOL Proposal, but requested that target fuel inventory be set at 15 days of continuous operation, the same target as for Winter 2014/15, asserting there is no basis for reducing that target to 10 days. **Entergy/NextEra/Dominion** supported the ISO Proposal. **Dynegy/Brayton Point** also supported the ISO Proposal in part, but requested that the ISO be directed to implement an eligible oil inventory limit of at least 15 days and to re-evaluate the volume of necessary fuel inventory prior to each winter season. Protesting both Proposals were **NEPGA/EP SA** (who also requested that ISO-NE be directed to amend the Tariff to define the formula for calculating the Winter Reliability Program payment rate) and **PSEG** (who requested that the FERC direct (i) the ISO and NEPOOL to propose market-based programs for winters 2016/17 and 2017/18; (ii) to the extent that the FERC favors the NEPOOL Proposal, the compensable inventory be increased to 15 days consistent with the previous year's program or in the alternative, require that the ISO confirm that 10 days of oil inventory, as proposed by NEPOOL, is sufficient to ensure regional fuel security for the winter in which the program applies; and (iii) To the extent the FERC favors the ISO Proposal, direct the ISO to demonstrate that expanded eligibility of resource types will result in sufficient incremental on-site inventory (above what might otherwise be available based upon market only signals) and that for the resources that participate in the oil program, only 10 days of oil inventory is sufficient to ensure fuel security for the region for the winter in which the program applies). In addition, interventions were filed by Brookfield, ConEd, Calpine, CT OCC, Emera, Exelon, Eversource, GDF Suez Energy North America, Noble Americas, NRG, UI, VT DPS. This matter is pending before the FERC.

If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dt_doot@daypitney.com), Joe Fagan (202-218-3901; jfagan@daypitney.com), or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

- **CSO Terminations: Enerwise Global Technologies (ER15-1944)**

On July 16, the FERC accepted the termination of CSOs for Resources held by Project Sponsor Enerwise. The ISO will draw down the applicable amount of financial assurance provided by Enerwise with respect to these CSOs and portions of these CSOs being terminated. Unless the July 16 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Waiver Request: FCM Interconnection Deposit Qualification Deadline (Bellingham) (ER15-1934)**

On June 17, Northeast Energy Associates (“NEA”) requested a waiver of the FCM interconnection deposit qualification deadline in order to permit capacity from the Bellingham Energy Center Station that is being developed by Hawkes Meadow to be offered in FCA-10. NEA reported that the \$50,000 interconnection deposit associated with NEA’s efforts to increase Bellingham’s qualified capacity by approximately 25 MW was received just before 9am the morning after FCA-10’s March 3 deadline; as a result, the ISO has indicated that it is not able under its Tariff to qualify NEA’s increased capacity for participation in FCA-10. Comments on this waiver request were due on or before July 8, 2015. Doc-less interventions were filed by NEPOOL, Entergy, NESCOE, and NRG. On July 1, the ISO opposed the NEA request (asserting that NEA did not meet the FERC’s standards for a waiver request). NEA answered the ISO’s answer on July 16. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **CSO Terminations: Direct Energy Business (ER15-1867)**

On July 1, the FERC accepted the termination of the CSOs for Resource Nos. 37933, 37929 and 37932 held by Project Sponsor Direct Energy Business. The ISO will draw down the applicable amount of financial assurance provided by Direct Energy with respect to the CSOs being terminated. The July 1 order was not challenged, is final and unappealable, and this proceeding is concluded. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **CSO Termination: Efficiency Maine Trust (ER15-1866)**

Also on July 1, the FERC accepted the termination of a portion of the CSO for Resource No. 38057 held by Project Sponsor Efficiency Maine Trust. The ISO will draw down the applicable amount of financial assurance provided by Efficiency Maine Trust with respect to the portion of the CSO to be terminated. The July 1 order was not challenged, is final and unappealable, and this proceeding is concluded. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **eTariff Corrections (ER15-1768)**

On July 15, the FERC accepted corrections to Section III.10 of the ISO’s eTariff. As previously reported, the correction filed in this proceeding completes Section III.10, which was incomplete in the e-version filed and accepted as part of the February 6 Forward Reserve Obligation Charge Changes (ER15-1009). Unless the July 15 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **IMM FCM Mitigation Package (ER15-1650)**

On June 30, the FERC accepted in part, and rejected in part, revisions to the market power mitigation provisions in the FCM Market Rules (“IMM FCM Mitigation Package”).⁴¹ As previously reported, the Package proposed to (i) establish a revised Pivotal Supplier Test (permitting the IMM to take into account both existing internal resources and import resources when assessing the competitiveness of supply and to conduct the Pivotal Supplier Test closer to the start of an FCA); (ii) increase, beginning with FCA-10, the value below which existing resources that have chosen to be price takers in an FCA can opt to leave the auction (“Dynamic De-List Bid Threshold”), from \$3.94/kW-mo. to \$5.50/kW-mo. (with the value to be recalculated and reviewed with Participants not less than once every three years); and (iii) remove some of the flexibility in the auctions that is

⁴¹ *ISO New England Inc. and New England Power Pool Participants Comm.*, 151 FERC ¶ 61,270 (June 30, 2015) (“June 30 Order”).

currently afforded to Market Participants submitting Static De-List Bids. In its *June 30 Order*, the FERC accepted the revised Pivotal Supplier Test, the increased Dynamic De-List Bid Threshold, the New Import Capacity Resource mitigation rules, and the clean-up changes proposed in the IMM FCM Mitigation Package. However, the FERC rejected the proposed changes to the Static De-List Bid rules, finding it “inconsistent with competitive market principles to prevent a capacity supplier without buyer-side market power from lowering its offer in the FCA or from withdrawing its Static De-List Bid during the post-review modification period, both actions that would tend to reduce FCA clearing prices.”⁴² “Provided that a resource submits a Non-Price Retirement Request before the deadline for such a request,” the [FERC] found “no basis for precluding a supplier from making this decision during the Static De-List Bid finalization process.”⁴³ Accordingly, the ISO was directed to submit Tariff revisions removing the proposed Static De-List Bid rule changes on or before July 30.⁴⁴ Finally, with respect to the competitive entry exemption from buyer-side mitigation advocated by Champlain VT, the FERC found the issue beyond the scope of the proceeding and directed Champlain VT to pursue its concerns in the stakeholder process.⁴⁵ The accepted revisions were effective June 1, 2015, as requested. The *June 30 Order* was not challenged and is final and unappealable.

July 30 Compliance Filing. On July 30, the ISO submitted Tariff revisions that remove the changes to the Static De-List Bid rules. Those changes were reviewed and unanimously recommended for Participants Committee support by the Markets Committee on July 22. The compliance changes are scheduled for Participants Committee action via the August 7, 2015 Consent Agenda (Item No. 7). Comments on the July 30 compliance filing are due on or before August 20, 2015. If you have any questions concerning this matter, please contact Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

- **DNE Dispatch Changes (ER15-1509)**

On July 23, the FERC accepted, in part, and rejected, in part, revisions to Market Rule 1, jointly submitted by the ISO and NEPOOL, to provide for the dispatch of certain wind and hydro Intermittent Power Resources using Do Not Exceed (“DNE”) Dispatch Points (“DNE Dispatch Changes”).⁴⁶ The accepted DNE Dispatch Changes will become effective April 16, 2016. In response to issues raised by RENEW and SunEdison (“Protestors”), the FERC found that the ISO did not sufficiently justify the blanket exclusion of DNE Dispatchable Generators from the regulation and reserves markets.⁴⁷ Accordingly, the FERC directed the ISO “to submit a compliance filing [on or before August 24] to remove the relevant tariff provisions. Furthermore, in recognition of the fact that, as RENEW explains, it is not currently economic for wind resources to participate in the frequency regulation market, we also encourage ISO-NE to work with its stakeholders to develop rules integrating intermittent resources into its markets.”⁴⁸ The FERC also encouraged the ISO to work closely with its stakeholders on the issues it found not at issue in this proceeding or settled by the ISO (including implementation and timing issues, including data accuracy, transparency, and constraints to certain hydro resources).⁴⁹ Finally, the FERC directed the ISO to correct a typographical error identified by the FERC in Market Rule 1 Section 13.6.2.1.1.2.⁵⁰ Challenges, if any, to the *DNE Dispatch Order* will be due on or before August 24. If you have any questions concerning this matter, please contact Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

⁴² *Id.* at P 44.

⁴³ *Id.* at P 31.

⁴⁴ *Id.*

⁴⁵ *Id.* at P 64.

⁴⁶ *ISO New England Inc. and New England Power Pool Participants Comm.*, 152 FERC ¶ 61,065 (July 23, 2015) (“*DNE Dispatch Order*”).

⁴⁷ *Id.* at P 25.

⁴⁸ *Id.*

⁴⁹ *Id.* at P 29; n. 75.

⁵⁰ *Id.* at PP 30-31.

- **Demand Curve Changes (ER14-1639)**

As previously reported, the FERC denied rehearing of the *Demand Curve Order*,⁵¹ but clarified (agreeing with Exelon and Entergy) that a resource that elects to utilize the renewables minimum offer price rule exemption should not also be allowed to utilize the new resource lock-in).⁵² Accordingly, the FERC directed the ISO to submit, on or before March 2, 2015, a compliance filing clarifying that a resource may not utilize both the renewable resource exemption and the new resource price lock-in. That compliance filing was submitted on March 2, accepted on May 1, and became effective on May 2.⁵³ The petition for DC Circuit Court of Appeals review of the FERC's Demand Curve orders, filed by NextEra, NRG and PSEG, remains pending before that Court (*see* Section XV below).

Informational Progress Report: On May 18, the ISO submitted a report to update the FERC on New England's progress toward developing FCM zonal demand curves. Importantly, the ISO reported that improvements to the current FCM demand curve structure cannot be completed before FCA-10, noting that from its perspective and despite efforts to date, the changes have "not yet achieved a design that reasonably satisfies reliability, market efficiency and pricing objectives with reasonable market power protections." The ISO stated that it needs "additional time to address the complexities associated with the demand curve structure ... and commits to filing a further progress report no later than October 31, 2015." In the remainder of the report, the ISO identifies the three fundamental reasons that it believe make it imprudent to immediately adopt a new sloped zonal demand curve design without further analysis and stakeholder review, identifies the four key factors for Demand Curve design, and notes the reliability, price volatility, robustness, and market power concerns. The ISO concludes that "the best approach at this time is to maintain the current demand curve structure for the FCA 10 auction cycle and continue to analyze and discuss with stakeholders the development of robust zonal demand curve improvements that can be put in place in the future."

NEPGA 206 Request. In response to the Informational Report and the announcement that the ISO does not intend to file sloped zonal demand curves, NEPGA filed on June 23 a request that the FERC "initiate a Section 206 proceeding on the ISO-NE Tariff and order ISO-NE to file the sloped zonal demand curves developed by ISO-NE and NEPOOL stakeholders, and proposed by ISO-NE as recently as April 2015 ("Zonal Curves"), for effect in FCA 10, amended to eliminate an FCA clearing rule ISO-NE had proposed as part of its Zonal Curves design." NEPGA asked that the ISO be compelled to make that filing within 30 days of that FERC order. The ISO answered and opposed NEPGA's request on July 2. Comments supporting the NEPGA request were filed by EPSA on July 7. NEPOOL submitted comments on July 8 (taking no position on whether an order to implement sloped zonal demand curves generally is appropriate or justified, or whether implementation can be achieved in time for FCA-10, but if such an order were to be issued, urging that any Market Rule changes be fully discussed, and voted by NEPOOL pursuant to a schedule that allows the NEPOOL stakeholder process to proceed to completion and account for the many interrelated issues associated with such Market Rule changes. NEPOOL urged the FERC to reject the NEPGA request that the FERC order a specific solution that NEPOOL voted and did not support). NEPGA's motion remains pending before the FERC.

If you have any questions concerning these matters, please contact Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

- **Jump Ball Filing: FCM Performance Incentives (ER14-1050)**

Rehearing of the *FCM PI Order* remains pending. As previously reported, the ISO and NEPOOL submitted on January 17, 2014, two alternative versions of Market Rule changes intended to improve the operating performance of capacity resources in New England -- the "ISO-NE Proposal" and the "NEPOOL

⁵¹ *ISO New England Inc. and New England Power Pool Participants Comm.*, 147 FERC ¶ 61,173 (May 30, 2014) ("*Demand Curve Order*"), *reh'g denied but clarif. granted*, 150 FERC ¶ 61,065 (Jan. 30, 2015).

⁵² *ISO New England Inc. and New England Power Pool Participants Comm.*, 150 FERC ¶ 61,065, at P 27 (Jan. 30, 2015) ("*Demand Curve Clarification Order*").

⁵³ The changes become effective with FCA-10, and will not apply to the resources in FCA9, totaling 12.96 MW, that utilize both the renewable resource exemption and the price lock-in election.

Proposal”. As explained above, on May 30, 2014, the FERC issued an order in response to the jump ball filing.⁵⁴ The FERC concluded that the existing Tariff, specifically the current FCM payment design, “is unjust and unreasonable, because it fails to provide adequate incentives for resource performance, thereby threatening reliable operation of the system and forcing consumers to pay for capacity without receiving commensurate reliability benefits” and instituted a proceeding under Section 206 of the FPA (*see* EL14-52 in Section I above). Concluding that neither the ISO-NE Proposal nor the NEPOOL Proposal, standing alone, had been shown to be just and reasonable, the FERC, drawing features from each Proposal, went on to direct the ISO to submit by July 14, 2014 Tariff revisions reflecting a modified version of the ISO-NE Proposal and an increase in the Reserve Constraint Penalty Factors, consistent with NEPOOL’s Proposal. Specifically, the compliance filing was to include (1) changes to implement ISO-NE’s proposed two-settlement capacity market design with certain modifications, and (2) changes to increase the RCPF values for Thirty-Minute Operating Reserves to \$1,000/MWh and for Ten-Minute Non-Spinning Operating Reserves to \$1,500/MWh. The FERC established a June 9, 2014 refund effective date. Requests for clarification and/or rehearing of the *PI Order* were filed by: NEPOOL, Connecticut and Rhode Island, Dominion, MMWEC, Indicated Generators, NEPGA, NextEra, Potomac Economics, and PSEG/NRG. On July 28, 2014, the FERC issued a tolling order affording it additional time to consider the requests for clarification and/or rehearing, which remain pending before the FERC.

If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dt_doot@daypitney.com), Harold Blinderman (860-275-0357; hblinderman@daypitney.com), Eric Runge (617-345-4735; ekrunge@daypitney.com) or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

IV. OATT Amendments / TOAs / Coordination Agreements

- **Order 676-H Compliance: Revisions to Schedule 24 (ER15-519)**

As previously reported, the FERC conditionally accepted the ISO’s *Order 676-H* compliance filing, effective May 15, 2015,⁵⁵ but denied the ISO’s request for continued waiver of Version 003 NAESB Standards and of the standards relating to Network Integration Transmission Service (“NITS”) or Service Across Multiple Transmission Systems (“SAMTS”).⁵⁶ The *ISO Order 676-H Compliance Order* was not challenged and is final and unappealable.

Additional ISO Order 676-H Compliance Filing. On July 20, the ISO filed revisions to Schedule 24 of the OATT to comply with the *ISO Order 676-H Compliance Order* (incorporating by reference all of the Version 003 NAESB standards, and excluding no standard). Those revisions were reviewed and unanimously recommended for Participants Committee support by the Transmission Committee on July 14. The compliance changes are scheduled for Participants Committee action via the August 7, 2015 Consent Agenda (Item No. 12). Comments on the July 30 compliance filing are due on or before August 10, 2015. If you have any comments or concerns, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com) or Kristin Sullivan (617-345-4657; kmsullivan@daypitney.com).

- **Order 676-H Compliance: PTOs, SSPs, CSC et al. (ER15-517)**

The FERC also conditionally accepted on May 19, 2015, the TOs’⁵⁷ *Order 676-H* compliance filing.⁵⁸ As previously reported, the *TOs Order 676-H Compliance Order* denied requested waivers of certain transmission

⁵⁴ *See PI Order.*

⁵⁵ *ISO New England Inc.*, 151 FERC ¶ 61,155 (May 19, 2015) (“*ISO Order 676-H Compliance Order*”).

⁵⁶ If, however, the ISO continues to believe that renewed waiver of specific standards is warranted, it may file a subsequent request for a waiver detailing the circumstances that it believes warrant a waiver. *Id.* at n. 20.

⁵⁷ For purposes of this proceeding, the “TOs” are the Participating Transmission Owners (“PTOs”), the Schedule 20A Service Providers (“SSPs”), Cross-Sound Cable Company, LLC (“CSC”), New England Power Company (“NGrid”), Northeast Utilities Service Company (“NUSCO”), Unitil Energy Systems, Inc., Fitchburg Gas and Electric Light Company, and the ISO.

provider standards, dismissed requested waivers of reliability coordinator and balancing authority standards as unnecessary. In denying the Filing Parties' requests for waiver of WEQ-000, WEQ-001, WEQ-002, WEQ-003, WEQ-004, WEQ-008, WEQ-011-1.2, WEQ-011-1.3, and WEQ-011-1.6, the FERC stated that the "Filing Parties are transmission providers, so the standards apply to them, and they are required to implement the standards once they perform the relevant business practices (even if they currently do not perform those practices)."⁵⁹ The May 19 order was not challenged and is final and unappealable.

Additional TOs Order 676-H Compliance Filing. On July 20, the TOs filed Tariff revisions to incorporate the complete set of Version 003 Business Practice Standards into their tariffs without modification and to remove references to waiver requests previously sought of the Version 003 NAESB standards. Changes were filed to OATT Schedules 18, 20A Common, Schedule 20A-NU, 21 Common, 21-FGE, 21-UES, 21-NEP, and 21-NU. Comments on the July 20 compliance filing are due on or before August 6, 2015. If you have any comments or concerns, please contact please contact Eric Runge (617-345-4735; ekrunge@daypitney.com) or Kristin Sullivan (617-345-4657; kmsullivan@daypitney.com).

- **Order 1000 Interregional Compliance Filings (ER13-1960; ER13-1957)**

As previously reported, the FERC conditionally accepted, subject to compliance filings due July 14, revisions to the ISO Tariff to comply with the interregional coordination and cost allocation requirements of *Orders 1000* and *1000-A* and (ii) an Amended and Restated Northeastern ISO/RTO Planning Coordination Protocol ("Protocol").⁶⁰ The *Order 1000 Interregional Compliance Changes* included (i) revisions to Attachment K to add provisions describing the interregional coordination provisions included in the Amended Protocol, as well as adding other provisions facilitating the consideration of interregional solutions to regional needs; (ii) a new Schedule 15 reflecting the methodology for allocation among ISO-NE and NYISO of the costs of approved interregional transmission projects; (iii) revisions to Schedule 12 describing the regional cost allocation within New England of the costs of approved interregional transmission projects; and (iv) conforming changes to Tariff Section I.

Second Order 1000 Interregional Compliance Changes. On July 13, the ISO filed revisions to the ISO-NE Tariff and to the Protocol in response to the *Order 1000 Interregional Compliance Filing Order* ("Second Order 1000 Interregional Compliance Changes"). The Second *Order 1000 Interregional Compliance Changes* were supported by the Participants Committee at the June 25 session of the Summer Meeting. On August 3, NEPOOL filed comments summarizing that support. This matter is pending before the FERC. If you have any comments or concerns, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **Order 1000 Compliance Filing (ER13-193; ER13-196)**

As previously noticed, the FERC issued, on March 19, 2015, its Order on Rehearing and Compliance⁶¹ of the region's *Order 1000* compliance filing.⁶² A memo summarizing the 200-page order in more detail was circulated by NEPOOL Counsel on March 23 and posted on the NEPOOL website Litigation Report Updates page.

ISO Request for Clarification and/or Rehearing. On April 20, the ISO requested clarification and/or re-hearing of the *Order 1000 Compliance Rehearing Order*. Specifically, the ISO requested clarification (i)

⁵⁸ *Participating Transmission Owners Admin. Comm.*, 151 FERC ¶ 61,154 (May 19, 2015) ("*TOs Order 676-H Compliance Order*").

⁵⁹ *Id.* at P 32.

⁶⁰ *ISO New England Inc.*, 151 FERC ¶ 61,133 (May 14, 2015) ("*Order 1000 Interregional Compliance Filing Order*").

⁶¹ *ISO New England Inc.*, 150 FERC ¶ 61,209 (Mar. 19, 2015) ("*Order 1000 Compliance Rehearing Order*"), *clarif. and/or reh'g requested*.

⁶² *ISO New England Inc.*, 143 FERC ¶ 61,150 (May 17, 2013) ("*Order 1000 Compliance Order*"), *order on reh'g* 150 FERC ¶ 61,209 (Mar. 19, 2015).

that the FERC's concerns with the non-discriminatory applicability of the "hold harmless" clause contained in the Non-Incumbent Transmission Developer Operating Agreement ("NTDOA") could be addressed by the inclusion of a similar clause in the Transmission Operating Agreement ("TOA"); and (ii) that no changes are required to comply with Regional Cost Allocation Principle 4 and that language providing that "the costs of any external impacts of New England regional projects will not be borne by New England customers" need not be removed from Schedule 15 of the OATT. On May 4, the TOs submitted comments supporting the ISO's request. On May 15, the FERC issued a tolling order affording it additional time to consider the ISO's request for rehearing, which remains pending before the FERC.

3rd Regional Order 1000 Compliance Filing. On May 18, the ISO and PTO AC jointly submitted revisions to Sections I and II of the ISO Tariff (-005) and to the TOA (-004) to comply with the Mar 19 order on the 2nd Regional *Order 1000* compliance filing. The compliance materials, which were not ready in time for NEPOOL consideration before the May 18 filing deadline, were considered and unanimously supported at the June 5 Participants Committee meeting. On June 5, the Participants Committee filed comments supporting the filing. On June 8, LS Power filed a protest, requesting that the FERC require the ISO to revise Attachment K Section 4.3(k) and the definition of Backstop Transmission Solution as described in its protest. The ISO answered the LS Power protest on June 18. LS Power answered the IO answer on June 26. The 3rd regional *Order 1000* compliance filing remains pending before the FERC.

If you have any comments or concerns, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

V. Financial Assurance/Billing Policy Amendments

No Activity to Report

VI. Schedule 20/21/22/23 Changes

- **Schedule 23: Green Mountain Power SGIA (ER15-2289)**

On July 28, the ISO and Green Mountain Power ("GMP") filed a non-conforming SGIA between the ISO and GMP, as both the Interconnection Customer and the Interconnecting Transmission Owner. The SGIA is non-conforming in that it contains certain deviations from Schedule 23's *pro forma* SGIA that accommodate GMP's status as both the Interconnection Customer and the Interconnecting Transmission Owner. A June 22, 2015 effective date was requested. Comments on this filing are due on or before August 18. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Schedule 21-NEP: Mass Elec/Paxton Facilities Coord. & Backup Service Agreement (ER15-1838)**

On July 15, the FERC accepted an amended Facilities Coordination and Backup Service Agreement Massachusetts Electric Company ("MECO") and Paxton Municipal Light Department ("PMLD"). The Agreement sets forth the terms under which MECO and PMLD maintain mutual backup distribution service for their interconnected distribution facilities. National Grid will provide this service over distribution facilities owned by its affiliate MECO in the event that service to either of the existing primary service delivery points is interrupted. The Agreement was accepted with an April 1, 2015 effective date, as requested. Unless the July 15 order is challenged, this proceeding will be concluded. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Schedule 21-UI: Pootatuck Project Non-Pool Supported Cost Recovery (ER15-1808)**

On July 1, the FERC accepted revisions to Section III.2 of Schedule 21-UI to include the Pootatuck Project in UI's list of transmission projects that include Localized Facilities. The revisions permit UI to recover the portion of the costs of the Pootatuck Project that the ISO determined are not Pool-Supported PTF Costs under Schedule 12C of the ISO OATT. The July 1 order was not challenged, is final and unappealable, and this

proceeding is concluded. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Opinion 531-A Compliance Filing: CTMEEC (ER15-584)**

On December 5, 2014, the ISO submitted on behalf of the Connecticut Transmission Municipal Electric Energy Cooperative (“CTMEEC”) changes to Attachment B to Schedule-21 CTMEEC to conform Schedule-21 CTMEEC to the holdings in *Opinions 531* and *531-A*. Comments, if any, on this filing were due on or before December 26; none were filed and this matter remains pending before the FERC. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **LGIA – NU/CPV Towantic (ER15-200)**

On August 4, the FERC approved the uncontested settlement agreement resolving all issues related to the unexecuted but accepted⁶³ LGIA (LGIA-ISONE/NU-14-02) between CPV Towantic, Eversource and the ISO, governing the interconnection of CPV Towantic’s 795 MW natural gas-fired plant located in Oxford, Connecticut.⁶⁴ Unless the Settlement Agreement Order is challenged, this proceeding will be concluded. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Schedule 21-FG&E Annual Informational Filing (ER09-1498)**

On June 25, 2015, Fitchburg Gas & Electric (“FG&E”) submitted its data and schedules used to calculate its annual transmission revenue requirement for Non-PTF Local Network Transmission Service, Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service as set forth in Schedule 21-FG&E covering the June 1, 2015 – May 31, 2016 period. FG&E reported that its annual revenue requirement reflected in FG&E’s rates effective June 1, 2015 is \$1,452,318, a roughly 22% increase over the previous rate. The FERC will not notice this filing for public comment, and absent further activity, no further FERC action is expected. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Schedule 21-NSTAR Annual Informational Filing (ER09-1243; ER07-549)**

On June 1, 2015, NSTAR submitted an informational filing containing the true-up of billings under Schedule 21-NSTAR for the period January 1, 2014 through December 31, 2014. NSTAR stated that the filing complies with the requirements of Section 4 and Attachment D of Schedule 21-NSTAR, as well as the Settlement Agreement previously approved by the FERC.⁶⁵ On June 30, 2015, NSTAR supplemented its June 1 annual informational filing with a “CWIP Supplement” in accordance with Section 4.1(i) and (ix) of Schedule 21-NSTAR as added and supplemented by Article 4.2 of the 2008 Settlement. The CWIP Supplement was provided primarily on a project-specific basis, and included NSTAR’s 2015 long-range construction forecast. The FERC will not notice these filings for public comment, and absent further activity, no further FERC action is expected. No comments have been filed on either of these informational filings. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Schedule 21-CMP Annual Informational Filing (ER09-938)**

On June 30, CMP submitted its annual update to the formula rates contained in Schedule 21-CMP. CMP indicated that the informational filing reflected actual cost data for the 2014 calendar year plus estimated cost data for the 2015 calendar year associated with CMP’s forecasted transmission plant additions and MPRP CWIP as well as the annual true-up and associated interest. CMP referred to Section 10.2 of Schedule 21-CMP for specific procedures for review and challenges to the informational report. The FERC will not notice this filing for public comment, and absent further activity, no further FERC action is expected. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

⁶³ *ISO New England Inc. and Northeast Utilities Service Co.*, 149 FERC ¶ 61,274 (Dec. 24, 2014).

⁶⁴ *ISO New England Inc. and Northeast Utilities Service Co.*, 152 FERC ¶ 61,109 (Aug. 4, 2015) (“*Settlement Agreement Order*”).

⁶⁵ *See NSTAR Elec. Co.*, 123 FERC ¶ 61,270 at P 5 (2008).

VII. NEPOOL Agreement/Participants Agreement Amendments
--

No Activity to Report

VIII. Regional Reports

- **Opinion 531-A Refund Report: FG&E (EL11-66)**

On June 29, 2015, FG&E filed its refund report for its customers taking local service during the refund period in accordance with *Opinion 531-A*. Comments, if any, on this filing were due on or before July 20; none were filed and this matter is pending before the FERC. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Capital Projects Report - 2015 Q1 (ER15-1710)**

The FERC accepted on June 26 the ISO's Capital Projects Report and Unamortized Cost Schedule covering the first quarter ("Q1") of calendar year 2015 (the "Report"). As previously reported, highlights from the Q1 Report included the following new projects: (i) Business Continuity Plan (BCP) Infrastructure Enhancements Phase III – Markets Infrastructure (\$2.52 million); (ii) Lawson Financial Platform Upgrade (\$495,200); and (iii) NERC Reliability Standard MOD-25 Generator Dynamics Data Management (\$309,700). Projects reported to have had a significant change are: (i) Generation Control Application (GCA) Production Part 1 (\$1.84 million increase); Voltage Stability (\$917,200 increase -- additional requirements and scope; implementation delayed to December 2015); CTS (\$1.516 million decrease – implementation delay permitted work to be shifted to internal ISO-NE resources); GCA Production Part 2 (\$1.5 million decrease – implementation deferred beyond 2015, funds returned to Emerging Work Fund); 3d Party FTR Administration (\$1.455 decrease – regulatory and jurisdictional delays pushing majority of work into 2016); and Divisional Accounting (\$496,800 decrease -- implementation delayed to 2016). The June 26 order was not challenged and is final and unappealable. If you have any questions concerning this matter, please contact Paul Belval (860-275-0381; pnbelval@daypitney.com) or Kristin Sullivan (617-345-4657; kmsullivan@daypitney.com).

- **LFTR Implementation: 27th Quarterly Status Report (ER07-476; RM06-08)**

The ISO filed the twenty-seventh of its Quarterly Status Reports regarding LFTR implementation on July 15. As noted in the business priorities discussions, the ISO reported that it expects to file its proposal (following completion of the Participant Processes) in the first half of 2016. Third party clearing design could then be implemented during Q4 2016 for the 2017 annual FTR auction, about six months later (mid-2017) for monthly auctions, and during Q4 2018 for an initial auction of LFTRs. The estimated 18-month LFTR implementation process, described in previous reports, would be initiated in 2016, presuming the third party clearing design is accepted and related FAP changes resolved. These status reports are not noticed for public comment and no comments have been filed.

- **IMM Quarterly Markets Reports - 2015 Q1 (ZZ15-4)**

On June 9, 2015, the Internal Market Monitor ("IMM") filed with the FERC its report for the first quarter of 2015 of "market data regularly collected by [it] in the course of carrying out its functions under ... Appendix A and analysis of such market data," as required pursuant to Section 12.2.2 of Appendix A to Market Rule 1. These filings are not noticed for public comment by the FERC. A summary of this report will be presented at the Participants Committee's August 7 meeting.

- **IMM 2014 Annual Markets Report (ZZ15-4)**

On May 20, the ISO's IMM filed its 2014 Annual Markets Report, which covers the period from January 1, 2014 to December 31, 2014. The report addresses the development, operation, and performance of the New England Markets and presents an assessment of each market based on market data, performance criteria, and independent studies, providing the information required under Section 17.2.4 of Appendix A to Market Rule 1. On the basis of its review of market outcomes and related information, the IMM concluded, as it has for several years in a row, that the New England Market operated competitively in 2014, with market

concentration low, and energy prices at levels consistent with the short-run marginal cost of production. The IMM reported that, despite milder weather in 2014, energy prices increased from 2013 to 2014, driven primarily by significant increases in fuel prices in the first quarter of 2014. Other highlights included:

- ▶ Total costs increased 12% The increase in costs resulted from an increases in natural gas prices, operating reserve requirements, NCPC (particularly during Q1), and regulation service payments.
- ▶ Reductions in generation availability associated with the availability of natural gas declined in 2014.
- ▶ Increased reliability during 2014 and lower energy prices following Q1 2014 attributed to a combination of market fundamentals (e.g. increased LNG supply in late 2014, lower oil prices, a mild summer) and market rule changes.
- ▶ Real-Time Operating Reserve payments declined to \$38.6 million in 2014 from \$54.0 million in 2013.
- ▶ Payments to resources providing regulation service totaled \$28.8 million in 2014, a 41% increase from 2013. Order 755-related changes to the methodology for calculating regulation service payments, and increased natural gas prices, contributed to the increased cost of regulation service.
- ▶ The IMM conclusion that the 1.75 ratio (of a generator's higher-priced to lower-price fuel index), used to determine when dual-fuel generators should be exempt from the requirement to justify and verify the use of the higher-priced fuel, continues to be a reasonable and appropriate indicator of oil and natural gas price convergence and consequently should remain as the exemption threshold.

The IMM renewed its recommendation that the Market Rules should be revised so that Real-Time NCPC charges do not prevent virtual transactions from improving the liquidity in the Day-Ahead Energy Market. This recommendation and other report highlights will be discussed in more detail at the Participants Committee's August 7 meeting.

IX. Membership Filings

- **August 2015 Membership Filing (ER15-2339)**

On July 31, NEPOOL requested that the FERC accept the membership of AmericaWide Energy (Supplier Sector); CLEAResult Consulting (AR Sector, DG Sub-Sector); Guzman Energy (Supplier Sector); and Harborside Energy of Massachusetts (Supplier Sector). Comments on this filing are due on or before August 21, 2015.

- **July 2015 Membership Filing (ER15-2088)**

On June 30, NEPOOL requested that the FERC accept (i) the membership of Bucksport Generation; Bath Iron Works and Longreach Energy; and Interstate Gas Supply; and (ii) the termination of the Participant status of Great Bay Energy IV, LaBree's Inc. and Labree's Energy, and Solios Power. The FERC accepted the memberships and terminations on July 29, 2015.

- **June 23, 2015 Membership Filing (ER15-1959)**

On July 22, the FERC accepted the membership of New England Energy Connection (Provisional Member; Wallingford Energy Related Person) and the name change of Talen Energy Marketing (f/k/a PPL EnergyPlus).

- **June 2015 Membership Filing (ER15-1807)**

On July 2, the FERC accepted the termination of the Participant status of Provisional Member New England ITC.

X. Misc. - ERO Rules, Filings; Reliability Standards

Questions concerning any of the ERO Reliability Standards or related rule-making proceedings or filings can be directed to Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **FFT Report: July 2015 (NP15-32)**

NERC submitted on July 30, 2015 its Find, Fix, Track and Report (“FFT”) informational filing for the month of July 2015. The July FFT resolves 26 possible violations of 6 Reliability Standards that posed a risk minimal risk to bulk power system (“BPS”) reliability, but which have since been remediated.⁶⁶ FFT filings are for information only and are not be noticed for public comment by the FERC.

- **FFT Report: June 2015 (NP15-30)**

NERC submitted on June 30, 2015 its FFT informational filing for the month of June 2015. The June FFT resolves 20 possible violations of 7 Reliability Standards that posed a risk minimal risk to BPS reliability, but which have since been remediated.

- **Revised Reliability Standards: PRC-004-5; PRC-010-2 (RD15-5)**

On June 8, 2015, NERC filed for approval changes to PRC-004-5 (Protection System Misoperation Identification and Correction) and PRC-010-2 (Under Voltage Load Shedding). The proposed Reliability Standards address misoperation of undervoltage load shedding (“UVLS”) equipment and were developed as Phase 2 of NERC’s pending proposal to consolidate UVLS Program Reliability Standards. Comments on this filing were due on or before July 9, 2015; none were filed. On July 7, NERC proposed revisions to the Violation Risk Factors (“VRF”) for Requirements R1 through R6 of PRC-004-5 (as well as for PRC-004-3 and PRC-004-5). Comments on the July 7 filing are due on or before August 7.

- **Revised Reliability Standard: CIP-014-2 (RD15-4)**

On July 14, the FERC approved CIP-014-2 (Physical Security) which, consistent with Order 802,⁶⁷ removes the term “widespread” from Requirement R1. CIP-014-2 became effective on the date of the order, or July 14, 2015. Unless the July 14 order is challenged, this proceeding will be concluded.

- **NOPR: Revised TOP and IRO Reliability Standards (RM15-16)**

On June 18, 2015, the FERC issued a NOPR proposing to approve changes reflected in the following Transmission Operations (“TOP”) and Interconnection Reliability Operations and Coordination (“IRO”) Reliability Standards:⁶⁸

- TOP-001-3 (Transmission Operations);
- TOP-002-4 (Operations Planning);
- TOP-003-3 (Operational Reliability Data);
- IRO-001-4 (Reliability Coordination – Responsibilities);
- IRO-002-4 (Reliability Coordination –Monitoring and Analysis);
- IRO-008-2 (Reliability Coordinator Operational Analyses and Real-time Assessments);
- IRO-010-2 (Reliability Coordinator Data Specification and Collection);
- IRO-014-3 (Coordination Among Reliability Coordinators); and

⁶⁶ Only possible violations that pose a minimal risk to Bulk-Power System reliability are eligible for FFT treatment. See *N. Am. Elec. Reliability Corp.*, 138 FERC ¶ 61,193 (Mar. 15, 2012) at PP 46-56.

⁶⁷ *Physical Security Reliability Standard*, Order No. 802, 149 FERC ¶ 61,140 (Nov. 20, 2014) (“*Order 802*”), *reh’g denied*, 151 FERC ¶ 61,066 (Apr. 23, 2015).

⁶⁸ *Transmission Operations Reliability Standards and Interconnection Reliability Operations and Coordination Reliability Standards*, 151 FERC ¶ 61,236 (May 14, 2015) (“*TOP/IRO NOPR*”).

▸ IRO-017-1 (Outage Coordination).

NERC indicated that the TOP/IRO Standards, which supersede the changes submitted in RM13-15, -14, and -12, but concurrently withdrawn, include improvements over the currently effective TOP and IRO Reliability Standards in key areas such as: (1) operating within SOLs and IROLs; (2) outage coordination; (3) situational awareness; (4) improved clarity and content in foundational definitions; and (5) requirements for operational reliability data. NERC requested that the TOP/IRO Changes be approved as of the first day of the first calendar quarter that is 12 months after the date that the Standards are approved, with the exception of TOP-003-3 and proposed IRO-010-2, which were requested to be approved 3 months earlier. On May 12, NERC supplemented its March 18 filing by removing Load Serving Entities (“LSEs”) from the applicability of proposed Reliability Standard TOP-001-3 in light of the FERC’s order on NERC’s Risk-Based Registration (“RBR”) initiative.⁶⁹ Comments on this NOPR are due on or before August 24, 2015.⁷⁰

- **NOPR: Revised Reliability Standards: CIP-003-6, CIP-004-6, CIP-006-6, CIP-007-6, CIP-009-6, CIP-010-2, CIP-011-2 (RM15-14)**

On July 16, 2015, the FERC issued a NOPR proposing to approve changes to seven CIP (“Critical Infrastructure Protection”) Reliability Standards to improve the cyber security protections required by the CIP Standards and address four directives from *Order 791* (the “Supply Chain Cyber Controls Changes”).⁷¹ NERC stated that the Supply Chain Cyber Controls Changes (i) remove the “identify, assess, and correct” language from the 17 requirements in the CIP Version 5 Standards that included such language; (ii) require responsible entities to implement cyber security plans for assets containing low impact BES Cyber Systems; (iii) include specific requirements applicable to transient devices to further mitigate the security risks associated with such devices; and (iv) require entities to implement security controls for non-programmable components of communication networks at Control Centers with high or medium impact BES Cyber Systems. NERC requested that the Supply Chain Cyber Controls be approved, effective on **April 1, 2016**. Comments on the *Revised CIPs NOPR* are due on or before September 21, 2015.⁷²

- **Revised Reliability Standards: Transition to “Remedial Action Scheme”, PRC-010-1, EOP-011-1 (RM15-13, RM15-12; RM15-7)**

On June 18, the FERC issued a NOPR⁷³ proposing to approve three related NERC petitions that revise (i) the definition of “Remedial Action Scheme” and nearly 20 Reliability Standard to insert that term in place of the term “Special Protection System”, which are used interchangeably throughout the Reliability Standards (the “RAS Changes”) (RM15-13); (ii) PRC-010-1 (Undervoltage Load Shedding), a definition of “Undervoltage Load Shedding Program (UVLS Program)”, and associated VRFs and VSLs (together, the “UVLS Changes”) (RM15-12); and (iii) EOP-011-1 (Emergency Operations), a revised definition of “Energy Emergency”, and associated VRFs and VSLs (together, the “Emergency Operations Changes”) (RM15-7). Comments on this NOPR are due on or before August 24, 2015.⁷⁴

- **NOPR: New Reliability Standard: TPL-007-1 (RM15-11)**

On May 14, 2015, FERC issued a NOPR proposing to approve a new Reliability Standard -- TPL-007-1 (Geomagnetic Disturbance Operations) -- and one new definition (Geomagnetic Disturbance Vulnerability

⁶⁹ *N. Am. Elec. Reliability Corp.*, 150 FERC ¶ 61,213 (2015) (“RBR Order”).

⁷⁰ The *TPL/IRO NOPR* was published in the *Fed. Reg.* on June 24, 2015 (Vol. 80, No. 121) pp. 36,280-36,293.

⁷¹ *Revised Critical Infrastructure Protection Reliability Standards*, 152 FERC ¶ 61,054 (July 16, 2015) (“*Revised CIPs NOPR*”).

⁷² The *Revised CIPs NOPR* was published in the *Fed. Reg.* on July 22, 2015 (Vol. 80, No. 140) pp. 43,354-43,367.

⁷³ Revisions to Emergency Operations Reliability Standards; Revisions to Undervoltage Load Shedding Reliability Standards; Revisions to the Definition of “Remedial Action Scheme” and Related Reliability Standards, 151 FERC ¶ 61,230 (June 18, 2015).

⁷⁴ The *NOPR* was published in the *Fed. Reg.* on June 24, 2015 (Vol. 80, No. 121) pp. 36,293-36,301.

Assessment), associated VRFs and VSLs (together, the “GMD Operations Changes”).⁷⁵ In addition, the FERC proposes to direct NERC (i) to develop modifications to the benchmark GMD event definition set forth in TPL-007-1 Attachment 1 so that the definition is not based solely on spatially-averaged data and (ii) to submit a work plan, and subsequently one or more informational filings, that address specific GMD-related research areas. As previously reported, NERC stated that the GMD Operations Changes address the FERC’s directive in *Order 779* that NERC develop a Reliability Standard that requires owners and operators of the Bulk-Power System to conduct initial and on-going vulnerability assessments of the potential impact of benchmark geomagnetic disturbance events on the Bulk-Power System equipment and the Bulk-Power System as a whole.⁷⁶ NERC requested the FERC approve a five-year phased implementation plan for compliance with TPL-007-1. Comments on this NOPR were due on or before July 27, 2015.⁷⁷ Since the last Report, comments were filed by over 20 parties, including ISO-NE/NYIOS/PJM/MISO/IESO, EEI, Exelon, and NERC. This matter is pending before the FERC.

- **NOPR: Revised Reliability Standard: PRC-005-4 (RM15-9)**

On April 16, 2015, the FERC issued a NOPR proposing to approve changes to PRC-005-4 (Protection System, Automatic Reclosing, and Sudden Pressure Relaying Maintenance), one new (Sudden Pressure Relaying) and four revised definitions (Protection System Maintenance Program, Component Type, Component, and Countable Event), and the associated VRFs and VSLs (together, the “PRC-005 Changes”).⁷⁸ As previously reported, NERC stated that the PRC-005 Changes address FERC concerns expressed in the *Order 758* proceeding that NERC’s proposed interpretation of PRC-005-1 may not include all components that serve in some protective capacity.⁷⁹ NERC requested that the PRC-005 Changes be approved, effective on the first day of the first calendar quarter following FERC approval. Comments on this NOPR were due on or before June 22, 2015⁸⁰ and were filed by: EEI, NERC, NRECA, Southern Company Services, and TVA. This matter is pending before the FERC.

- **New Reliability Standard: PRC-026-1 (RM15-8)**

On December 31, 2014, NERC filed for approval a new Standard, PRC-026-1 (Relay Performance During Stable Power Swings) and associated VRFs and VSLs (the “PRC-026 Standard”) in response to the FERC’s directive in *Order 733*⁸¹ to develop a Reliability Standard addressing undesirable relay operation due to stable power swings. NERC requested that PRC-026 be approved, effective as follows: R1 on the first day of the first full calendar year that is 12 months after FERC approval; R2-R4 on the first day of the first full calendar year that is 36 months after FERC approval. As of the date of this Report, the FERC has not noticed a proposed rulemaking proceeding or otherwise invited public comment.

⁷⁵ *Reliability Standard for Transmission System Planned Performance for Geomagnetic Disturbance Events*, 151 FERC ¶ 61,134 (May 14, 2015) (“*TPL-007 NOPR*”).

⁷⁶ *Reliability Standards for Geomagnetic Disturbances*, Order No. 779, 143 FERC ¶ 61,147 (“*Order 779*”).

⁷⁷ The *TPL-007 NOPR* was published in the *Fed. Reg.* on May 26, 2015 (Vol. 80, No. 100) pp. 29,990-30,001.

⁷⁸ *Protection System, Automatic Reclosing, and Sudden Pressure Relaying Maintenance Reliability Standard*, 151 FERC ¶ 61,026 (Apr. 16, 2015) (“*Protection System NOPR*”).

⁷⁹ *Interpretation of Protection System Reliability Standard*, Notice of Proposed Rulemaking, 133 FERC ¶ 61,223 (2010) at P 11; *Interpretation of Protection System Reliability Standard*, Order No. 758, 138 FERC ¶ 61,094 (“*Order 758*”), *order on reh’g*, 139 FERC ¶ 61,227 (2012).

⁸⁰ The *Protection System NOPR* was published in the *Fed. Reg.* on Apr. 22, 2015 (Vol. 80, No. 77) pp. 22,444-22,449.

⁸¹ *Transmission Relay Loadability Reliability Standard*, Order No. 733, 130 FERC ¶ 61,221 (2010); *order on reh’g and clarif.*, Order No. 733-A, 134 FERC ¶ 61,127 (2011); *clarified*, Order No. 733-B, 136 FERC ¶ 61,185 (2011) (“*Order 733*”).

- **NOPR: Revised Reliability Standard: PRC-002-2 (RM15-4)**

On April 16, 2015, the FERC issued a NOPR proposing to approve changes to PRC-002-2 (Disturbance Monitoring and Reporting Requirements), associated VRFs and VSLs, and the retirement of PRC-002-1 (Define Regional Disturbance Monitoring and Reporting Requirements) and PRC-018-1 (Disturbance Monitoring Equipment Installation and Data Reporting) (together, the “PRC-002 Changes”).⁸² As previously reported, NERC stated that the PRC-002 Changes address FERC concerns expressed in *Order 693*⁸³ with the “fill in the blank” aspects in PRC-002-1 and PRC-018-1.⁸⁴ NERC requested that the PRC-002 Changes be approved, effective on the first day of the first calendar quarter six months following FERC approval. Comments on this NOPR were due on or before June 22, 2015⁸⁵ and were filed by APPA, Bonneville, and NERC. NERC submitted reply comments on July 13. This matter is pending before the FERC.

- **Order 810: Revised Reliability Standard: BAL-001-2 (RM14-10)**

Also on April 16, the FERC approved changes to BAL-001-2 (Real Power Balancing Control Performance) (“BAL-001 Changes”).⁸⁶ In addition, the FERC required NERC (i) to submit an informational filing addressing the impact of the proposed Reliability Standard on inadvertent interchange and unscheduled power flows and (ii) to revise the definition of Reporting ACE.⁸⁷ As previously reported, the BAL-001 Changes add a frequency component to the measurement of a Balancing Authority’s Area Control Error (“ACE”) and allow for the formation of “Regulation Reserve Sharing Groups.” The BAL-001 Changes will become effective June 1, 2016. On May 18, Powerex requested clarification or, in the alternative, rehearing of *Order 810*, requesting that the FERC (i) direct all Balancing Authorities in the Western Interconnection to disclose and publish their clock-minute ACE data no later than 30 days after the end of each month; and (ii) clarify that the informational filing should detail the extent to which unscheduled flows associated with BAA imbalances required curtailment of transmission schedules or other mitigation measures. On June 12, the FERC issued a tolling order affording it additional time to consider the Powerex request, which remains pending before the FERC.

- **NOPR: Revised Reliability Standard: MOD-001-2 (RM14-7)**

The MOD-001-2 NOPR remains pending before the FERC. On June 19, 2014, the FERC issued a NOPR proposing to approve changes to MOD-001-2 (Modeling, Data, and Analysis - Available Transmission System Capability) (“MOD Changes”) proposed by NERC. The MOD Changes replace, consolidate and improve upon the Existing MOD Standards in addressing the reliability issues associated with determinations of Available Transfer Capability (“ATC”) and Available Flowgate Capability (“AFC”). MOD-001-2 will replace the six Existing MOD Standards⁸⁸ to exclusively focus on the reliability aspects of ATC and AFC determinations. NERC requested that the revised MOD Standard be approved, and the Existing MOD Standards be retired, effective on the first day of the first calendar quarter that is 18 months after the date that the proposed Reliability Standard is approved by the FERC. NERC explained that the implementation period is intended to provide NAESB sufficient time to include in its WEQ Standards, prior to MOD-001-2’s effective date, those elements from the Existing

⁸² *Disturbance Monitoring and Reporting Requirements Reliability Standard*, 151 FERC ¶ 61,042 (Apr. 16, 2015) (“PRC-002 NOPR”).

⁸³ *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, 72 FR 16416, FERC Stats. & Regs. ¶ 31,242, at PP 1131-1222, *order on reh’g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007) (“*Order 693*”).

⁸⁴ *Interpretation of Protection System Reliability Standard*, Notice of Proposed Rulemaking, 133 FERC ¶ 61,223 (2010) at P 11; *Interpretation of Protection System Reliability Standard*, Order No. 758, 138 FERC ¶ 61,094 (“*Order 758*”), *order on reh’g*, 139 FERC ¶ 61,227 (2012).

⁸⁵ The PRC-002 NOPR was published in the *Fed. Reg.* on Apr. 22, 2015 (Vol. 80, No. 77) pp. 22,441-22,444.

⁸⁶ *Real Power Balancing Control Performance Rel. Standard*, Order No. 810, 151 FERC ¶ 61,048 (“*Order 810*”), *clarification and/or reh’g requested*.

⁸⁷ *Id.* at P 20.

⁸⁸ The 6 existing MOD Standards to be replaced by MOD-001-2 are: MOD-001-1, MOD-004-1, MOD-008-1, MOD-028-2, MOD-029-1a and MOD-030-2.

MOD Standards, if any, that relate to commercial or business practices and are not included in proposed MOD-001-2. The FERC seeks comment from NAESB and others whether 18 months would provide adequate time for NAESB to develop related business practices associated with ATC calculations or whether additional time may be appropriate to better assure synchronization of the effective dates for the proposed Reliability Standard and related NAESB practices. The FERC also seeks further elaboration on specific actions NERC could take to assure synchronization of the effective dates. Comments on this NOPR were due August 25, 2014,⁸⁹ and were filed by NERC, Bonneville, Duke, MISO, and NAESB. On December 19, 2014, NAESB supplemented its comments with a report on its efforts to develop WEQ Business Practice Standards that will support and coordinate with the MOD Standards proposed in this proceeding. As noted above, the MOD-001-2 NOPR remains pending before the FERC.

- **NOPR: BAL-002-1a Interpretation Remand (RM13-6)**

This May 16, 2013 NOPR, which proposes to remand NERC's proposed interpretation of BAL-002 (Disturbance Control Performance Reliability Standard) filed February 12, 2013 (which would prevent Registered Entities from shedding load to avoid possible violations of BAL-002), remains pending.⁹⁰ NERC asserted that the proposed interpretation clarifies that BAL-002-1 is intended to be read as an integrated whole and relies in part on information in the Compliance section of the Reliability Standard. Specifically, the proposed interpretation would clarify that: (1) a Disturbance that exceeds the most severe single Contingency, regardless if it is a simultaneous Contingency or non-simultaneous multiple Contingency, would be a reportable event, but would be excluded from compliance evaluation; (2) a pre-acknowledged Reserve Sharing Group would be treated in the same manner as an individual Balancing Authority; however, in a dynamically allocated Reserve Sharing Group, exclusions are only provided on a Balancing Authority member by member basis; and (3) an excludable Disturbance was an event with a magnitude greater than the magnitude of the most severe single Contingency. The FERC, however, proposes to remand the proposed interpretation because it believes the interpretation changes the requirements of the Reliability Standard, thereby exceeding the permissible scope for interpretations. Comments on the *BAL-002-1a Interpretation Remand NOPR* were due on or before July 8, 2013,⁹¹ and were filed by NERC, EEI, ISO/RTO Council, MISO, NC Balancing Area, Northwest Power Pool Balancing Authorities, NRECA, and WECC. This NOPR remains pending before the FERC.

- **Compliance Filing: BES Exclusions for Local Network Configurations (RM12-6)**

On July 1, 2015, NERC submitted, pursuant to *Order 773*, a compliance filing identifying in detail the types of local network configurations that may be excluded from the bulk electric system ("BES") following the implementation of the revised definition of the BES under Exclusion E3 of that definition. As of the date of this Report, the FERC has not noticed the compliance filing or otherwise invited public comment.

- **Removal of LSE Category from NERC Compliance Registry (RR15-4)**

On July 17, 2015, NERC filed for FERC approval the removal of the Load-Serving Entity ("LSE") functional registration category from the NERC Compliance Registry ("NCR"), as well as additional limited changes to the NERC Rules of Procedure ("ROP"). Comments on this filing are due on or before August 17, 2015.

- **Revised Regional Delegation Agreements (RR15-12)**

On June 26, NERC requested approval of revised Regional Delegation Agreements ("RDAs") with each of the eight Regional Entities, including NPCC, to be effective January 1, 2016, replacing the currently effective RDAs whose terms expire December 31, 2015. The revised RDAs will have five-year terms that automatically renew for another five-year term unless either party gives notice to terminate one year in advance of the end of the term. NERC stated that it and the Regional Entities believe the revised RDAs will enhance clarity and

⁸⁹ The MOD-001-2 NOPR was published in the *Fed. Reg.* on June 26, 2014, (Vol. 79, No. 123) pp. 36,269-36,273.

⁹⁰ *Electric Reliability Organization Interpretation of Specific Requirements of the Disturbance Control Performance Standard*, 143 FERC ¶ 61,138 (2013) ("*BAL-002-1a Interpretation Remand NOPR*").

⁹¹ The *BAL-002-1a Interpretation Remand NOPR* was published in the *Fed. Reg.* on May 23, 2013 (Vol. 78, No. 99) pp. 30,245-30,810.

consistency in the operations of the ERO, and will also provide for flexibility without diminishing NERC's oversight authority over the Regional Entities' performance of their delegated functions. Comments on the RDA revisions were due on or before Jul 27. Joint comments were submitted by APPA/TAPS, the Large Public Power Council, Public Utility District No. 1 of Snohomish County, WA, and Avista, Idaho Power, Portland General Electric, Puget Sound Energy, and the Tri-State Generation Association (with respect to the WECC Delegation Agreement. This matter is pending before the FERC.

XI. Misc. - of Regional Interest

- **203 Application: CSC/AIA Energy (EC15-122)**

On June 1, the FERC authorized a transaction whereby Cross-Sound Cable ("CSC") will become an indirect, wholly-owned subsidiary of AIA Energy North America LLC ("AIA Energy") (and no longer a Related Person of Brookfield Energy Marketing).⁹² CSC and AIA Energy must notify the FERC within 10 days of the date that the disposition of jurisdictional facilities has been consummated. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **203 Application: Iberdrola/CMP/ Emera (EC15-103)**

On June 2, the FERC authorized a transaction whereby UIL Holdings Corp ("UI") will become an indirect, wholly-owned subsidiary of Iberdrola, S.A (and a Related Person of Central Maine Power Company, Iberdrola Renewables, LLC, and New York State Electric & Gas Corporation).⁹³ Iberdrola and UI must notify the FERC within 10 days of the date that the disposition of jurisdictional facilities has been consummated. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **FirstEnergy PJM DR Complaint (EL14-55)**

On May 23, 2014, the same day that DC Circuit vacated *Order 745* (see Section XV below), FirstEnergy filed a complaint against PJM requesting that the FERC require the "removal of all portions of the PJM Tariff allowing or requiring PJM to include demand response as suppliers to PJM's capacity markets." FirstEnergy also requested that the results of the PJM capacity auction due to be released that same day, to the extent it included and cleared demand response resources, be considered void and legally invalid. PJM's response, and all comments and interventions were initially due on or before June 12, 2014. However, on June 11, the FERC extended that date to 30 days after the submission by FirstEnergy of an amended complaint. FirstEnergy filed its amended complaint on September 22, 2014.

Comments on the FirstEnergy Complaint were due October 22, 2014. More than 40 parties filed comments or responses to the FirstEnergy amended complaint. Many parties filed comments supporting the complaint (including Calpine, PSEG and PPL), while others opposed the complaint in its entirety (including Direct Energy and Enerwise). PJM's response argued that the complaint failed to justify the market disruption that would result from recalculating past capacity auction results, PJM was instead more focused on minimizing "litigation risk." A number of parties filed supporting comments in favor of removing demand response resources from the PJM tariff moving forward, but opposed to recalculating the results of past capacity auctions (including Exelon, the PJM IMM and NRG). Comments were also filed by National Grid and NYISO. A number of New England parties intervened, including NEPOOL (stressing that the FERC should not apply any ruling in this docket to the New England Market), Dominion, Duke Energy, Dynegy, Essential Power, Macquarie Energy, NEPGA, NESCOE, and NextEra. On November 14, FirstEnergy filed an answer to the answers, protests and comments submitted in response to its Complaint and Amended Complaint. Environmental Advocates⁹⁴ filed an answer to FirstEnergy's answer on November 21. Since the

⁹² *Cross-Sound Cable Co., LLC and AIA Energy North America, LLC*, 151 FERC ¶ 62,145 (June 1, 2015).

⁹³ *Iberdrola, S.A. et al.*, 151 FERC ¶ 62,148 (June 2, 2015).

⁹⁴ "Environmental Advocates" are Sustainable FERC Project, Natural Resources Defense Council ("NRDC"), Sierra Club, Environmental Defense Fund, Environmental Law and Policy Center, and Acadia Center (f/k/a Environment Northeast).

last Report, CPower and Advanced Energy Management Alliance filed answers to the FirstEnergy and other answers and pleadings. On December 23, Environmental Advocates moved to lodge the US Solicitor General's application for an extension of time in which to file a petition for writ of certiorari, the Supreme Court Clerk's notice to the DC Circuit that the extension had been granted, and the DC Circuit's order extending the stay of its mandate pending the Supreme Court's final disposition of the writ of certiorari. This matter remains pending before the FERC. If you have any questions concerning this matter, please contact Jamie Blackburn (jblackburn@daypitney.com; 202-218-3905) or Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **Study Agreement Termination: Eversource/Brookfield (ER15-2218)**

On July 16, Eversource filed a notice of termination of a Study Agreement between Eversource (PSNH) and Brookfield Power US Asset Management LLC ("Brookfield") (designated as service agreement SA-1 under PSNH's eTariff files). The Agreement compensated PSNH for the costs incurred for the now completed study of the potential upgrades to the Coos Loop that could increase the Total Transfer Capability of the Coos Loop and thereby increase the likelihood that Brookfield's Granite Wind Facility would be dispatched pursuant to Market Rule 1. Eversource requested that the termination of the Agreement be accepted for filing as of July 1, 2015, the date the Agreement expired in accordance with its terms. Comments on this filing are due on or before August 6, 2015. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **E&P Agreement MEPCO/Number Nine Wind Farm (ER15-2060)**

On June 29, MEPCO filed an Amended and Restated Second Engineering and Procurement Agreement ("E&P Agreement") between MEPCO and Number Nine Wind Farm LLC ("Number Nine") (designated as service agreement MEPCO-EP-2 under MEPCO's eTariff files). The E&P Agreement sets forth the terms and conditions under which MEPCO will provide engineering and procurement services to Number Nine in connection with Number Nine's planned 250 MW wind farm in Aroostook County, Maine. MEPCO requested that the E&P Agreement be accepted for filing as of June 29, 2015. Comments on this filing were due on or before July 20, 2015, and none were filed. This matter is pending before the FERC. If there are questions on these matters, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **EPC Agreement: Blue Sky West & Emera Maine (ER15-1459)**

As previously reported, Emera Maine filed on April 7 an executed Engineering, Procurement, and Construction Agreement ("EPC Agreement") Agreement with Blue Sky West, LLC ("Blue Sky West") to facilitate the interconnection of the Blue Sky West's 191 MW wind farm in Bingham, Mayfield Township and Kingsbury Plantation, Maine. While the Blue Sky West facility will be located in CMP's service territory, upgrades and modifications at Orrington Substation, in part owned by Emera Maine, are required and will be covered under the EPC Agreement. A March 6, 2015 effective date was requested. SunEdison filed a doc-less intervention. No comments on the EPC Agreement filing were submitted before the April 28 comment date. This matter remains pending before the FERC. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Emera MPD OATT Changes (ER15-1429)**

On April 1, Emera Maine filed changes to the Open Access Transmission Tariff ("OATT") for Maine Public District ("MPD OATT"), including to the rates, terms, and conditions set forth in MPD OATT Attachment J. Emera Maine, as successor to Maine Public Service Company ("Maine Public"), provides open access to Emera Maine's transmission facilities in northern Maine (the "MPD Transmission System") pursuant to the MPD OATT. The changes to the MPD OATT are needed to ensure that, in light of the filing by Emera of consolidated FERC Form 1 data (data comprising both the former Bangor Hydro and Maine Public systems), charges for service under the MPD OATT reflect only the costs of service over the MPD Transmission System. Emera Maine also proposed additional, limited changes to the MPD OATT. A June 1,

2015 effective date was requested. On April 9, the “Maine Customer Group”⁹⁵ filed a motion to reject (“Motion to Reject”) the April 1 Filing, asserting the April 1 Filing was deficient because, rather than actual rates, it included proxy rates that MPD said would be replaced with 2014 Form 1 numbers when MPD’s 2014 Form 1 was available. On April 22, the Maine PUC and the Maine Customer Group protested the filing. The MPUC challenged three aspects of the filing: (i) the proposed increase of ROE from 9.75% to 10.20% based on anomalous economic conditions; (ii) the change from a measured loss factor calculation to a fixed loss factor; and (iii) the use of end-of-year account balances, rather than average 13-month account balances, for determination of facilities that are included in rate base. In addition to those aspects, the Maine Customer Group further challenged: (iv) inclusion of an out-of-period adjustment to rate base for forecasted transmission; (v) the proposed capital structure, which they assert is artificially distorted to accommodate a requirement resulting from the merger of Emera Maine’s predecessor companies; and (vi) the proposed new cost allocation scheme. On April 24, Emera Maine answered the Maine Customer Group’s Motion to Reject. On April 29, the Maine Customer Group answered Emera Maine’s April 24 answer. On May 1, Emera Maine filed an amendment and errata to its April 1 filing, in part reflecting 2014 FERC Form 1 data rather than estimated data. On May 7, Emera Maine answered the April 22 Maine PUC and MCG protests and the MCG’s April 29 answer. On May 8, MCG moved to compel revision to Emera’s May 1 filing, asserting that it was not filed in accordance with Emera’s OATT, and specifically the Protocols for Implementing and Reviewing Charges Established by the Attachment J Rate Formulas (the “Protocols”). MCG also protested the May 1 filing on May 22. On May 26, Emera Maine answered MCG’s May 8 Motion to Compel, which MCG answered the next day. This matter remains pending before the FERC.

- **MISO Methodology to Involuntarily Allocate Costs to Entities Outside Its Control Area (ER11-1844)**

On December 18, 2012, Judge Sterner issued his 374-page initial decision which, following hearings described in previous reports, found at its core that “it is unjust, unreasonable, and unduly discriminatory to allocate costs of Phase Angle Regulating Transformers (“PARs”) of the International Transmission Company (“ITC”) to NYISO and PJM”,⁹⁶ which the Midwest ISO (“MISO”) and ITC proposed unilaterally to do (without the support of either PJM or NYISO) in its October 20, 2010 filing initiating this proceeding. For a summary of specific findings, please refer to any of the January to June 2013 Reports.

On January 17, 2013, ITC and MISO challenged the Initial Decision through their Brief on Exceptions. Briefs opposing exceptions were filed by the FERC Trial Staff, MISO TOs, NYISO, NY TOs, PJM, and the PJM TOs. On February 25, Joint Applicants moved to strike a portion of the PJM Brief Opposing Exceptions. On March 12, PJM answered Joint Applicants February 25 motion. MISO (now called “Midcontinent Independent System Operator, Inc.”) moved to lodge a NYISO “Broader Regional Markets Informational Report” filed March 19, 2014 in ER08-1281 and a related January 16, 2014 “Ontario-Michigan Interface PAR Performance Evaluation Report” (“Evaluation Report”) prepared by MISO, IESO and PJM. Oppositions to that motion to lodge were filed by FERC Staff, NYISO, NY TOs, PJM, and PSEG. This matter remains pending before the FERC. If there are any questions on this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **FERC Enforcement Action: Staff Notices of Alleged Violations (IN__ - __)**

Etracom/M. Rosenberg. On July 27, 2015, the FERC issued a notice that Staff has preliminarily determined that Etracom LLC (“Etracom”) and Michael Rosenberg violated the FERC’s Anti-Manipulation Rule by engaging in manipulative virtual trading at the New Melones Intertie in the CAISO footprint during May 2011. Enforcement has preliminarily determined that Etracom’s trades were intended to artificially lower the day-ahead LMP to benefit Etracom’s congestion revenue rights positions sourced at the same location. During the period in question, Rosenberg was Etracom’s principal trader and majority owner.

⁹⁵ The “Maine Customer Group (“MCG”) is comprised of: the Maine Office of the Public Advocate (“MOPA”), Houlton Water Company (“Houlton”), Van Buren Light and Power District (“Van Buren”), and Eastern Maine Electric Cooperative, Inc. (“EMEC”).

⁹⁶ *Midwest Indep. Trans. Sys. Op., Inc.*, 141 FERC ¶ 63,021 (Dec. 18, 2012) (“*MISO Initial Decision*”) at P 923.

Recall that Notices of Alleged Violations (“NoVs”) are issued only after the subject of an enforcement investigation has either responded, or had the opportunity to respond, to a preliminary findings letter detailing Staff’s conclusions regarding the subject’s conduct.⁹⁷ NoVs are designed to increase the transparency of Staff’s nonpublic investigations conducted under Part 1b of its regulations. A NoV does not confer a right on third parties to intervene in the investigation or any other right with respect to the investigation.

- **FERC Enforcement Action: City Power Marketing and Tsingas (IN15-5)**

On July 2, 2015, the FERC found that City Power Marketing, LLC (“City Power”) and K. Stephen Tsingas (“Tsingas”, and together with City Power, the “City Power Respondents”) violated the FERC’s Anti-Manipulation Rules by engaging in fraudulent Up To Congestion (“UTC”) transactions in PJM’s energy markets.⁹⁸ City Power Respondents were jointly and severally required to disgorge unjust profits of **\$1,278,358** and to assessed **\$15 million** in civil penalties (City Power (\$14 million) and Tsingas (\$1 million)). As previously reported, Enforcement Staff alleged that (i) City Power and Tsingas violated the FERC’s Anti-Manipulation Rule by engaging in manipulative Up To Congestion trading in PJM during July 2010; and (ii) City Power violated the FERC’s market behavior rules (18 C.F.R. § 35.41 (2014)) by making false statements and omitting material information during the investigation. Given City Power Respondents’ election under section 31(d)(3)(A) of the FPA, the *City Power Mktg Penalties Order* will not be subject to rehearing. If the penalties are unpaid within 60 days, the FERC will institute a proceeding in the appropriate district court seeking an order affirming the assessment of the civil penalties. That court will have the authority to review *de novo* the law and facts involved; and will have the jurisdiction to enforce, modify, or set aside, in whole or in part, the penalty assessment. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

XII. Misc. - Administrative & Rulemaking Proceedings

- **Price Formation in RTO/ISO Energy & Ancillary Services Markets (AD14-14)**

On June 19, 2014, the FERC initiated a proceeding to evaluate price formation issues in RTO/ISO energy and ancillary services markets. In its notice, the FERC announced a series of staff workshops to facilitate a discussion with market operators and their stakeholders on the existing market rules and operational practices related to the use of uplift payments, offer price mitigation and offer price caps, scarcity and shortage pricing, and operator actions that affect price. The first workshop, held September 8, 2014, focused on the technical, operational and market issues that give rise to uplift payments and the levels of transparency. The second workshop, held October 28, 2014, focused on the technical, operational, and market issues related to offer price mitigation and offer price caps, and scarcity and shortage pricing in energy and ancillary services markets operated by RTOs/ISOs. In advance of the second workshop, FERC staff posted two reports, one on shortage pricing in RTO/ISO markets (<http://www.ferc.gov/legal/staff-reports/2014/AD14-14-pricingrto-iso-markets.pdf>), the other on energy offer mitigation in RTO/ISO markets (<http://www.ferc.gov/legal/staff-reports/2014/AD14-14-mitigation-rto-iso-markets.pdf>). The third and final workshop, held December 9, 2014, focused on RTO/ISO operator actions that affect price. Speaker materials from each of the workshops are posted in the FERC’s eLibrary.

Post-Technical Workshop Comments. On January 16, 2015, the FERC invited all interested to file post-technical workshop comments on any or all of the 12 questions listed in the attachment to its January 16 Notice. More than 40 sets of comments were submitted, including by: ISO-NE, APPA, Brookfield, Calpine, Direct Energy, EEL, EPSA, Exelon, and PSEG. The FERC web page for this issue is at <http://www.ferc.gov/industries/electric/indus-act/rto/energy-price-formation.asp>.

⁹⁷ See *Enforcement of Statutes, Regulations, and Orders*, 129 FERC ¶ 61,247 (Dec. 17, 2009), *order on requests for reh’g and clarification*, 134 FERC ¶ 61,054 (Jan. 24, 2011).

⁹⁸ *City Power Mkt’g, LLC and K. Stephen Tsingas*, 152 FERC ¶ 61,012 (July 2, 2015) (“*City Power Mktg Penalties Order*”).

- **AWEA Petition for LGIA/LGIP Rulemaking (RM15-21)**

On June 19, the American Wind Energy Association (“AWEA”) petitioned the FERC to conduct a rulemaking to revise provisions of the FERC’s *pro forma* Large Generator Interconnection Procedures (“LGIP”) and *pro forma* Large Generator Interconnection Agreement (“LGIA”). AWEA states that various aspects of the LGIP and LGIA are out of date in comparison to current market conditions and do not ensure that the generation interconnection process is just, reasonable, and not unduly discriminatory or preferential. AWEA indicated that the rulemaking would address reforms to improve (i) certainty in the study and restudy process, (ii) transparency in the interconnection process, (iii) certainty of network upgrade costs, and accountability in the interconnection process. Comments in response to this petition are due on or before September 8, 2015.

- **Order 812: Revisions to Public Utility Filing Requirements (RM15-3)**

On July 16, the FERC issued *Order 812*⁹⁹ revising its regulation to eliminate the requirement for (i) RTOs/ISOs and EWGs to submit FERC-566 (Annual Report of a Utility’s 20 Largest Customers), (ii) for public utilities that have not made any reportable sales under FERC-566 in any of the three preceding years to submit a FERC-566, and (iii) public utilities, when submitting FERC-566, to identify individual residential customers by name and address. The Order 812 changes will become effective October 6, 2015.¹⁰⁰

- **NOPR: Third-Party Provision of Primary Frequency Response Service (RM15-2)**

On February 19, the FERC issued a NOPR proposing to foster competition in the sale of primary frequency response service¹⁰¹ by permitting its sale at market-based rates by sellers with market-based rate authority for energy and capacity. The FERC stated that this NOPR is an extension of its policy reforms begun with *Order 784*¹⁰² and anticipates the potential interest in purchase of primary frequency response service from third-parties as a result of a new reliability standard (BAL-003-1) that requires a Balancing Authority to maintain a minimum frequency response obligation. Comments on this NOPR were due on or before April 27, 2015¹⁰³ and were filed by nearly 20 parties. The NOPR is pending before the FERC.

- **NOPR: MBR Authorization Refinements (RM14-14)**

On June 19, the FERC issued a NOPR proposing to revise its current standards, and to streamline certain aspects of its filing requirements, for obtaining market-based rates (“MBR”) for sales of electric energy, capacity, and ancillary services.¹⁰⁴ In addition, the FERC clarified certain standards for obtaining and retaining MBR authority. Among other changes, the FERC proposes (i) to permit sellers in RTO/ISO markets with Commission-approved market monitoring and mitigation to include a statement that they are relying on such mitigation to address any potential horizontal market power concerns in lieu of submitting the indicative screens; (ii) to permit sellers to explain that their qualified capacity is fully committed in lieu of including indicative screens in their filings in order to satisfy the FERC’s horizontal market power tests and to submit a change in status filing when there is a net increase of 100 MW or more; (iii) to relieve sellers of their obligation to file quarterly land acquisition reports and of the obligation to provide information on sites for generation capacity development in market-based rate applications and triennial updated market power analyses; (iv) to require a change in status filing if there is a 100 MW increase in cumulative nameplate capacity added in any relevant geographic market;

⁹⁹ *Revisions to Public Util. Filing Reqs.*, Order No. 812, 152 FERC ¶ 61,032 (July 16, 2015) (“*Order 812*”).

¹⁰⁰ *Order 812* was published in the Fed. Reg. on July 23, 2015 (Vol. 80, No. 141) pp. 43,619-43,625.

¹⁰¹ Primary frequency response service would be a reserve product that involves dedicating capacity on a generator or other resource for autonomous, automatic, and rapid action to change its output (within seconds) to rapidly dampen large changes in frequency.

¹⁰² *Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, Order No. 784, 78 Fed. Reg. 46,178 (July 30, 2013), FERC Stats. & Regs. ¶ 31,349, at PP 6-7 (2013), *order on clarif.*, Order No. 784-A, 146 FERC ¶ 61,114 (2014) (“*Order 784*”).

¹⁰³ The NOPR was published in the *Fed. Reg.* on Feb. 26, 2015 (Vol. 80, No. 38) pp. 10,426-10,432.

¹⁰⁴ *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Elec. Energy, Capacity and Ancillary Svcs. by Public Utils.*, 147 FERC ¶ 61,232 (June 19, 2014) (“*MBR NOPR*”).

and (v) require corporate org charts with all MBR applications and notices of change in status. Comments on this NOPR were due September 23, 2014.¹⁰⁵ Over 25 parties filed comments and Berkshire Hathaway, Barrick Mines, and EPSA filed reply comments. This NOPR is pending before the FERC.

- **Order 807: Open Access and Priority Rights on ICIF (RM14-11)**

On March 19, the FERC issued *Order 807*,¹⁰⁶ which waives the Open Access Transmission Tariff (“OATT”) requirements of 18 CFR 35.28 (2013), the Open Access Same-Time Information System (“OASIS”) requirements of Part 37 of its regulations, 18 CFR 37 (2013), and the Standards of Conduct requirements of Part 358 of its regulations, 18 CFR 358 (2013), for any public utility that is subject to such requirements solely because it owns, controls, or operates Interconnection Customer’s Interconnection Facilities (“ICIF”),¹⁰⁷ in whole or in part, and sells electric energy from its Generating Facility. *Order 807* also finds that those seeking interconnection and transmission service over ICIF that are subject to the blanket waiver adopted in *Order 807* may follow procedures applicable to requests for interconnection and transmission service under sections 210, 211, and 212 of the FPA, which also allows the contractual flexibility for entities to reach mutually agreeable access solutions. *Order 807* establishes a modified rebuttable presumption for a 5-year safe harbor period to reduce risks to ICIF owners eligible for the blanket waiver during the critical early years of their projects. Finally, *Order 807* modifies several elements of the NOPR, including the entities eligible for the OATT waiver, the date on which the safe harbor begins, the rebuttable presumption that the ICIF owner should not be required to expand its facilities during the safe harbor, and the facilities covered by *Order 807*. *Order 807* will become effective June 30, 2015.¹⁰⁸ Requests for rehearing and/or clarification of *Order 807* were filed on April 20 by APPA/TAPS and NRECA. On May 15, the FERC issued a tolling order affording it additional time to consider the requests for rehearing, which remain pending before the FERC.

- **WIRES Request for Policy Statement on ROE for Electric Transmission (RM13-18)**

On June 26, 2013, WIRES¹⁰⁹ petitioned the FERC to institute an expedited generic proceeding and to provide such policy and clarifications as necessary to provide “greater stability and predictability regarding regulated rates of return on equity for existing and future investments in high voltage electric transmission infrastructure.” Specifically, WIRES recommended a new policy that (1) standardizes selection of proxy groups; (2) denies complainants a hearing on rates of return for existing facilities unless it is shown that existing returns are at the extremes of the zone of reasonableness; (3) allows consideration of competing infrastructure investments of other industries; (4) permits use of other rate of return methodologies; and (5) supports use of more forward-looking data and modeling. In addition, WIRES urged the FERC to support consideration of a project’s actual and anticipated benefits when a complaint is filed against the ROE for an existing project. Although the WIRES petition has not been noticed for public comments, more than 16 sets of comments have been filed. On October 3, 2013, WIRES submitted a summary of the comments and analysis filed to that point in the proceeding. On October 16, the Organization of PJM States noted its position that the WIRES petition did not present a compelling reason for the FERC to initiate a generic rulemaking proceeding or abandon its Discounted Cash Flow methodology. On November 5, 2013, a letter from US Senator Angus King, urging the FERC to establish a more certain regulatory environment that provide investors the level of confidence necessary to support and encourage needed infrastructure investments, was posted in eLibrary. This matter is pending before the FERC.

¹⁰⁵ The *MBR NOPR* was published in the *Fed. Reg.* on July 25, 2014 (Vol. 79, No. 143) pp. 43,536-43,572.

¹⁰⁶ *Open Access and Priority Rights on Interconnection Customer’s Interconnection Facilities*, Order No. 807, 150 FERC ¶ 61,211 (Mar. 19, 2015) (“*Order 807*”), *reh’g requested*.

¹⁰⁷ ICIF is the term used by the FERC in the NOPR to refer to “generator tie lines”.

¹⁰⁸ *Order 807* was published in the *Fed. Reg.* on Apr. 1, 2015 (Vol. 80, No. 62) pp. 17,654-17,682.

¹⁰⁹ WIRES, the Working group for Investment in Reliable and Economic Electric Systems, describes itself as a national non-profit association of investor-, member-, and publicly-owned entities dedicated to promoting investment in a strong, well-planned, and environmentally beneficial high voltage electric transmission grid. Information about its principles and members is available on its website www.wiresgroup.com.

- **Order 771: Availability of e-Tag Information to FERC Staff (RM11-12)**

Rehearing of portions of *Order 771* has been requested and remains pending. As previously reported, *Order 771*,¹¹⁰ issued December 20, 2012, granted the FERC access, on a non-public and ongoing basis, to the complete electronic tags (“e-Tags”) used to schedule the transmission of electric power interchange transactions in wholesale markets. *Order 771* requires e-Tag Authors (through their Agent Service) and Balancing Authorities (through their Authority Service) to take steps to ensure FERC access to the e-Tags covered by this Rule by designating the FERC as an addressee on the e-Tags. The FERC stated that the information made available under this Final Rule will bolster its market surveillance and analysis efforts by helping it detect and prevent market manipulation and anti-competitive behavior. In addition, *Order 771* requires e-Tag information be made available to RTO/ISOs and their Market Monitoring Units, upon request to e-Tag Authors and Authority Services, subject to appropriate confidentiality restrictions. *Order 771* became effective February 26, 2013.¹¹¹ In response to requests for clarification and/or rehearing of *Order 771* filed by EEI/NRECA, Open Access Technology International, Inc., NRECA (separately), and Southern Companies (collectively, the “Rehearing Requests”), the FERC issued, on March 8, 2013, *Order 771-A*.¹¹² *Order 771-A* addressed only those issues that needed to be answered on an expedited basis to allow affected entities to comply with the requirement to ensure FERC access in a timely manner to the e-Tags covered by *Order 771*.¹¹³ The FERC noted that it would issue an additional rehearing order, addressing the remaining issues raised on rehearing and clarification, which therefore remain pending before the FERC.

XIII. Natural Gas Proceedings

For further information on any of the natural gas proceedings, please contact Joe Fagan (202-218-3901; jfagan@daypitney.com), Jennifer Galiette (860-275-0338; jgaliette@daypitney.com) or Jamie Blackburn (202-218-3905; jblackburn@daypitney.com).

- **Inquiry Into Natural Gas Trading, and Proposal to Establish an Electronic Information and Trading Platform (AD14-19)**

On September 18, 2014, Commissioner Moeller convened a meeting to discuss issues related to how transactions are conducted on the natural gas system and potential transactional improvements to address the needs of electric generators for natural gas. The meeting included representatives/speakers from various sectors of the natural gas and electric industries (load, suppliers, marketers, exchanges, gas associations, and ISOs) and environmental interests. Representatives from NYISO and PJM were among the speakers on the electric side (ISO-NE was not present). A summary of that meeting is posted on the Litigation Updates & Reports webpage (http://nepool.com/uploads/Lit_Supp_AD14-19_20140918_Mtg_Summary.pdf). Written comments on issues discussed at the meeting, limited to 5 pages, were due on or before October 1, 2014. Comments were filed by more than 30 parties. There was no published activity in this proceeding since the last Report.

¹¹⁰ *Availability of E-Tag Info. to Comm’n Staff*, Order No. 771, 141 FERC ¶ 61,235 (Dec. 20, 2012) (“*Order 771*”), *order on reh’g and clarif.*, 142 FERC ¶ 61,181 (2013).

¹¹¹ *Order 771* was published in the *Fed. Reg.* on Dec. 28, 2012 (Vol. 77, No. 249) pp. 76,367-76,380.

¹¹² *Availability of E-Tag Info. to Comm’n Staff*, Order No. 771-A, 142 FERC ¶ 61,181 (Mar. 8, 2013) (“*Order 771-A*”).

¹¹³ *Order 771-A* clarified that: (1) Balancing Authorities and their Authority Services will have until 60 days after publication of this order to implement the validation requirements of *Order 771*; (2) validation of e-Tags means that the Sink Balancing Authority, through its Authority Service, must reject any e-Tags that do not correctly include the FERC in the CC field; (3) the requirement for the FERC to be included in the CC field on the e-Tags applies only to e-Tags created on or after March 15, 2013; (4) the FERC will deem all e-Tag information made available to the FERC pursuant to *Order 771* as being submitted pursuant to a request for privileged and confidential treatment under 18 CFR 388.112; (5) the FERC is to be afforded access to the Intra-Balancing Authority e-Tags in the same manner as interchange e-Tags; and (6) the requirement on Balancing Authorities to ensure FERC access to e-Tags pertains to the Sink Balancing Authority and no other Balancing Authorities that may be listed on an e-Tag.

- **Order 809: Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities (RM14-2)**

On April 16, the FERC issued *Order 809*,¹¹⁴ which changes the nationwide Timely Nomination Cycle nomination deadline for scheduling natural gas transportation from 11:30 a.m. Central Clock Time (CCT) to 1:00 p.m. CCT and revises the intraday nomination timeline, to include adding an additional intraday scheduling opportunity during the gas operating day (Gas Day). *Order 809* also modifies the scheduling practices used by interstate pipelines to schedule natural gas transportation service and provides additional contracting flexibility to firm natural gas transportation customers through the use of multi-party transportation contracts. *Order 809* DOES NOT change the start time of the nationwide natural Gas Day (which remains 9:00 a.m. CCT), as had been proposed in the underlying NOPR.¹¹⁵ *Order 809* established an implementation date of April 1, 2016. On July 23, in response to *Order 809*, ISO-NE described why changes to the time at which the results of the Day-Ahead Energy Market and RAA process are posted are not necessary in response to the FERC's rule making. Comments on the ISO's filing are due on or before August 18, 2015¹¹⁶ (the ISO's response was filed in EL14-23; see Section I above).

Requests for rehearing and/or clarification of *Order 809* were filed by Desert Southwest Pipeline Stakeholders and the American Gas Association. On May 19, the Natural Gas Council asked the FERC to defer NAESB consideration of confirmation process improvements until "after the two industries have had sufficient time to implement and operate reliably under both the new gas scheduling timeline and changes to RTO/ISO dispatch schedules to conform with the newly-approved gas scheduling timeline." On May 28, 2015 the American Gas Association, the American Public Gas Association, and the Interstate Natural Gas Association of America filed a request for the Commission to clarify the manner in which all pipelines should implement the standards on April 1, 2016, and a request for clarification relating to interpretations of recall rights under existing capacity release contracts in light of the transition from two to three intraday nomination cycles.

On July 31, 2015, the FERC issued an Order on Request for Clarification and Notice of Comment Procedures.¹¹⁷ The FERC explained that the new day-ahead nomination timelines will apply as of March 31, 2016 for those nominations that will become effective April 1, 2016. Furthermore, with respect to capacity releases, the new biddable release schedule will start at 9:00 a.m. CCT on March 31, 2016, for all releases with contracts to be effective on March 31, 2016, April 1, 2016, or thereafter. Non-biddable releases effective on March 31, 2016 will follow the existing posting schedule for the Intraday 1 and Intraday 2 Nomination Cycles, and will follow the new day-ahead nomination schedule for the Timely and Evening Nomination Cycles.

- **Posting of Offers to Purchase Capacity (Section 5 Proceeding) (RP14-442)**

Similar to the ISO/RTO 206 Order in EL14-22 et al. (see Section I above), the FERC also instituted a proceeding under Section 5 of the Natural Gas Act to examine whether interstate natural gas pipelines are providing notice of offers to purchase released pipeline capacity in accordance with section 284.8(d) of the Commission's regulations.¹¹⁸ On or before May 19, natural gas pipelines were required to either revise their respective tariffs to provide for the posting of offers to purchase released capacity, or otherwise demonstrate that they are in full compliance with FERC regulations.¹¹⁹ The FERC also requested that NAESB develop business practice and communication standards specifying: (1) the information required for requests to acquire capacity; (2) the methods by which such information is to be exchanged; and (3) the location of the information on a

¹¹⁴ *Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities*, Order No. 809, 150 FERC ¶ 61,049 (Apr. 16, 2015) ("*Order 809*").

¹¹⁵ *Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities*, 146 FERC ¶ 61,201 (Mar. 20, 2014).

¹¹⁶ *Order 809* was published in the *Fed. Reg.* on Apr. 24, 2015 (Vol. 80, No. 79) pp. 23,198-23,227.

¹¹⁷ *Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities*, 152 FERC ¶ 61,095 (July 31, 2015).

¹¹⁸ *Posting of Offers to Purchase Capacity*, 146 FERC ¶ 61,203 (Mar. 20, 2014).

¹¹⁹ *Id.* at P 6.

pipeline's website. The Show Cause Order required each pipeline to explain in its compliance filing how it will fully comply with section 284.8(d) until NAESB develops, and the FERC implements, the requested standards, including how the pipeline will provide shippers the ability to post offers to purchase capacity on the Informational Posting section of its Internet website.

In total, the FERC received, and addressed in one omnibus order, 157 compliance filings.¹²⁰ Of the 157 filings, 64 pipelines revised their respective tariffs to provide for the posting of offers to purchase released capacity in a manner that complies with section 284.8(d), and 23 pipelines demonstrated that their tariffs already comply with that section. The FERC found that, and identified in its omnibus order on the compliance filings the, 69 compliance filings that did not appear to be in full compliance with that section, and directed further compliance filings from those companies as described in the omnibus order.

- **Natural Gas-Related Enforcement Actions**

The FERC continues to closely monitor and enforce compliance with regulations governing open access transportation on interstate natural gas pipelines. Since the last Report, there was one order approving a stipulation and consent agreement, preceded by a Staff notice of alleged violation, related to a violation of a gas pipeline's tariff.

Columbia Gas Transmission, LLC (IN15-7). On July 20, the FERC approved a Stipulation and Consent Agreement between the Office of Enforcement ("Enforcement") and Columbia Gas Transmission, LLC ("Columbia Gas").¹²¹ The *Columbia Gas Order* requires Columbia Gas to pay **\$350,000 in civil penalties** as a result of violating Part 4 of its tariff by failing to post the notices of the auctions of its available firm capacity on the public side of its electronic bulletin board between January 1, 2010 and May 1, 2013. The *Columbia Gas Order* was preceded by a July 16 Staff Notice of Alleged Violations related to the same matters.

- **New England Pipeline Proceedings**

The following New England pipeline projects are pending before the FERC:

- **Algonquin Incremental Market Project (AIM Project) (CPI4-96)**

- ▶ Algonquin Gas Transmission filed for Section 7(b) and 7(c) certificate Feb. 28, 2014
- ▶ 342,000 dekatherms/day of firm capacity to NY, CT, RI and MA.
- ▶ 37.6 miles of take-up, loop and lateral pipeline facilities in NY, CT, and MA and system modifications in NY, CT and RI. The system upgrades would also require the removal of some facilities.
- ▶ 10 firm shippers: Yankee Gas, NSTAR, Connecticut Natural Gas, Southern Connecticut, Narragansett Electric, Colonial Gas, Boston Gas, Bay State, Norwich Public Utilities, and Middleborough Gas and Electric (eight LDCs and two municipal utilities).
- ▶ Final EIS issued on Jan. 23, 2015.
- ▶ Certificate of public convenience and necessity granted Mar. 3, 2015 (must be constructed and in service within two years).¹²²
- ▶ Construction began in May 2015.
- ▶ In-service: Nov. 2016 (anticipated).

- **Connecticut Expansion Project (CPI4-529)**

- ▶ Tennessee Gas Pipeline filed for Section 7(c) certificate July 31, 2014.
- ▶ 72,100 dekatherms/day of firm capacity.

¹²⁰ See *BR Pipeline Co. et al.*, 149 FERC ¶ 61,031 (Oct. 16, 2014).

¹²¹ *Columbia Gas Transmission, LLC*, 152 FERC ¶ 61,089 (July 30, 2015) ("*Columbia Gas Order*").

¹²² Order Issuing Certificate and Approving Abandonment, *Algonquin Gas Transmission LLC*, 150 FERC ¶ 61,163 (Mar. 3, 2015), *reh'g requested*.

- ▶ 13.26 miles of three looping segments and facility upgrades/modifications in NY, MA and CT.
- ▶ Three firm shippers: Connecticut Natural Gas, Southern Connecticut Gas, and Yankee Gas.
- ▶ Authorization requested by July 31, 2015 (FERC EA still pending).
- ▶ Construction expected to begin Winter 2015/16.
- ▶ In-service: Nov 2016 (anticipated).
- **Constitution Pipeline (CPI3-499) and Wright Interconnection Project (CPI3-502)**
 - ▶ Constitution Pipeline Company and Iroquois Gas Transmission (Wright Interconnection) concurrently filed for Section 7(c) certificates on June 13, 2013.
 - ▶ 650,000 dekatherms/day of firm capacity from Susquehanna County, PA through NY to Iroquois/Tennessee interconnection (Wright Interconnection).
 - ▶ New 122-mile interstate pipeline.
 - ▶ Two firm shippers: Cabot Oil & Gas and Southwestern Energy Services.
 - ▶ Final EIS completed on Oct 24, 2014.
 - ▶ Certificates granted Dec 2, 2014 (must be constructed and in service within two years);
 - ▶ Construction expected to begin third quarter 2015 (after final Federal Authorizations).
- **Salem Lateral Project (CPI4-522)**
 - ▶ Algonquin Gas Transmission filed application Jul 10, 2013.
 - ▶ 115,000 dekatherms/day of firm capacity.
 - ▶ 1.2 miles of pipeline to 630 MW Salem Harbor Station and other Salem, MA facilities.
 - ▶ Footprint Power sole firm customer.
 - ▶ FERC environmental assessment issued Dec 2, 2014.
 - ▶ Certificate granted May 14, 2015 (must be constructed and in service within two years).¹²³
 - ▶ Construction began in May 2015.
 - ▶ In-Service: Nov 2015 (anticipated).

XIV. State Proceedings & Federal Legislative Proceedings

No Activity to Report.

XV. Federal Courts

The following are matters of interest, including petitions for review of FERC decisions in NEPOOL-related proceedings, that are currently pending before the federal courts (unless otherwise noted, the cases are before the U.S. Court of Appeals for the District of Columbia Circuit). An “**” following the Case No. indicates that NEPOOL has intervened or is a litigant in the appeal. The remaining matters are appeals as to which NEPOOL has no organizational interest but that may be of interest to Participants. For further information on any of these proceedings, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

¹²³ Order Issuing Certificate, *Algonquin Gas Transmission LLC*, 151 FERC ¶ 61,118 (May 14, 2015).

- **Base ROE Complaints (2012 and 2014) (15-1212)**
Underlying FERC Proceedings: EL13-33; EL14-86¹²⁴
Appellants: New England Transmission Owners

On July 13, 2015, the TOs filed a petition for review of the FERC's orders in the 2012 and 2014 ROE complaint proceedings. On July 16, the Court issued a scheduling order directing, among other things, a statement of issues and procedural motions to be filed by August 17 and dispositive motions to be filed by August 31; briefing is deferred until further order of the court.

- **Order 1000 Compliance Filings (15-1139, 15-1141**) (consolidated)**
Underlying FERC Proceedings: ER13-193; ER13-196¹²⁵
Appellants: New England Transmission Owners (NETOs); NESCOE/CT DEEP/CT PURA, et al.

On May 15, 2015, NETOs¹²⁶ and NESCOE, *et al.*, filed a petition for review of the FERC's orders in the *Order 1000* Compliance Filing proceeding. On June 15, the parties filed a joint statement of issues and unopposed motion regarding briefing format. On June 18, a Joint Statement of issues and docketing statement was filed. On July 2, the Court granted all motions to intervene. On July 16, the Court directed parties to submit proposed formats for the briefing of the cases within 30 days.

- **Base ROE Complaint (2011) (15-1118, 15-1119, 15-1121**) (consolidated)**
Underlying FERC Proceedings: EL11-66¹²⁷
Appellants: NETOs

On April 30, 2015, NETOs filed a petition for review of the FERC's orders in the 2011 Base ROE Complaint Proceeding. Motions for leave to intervene have been filed by NEPOOL, EMCOS,¹²⁸ NJ Division of Rate Counsel, NHEC, MMWEC, CT PURA, CT OCC, CT AG, NJ BPU, Delaware PSC, and Coalition of MISO Transmission Customers. The Court granted all motions to intervene on June 23. On July 9, the Court directed parties to file proposed briefing formats by August 8, 2015.

- **FCM Administrative Pricing Rules Complaint (15-1071**) (consolidated)**
Underlying FERC Proceedings: EL14-7¹²⁹
Appellants: NEPGA

On March 31, 2015, NEPGA filed a petition for review of the FERC's orders on NEPGA's FCM Administrative Pricing Rules Complaint. A Docketing Statement Form, Statement of Issues to be Raised, and Petitioners' Appearances were filed on April 23, 2015. Also on April 23, 2015, NEPGA requested that the case be held in abeyance pending the FERC's issuance of an order on rehearing of its initial order in *Exelon Corporation v. ISO New England Inc. (EL15-23)*. Motions for leave to intervene have been filed by NEPOOL, CT PURA, CT OCC, NESCOE, NECPUC, NHEC, and PSEG. On May 22, the Court granted all motions to intervene and NEPGA's motion to hold the case in abeyance pending a decision in EL15-23. Motions to govern future proceedings are due 30 days from the completion of the FERC proceedings in EL15-23. NEPGA was directed to file an abeyance status report on or before August 20, 2015.

¹²⁴ 147 FERC ¶ 61,235 (June 19, 2014); 149 FERC ¶ 61,156 (Nov. 24, 2014); 151 FERC ¶ 61,125 (May 14, 2015).

¹²⁵ 150 FERC ¶ 61,209 (Mar. 19, 2015); 143 FERC ¶ 61,150 (May 17, 2013).

¹²⁶ "NETOs" are Emera Maine; Central Maine Power Co., National Grid; New Hampshire Transmission ("NHT"), Eversource (on behalf of its electric utility company affiliates CL&P, WMECO, PSNH, and NSTAR), UI, and Vermont Transco.

¹²⁷ 150 FERC ¶ 61,165 (Mar. 3, 2015); 149 FERC ¶ 61,032 (Oct. 16, 2014); 147 FERC ¶ 61,234 (June 19, 2014).

¹²⁸ "EMCOS" are Taunton, Reading, Hingham, and Braintree.

¹²⁹ 150 FERC ¶ 61,064 (Jan. 30, 2015); 146 FERC ¶ 61,039 (Jan. 24, 2014).

- **Demand Curve Changes (15-1070**)**
Underlying FERC Proceedings: ER14-1639¹³⁰
Appellants: NextEra, NRG and PSEG

On March 30, 2015, NextEra, NRG and PSEG filed a petition for review of the FERC's orders in the Demand Curve Changes proceedings. Motions for leave to intervene have been filed by NEPOOL, the ISO, CT PURA, NHEC, CPV, Entergy, and NESCOE. A Docketing Statement Form, Statement of Issues to be Raised, and Appearances were filed by Petitioners on April 30, 2015. The Petitioners' Non-Binding Statement of Issues laid out various challenges to the renewables exemption that was approved as part of the FERC's Demand Curve Orders. On May 28, the Court granted all filed motions to intervene and ordered intervenors to show by June 29 cause why they should not be limited to one joint brief in support of the FERC. On June 26, CT PURA filed a statement requesting permission from the Court to file its own brief in support of the FERC. Also on June 26, NESCOE, CPV and NHEC filed a statement regarding briefing format.

- **FCA8 Results (14-1244, 14-1246 (consolidated))**
Underlying FERC Proceedings: ER14-1409¹³¹
Appellants: Public Citizen and CT AG

On November 14, 2014, Public Citizen and the CT AG filed petitions for review of the FERC's action on the FCA8 Results Filing, which became effective by operation of law on September 16, 2014. These proceedings have been consolidated. A Docketing Statement Form and Statement of Issues to be Raised were filed by Petitioners by December 22, 2014. On January 2, 2015, the FERC filed a motion to dismiss the petitions for lack of jurisdiction. The FERC argued that the Court lacks jurisdiction because Petitioners did not challenge a FERC "order" within the meaning of section 313 of the FPA, or "agency action" reviewable under the Administrative Procedures Act. On January 15, EPSA and NEPGA jointly filed a motion supporting the FERC's motion to dismiss. On January 26, Connecticut¹³² and Public Citizen opposed the FERC's motion to dismiss. On February 5, the FERC replied to the Public Citizen and CT AG responses. On April 7, the Court ordered that the motion to dismiss be referred to the merits panel and parties were directed to address in their briefs the issues presented in the motion to dismiss rather than incorporate those arguments by reference. On April 9, the FERC filed an unopposed motion for a schedule setting a minimum 60-day briefing interval for the FERC. On April 10, the Court ordered that parties submit proposed formats for the briefing of the consolidated cases by May 11. The parties filed a joint proposed briefing schedule on May 11. On July 1, the Court issued a briefing schedule -- brief for State Petitioners due 9/4/2015; brief for Public Citizen due 9/4/2015; brief for Respondent due 11/3/2015; brief for FERC/Intervenors due 11/18/2015; reply briefs for Petitioners due 12/2/2015; final briefs due 12/23/2015.

- **2013/14 Winter Reliability Program (14-1104, 14-1105, 14-1103 (consolidated))**
Underlying FERC Proceedings: ER13-1851¹³³ and ER13-2266¹³⁴
Appellants: TransCanada and RESA

On June 6, 2014, TransCanada and the Retail Energy Supply Association filed petitions for review of the FERC's orders on the 2013/14 Winter Reliability Program (14-1104 and 14-1105, respectively). Also on June 6, 2014, TransCanada filed a petition for review of FERC's orders on the 2013/14 Winter Reliability Program Bid Results Filings (ER14-1103). On July 3, 2014, these proceedings were consolidated. On July 7, 2014, the FERC requested a minimum of 60 days after Petitioners' opening briefs to file its brief. On July 23, leave to intervene was granted to ISO-NE, NEPGA, PSEG and Essential Power. On September 29, 2014, TransCanada, RESA, FERC, ISO-NE, Essential Power MA, PSEG and NEPGA filed a proposed joint, unopposed briefing format and schedule. A Joint Brief for Petitioners was filed on November 24 (as corrected on December 1). At the FERC's

¹³⁰ 150 FERC ¶ 61,065 (Jan. 30, 2015); delegated letter order (Nov. 13, 2014); 147 FERC ¶ 61,173 (May 30, 2014).

¹³¹ Notice of Filing Taking Effect by Operation of Law, *ISO New England Inc.*, Docket No. ER14-1409 (Sep. 16, 2014); Notice of Dismissal of Pleadings, *ISO New England Inc.*, Docket No. ER14-1409 (Oct. 24, 2014).

¹³² For purposes of this proceeding, "Connecticut" means the CT AG, CT PURA and CT OCC.

¹³³ 144 FERC ¶ 61,204 (Sep. 16, 2013); 147 FERC ¶ 61,026 (Apr. 8, 2014).

¹³⁴ 145 FERC ¶ 61,023 (Oct. 7, 2013); 147 FERC ¶ 61,027 (Apr. 8, 2014).

request, the Court ordered that a revised briefing schedule be applied in this case (effectively extending the overall briefing schedule by one month. Briefs for Respondent and Respondent-Intervenors were filed February 13 and March 2, respectively. Petitioners' Joint Reply Brief was filed on March 25; the Deferred Appendix, April 1, 2015. Final Briefs were filed on April 15, 2015. Since the last Report, oral argument before a merits panel to be named 30-days ahead of the oral argument, was scheduled for September 15, 2015.

- **New England's Order 745 Compliance Filing (12-1306)**
Underlying FERC Proceedings: ER11-4336¹³⁵
Appellants: EPSA and NEPGA

On July 16, 2012, EPSA and NEPGA filed a petition for review of FERC's orders on New England's *Order 745* (Demand Response Compensation) filings. On August 16, 2012, EPSA and NEPGA filed a statement of issues as well as an unopposed motion to hold case in abeyance pending the final resolution of Case Nos. 11-1486, et al. (*EPSA et al. v. FERC*) (see *Orders 745* and *745-A* below). On August 23, 2012, the Court granted the motion to hold the case in abeyance. Motions to govern future proceedings will be due 30 days following the issuance of the mandate in the *Order 745* appeal.

- **Orders 745 and 745-A (FERC v. EPSA, Supreme Court, 14-840 and 14-841)**
Underlying FERC Proceedings: RM10-17-000¹³⁶
Appellants: FERC and EnerNOC

On January 15, the Solicitor General of the United States, on behalf of the FERC, filed with the Supreme Court a petition for a writ of certiorari seeking review of the District Court's May 23 Decision.¹³⁷ Respondents brief in opposition to that writ, pursuant to an order of the Court extending the time for responses, was filed on March 19. Petitioner's reply was filed on April 7. The Supreme Court granted certiorari on May 4, 2015. On May 27, the Supreme Court granted extensions to file petitioners' briefs to July 9, 2015 and respondents' brief to August 31, 2015. On July 9, briefs were submitted by EnerNOC, FERC, CA PUC, Joint States, and PJM. Amicus curiae briefs were submitted on July 16. Oral argument is now scheduled for October 14, 2015.

As previously reported, the DC Circuit vacated *Order 745*¹³⁸ in its entirety as impermissibly encroaching on "states' exclusive jurisdiction to regulate the retail market" in a 2-1 decision ("Decision") issued on May 23, 2014. The DC Circuit vacated *Order 745* on two separate and independent grounds. First, it held that the FERC does not have jurisdiction to regulate demand response. The Court reasoned that: (i) the states retain exclusive authority to regulate the retail market; (ii) absent an express statutory grant of authority, the FERC cannot regulate areas left to the states; (iii) the FPA provides the FERC with authority over wholesale sales of electricity, but demand response is not such a sale; (iv) the authority of the FERC to regulate wholesale power rates under the FPA cannot be read so broadly as to allow direct regulation of demand response; and (v) demand response, while not necessarily a retail sale, is part of the retail market, involving retail customers, their decision whether to purchase at retail, and the levels of retail electricity consumption. Therefore, the Court concluded, the FERC has no authority to directly regulate demand response. "FERC's authority over demand response resources is limited: its role is to assist and advise state and regional programs."

As an alternative and secondary basis for its decision against *Order 745*, the Court concluded that the FERC order was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." The Court found that the FERC failed to reasonably consider and address arguments that *Order 745* will result in over-compensation of demand response resources, resulting in unjust and discriminatory rates. The Court

¹³⁵ 138 FERC ¶ 61,042 (Jan. 19, 2012); 139 FERC ¶ 61,116 (May 17, 2012).

¹³⁶ 134 FERC ¶ 61,187 (Mar. 15, 2011); 137 FERC ¶ 61,215 (Dec. 15, 2011).

¹³⁷ *EPSA v. FERC*, 753 F.3d 216 (May 23, 2014).

¹³⁸ *Order 745* required RTOs and ISOs to include provisions in their tariffs that assured demand response would be paid at LMP for interrupting their loads when such interruption was cost effective.

further found that the FERC failed to demonstrate how its proposed pricing construct would result in just compensation. The Decision and preliminary implications of the Decision were summarized in more detail in the memo included with the supplemental materials circulated and posted for the June 6 meeting.

On July 7, the FERC petitioned the Court for rehearing *en banc* of the May 23 Decision. On July 18, the Court, on its own motion, directed EPSA, APPA, NRECA, Old Dominion and EEI (“Petitioners”) to file a joint response to the FERC petition for rehearing. That response was filed on August 4, 2014. The petition for rehearing *en banc* was denied on September 17, 2014. As previously reported, the DC Circuit directed its clerk to withhold the Court’s mandate pending the Supreme Court’s final disposition.

- **CPV Maryland, LLC v. PPL EnergyPlus et al. (Supreme Court, 14-623)**

A petition for a writ of certiorari in this case was filed on November 26, 2014 and placed on the Supreme Court’s docket on November 28, 2014 as No. 14-623. The parties consented to the filing of amicus curiae briefs, and such briefs were filed by NARUC, the State of Connecticut, and APPA. Respondents (PPL EnergyPlus, LLC, et al.) filed a response on February 11. Petitioner CPV Maryland, LLC replied on February 24. On March 23, the Court invited the Solicitor General to file a brief in the case expressing the views of the United States. This matter is now before the Court.

As previously reported, on June 2, 2014, the 4th Circuit Court of Appeals affirmed the September 30, 2013 decision of the United States District Court for the District of Maryland¹³⁹ which found that a Maryland Public Service Commission (“MD PSC”) order directing three Maryland distribution utilities to enter into a ‘contract for differences’ for capacity and energy in the PJM control area (the “CfD”) with a gas-fired merchant generator selected by the MD PSC (the “MD PSC Order”) violated the Supremacy Clause of the United States Constitution and cannot be enforced.¹⁴⁰ In affirming the District Court decision, the 4th Circuit found the MD PSC Order both field¹⁴¹ and conflict pre-empted.¹⁴²

With respect to field pre-emption, the 4th Circuit stated that a “wealth of case law confirms FERC’s exclusive power to regulate wholesale sales of energy in interstate commerce, including the justness and reasonableness of the rates charged.”¹⁴³ It found the federal scheme (i.e. the PJM Market) “carefully calibrated to protect a host of competing interests” (representing “a comprehensive program of regulation that is quite sensitive to external tampering”),¹⁴⁴ and leaving “no room either for direct state regulation of the prices of interstate wholesales of [energy], or for state regulations which would indirectly achieve the same result.” Accordingly, the 4th Circuit concluded that the MD PSC Order “field preempted because it functionally sets the rate that CPV

¹³⁹ *PPL EnergyPlus, LLC v. Nazarian*, 974 F.Supp. 2d 790 (D. Md. Sep. 30, 2013); 2013 U.S. Dist. LEXIS 140210, 2013 WL 5432346 (“*District Court Decision*”). The *District Court Decision* was summarized in past Litigation Reports.

¹⁴⁰ *PPL EnergyPlus, LLC v. Nazarian*, 753 F.3d 467; 2014 U.S. App. LEXIS 10155.

¹⁴¹ “Field preemption” is a doctrine based on the Supremacy Clause of the U.S. Constitution that holds that any federal law, including regulations of a federal agency, takes precedence over any conflicting state law. Preemption can be implied when federal law/regulation “occupies the field” in which the state is attempting to act/regulate. Field preemption occurs when there is “no room” left for state regulation. Accordingly, a state may not pass a law or take any action in a field, like the regulation of wholesale power sales, pervasively regulated by federal law/regulation.

¹⁴² “Conflict preemption” occurs where there is a conflict between a state law and a federal law. (“[E]ven if Congress has not occupied the field, state law is naturally preempted to the extent of any conflict with a federal statute.”). Such a conflict occurs when “the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. The court must look to ‘the entire scheme of the statute’ and determine ‘[i]f the purpose of the [federal] act cannot otherwise be accomplished—if its operation with its chosen field [would] be frustrated and its provisions be refused their natural effect. Where a state law conflicts with a federal law, the Court does not balance the competing federal and state interests. Any state law, however clearly within a State’s acknowledged power, which interferes with or is contrary to federal law, must yield.”

¹⁴³ Slip op. at p. 14.

¹⁴⁴ *Id.* at p. 10.

receives for its sales in the PJM auction.”¹⁴⁵ The MD PSC Order “compromises the integrity of the federal scheme and intrudes on FERC’s jurisdiction” because the MD PSC Order “effectively supplants the rate generated by the auction with an alternative rate preferred by the state.” The 4th Circuit rejected arguments that the CfD payments “represented a separate supply-side subsidy implemented entirely outside the federal market.”¹⁴⁶ And, even if the presumption against preemption were to apply, the Court found that that it was “overcome by the text and structure of the FPA, which unambiguously apports control over wholesale rates to FERC.”¹⁴⁷

With respect to conflict pre-emption, the 4th Circuit found that the MD PSC Order “presents a direct and transparent impediment to the functioning of the PJM markets, and is therefore preempted”.¹⁴⁸ Preemption was appropriate because of the “extensive and disruptive” impact of the MD PSC Order on matters within federal control (the PJM markets). It found that the MD PSC Order had “the potential to seriously distort the PJM’s auction’s price signals, thus ‘interfer[ing] with the method by which the federal statute (i.e. the PJM Markets) was designed to reach its goals.’”¹⁴⁹ “Maryland’s initiative disrupts [the PJM scheme] by substituting the state’s preferred incentive structure for that approved by FERC.”¹⁵⁰ “Maryland has sought to achieve through the backdoor of its own regulatory process what it could not achieve through the front door of FERC proceedings. Circumventing and displacing federal rules in this fashion is not permissible.”¹⁵¹

Petitions for rehearing *en banc* were filed by MD PSC and CPV Maryland on June 16, 2014. On June 17, 2014, the 4th Circuit stayed the mandate pending the *en banc* ruling on the Petitions. On June 30, 2014, the 4th Circuit denied the petitions for rehearing *en banc*.

- **CPV Power Development, Inc., et al. v. PPL EnergyPlus, LLC, et al. (Supreme Court, 14-634, 14-694)**

Petitions for a writ of certiorari in this case were filed on November 26, 2014 and December 10, 2014 and placed on the Supreme Court’s docket as Case Nos. 14-634 and 14-694, respectively. The parties consented to the filing of amicus curiae briefs, and such briefs were filed by NARUC, the State of Connecticut, APPA, AWEA, and the NY PSC. Since the last Report, Respondents (PPL EnergyPlus, LLC, et al.) filed a brief opposing the writ of certiorari on February 11. Petitioners (CPV Power Development, Inc., et al.) replied to that brief on February 20. On March 23, the Court invited the Solicitor General to file a brief in the case expressing the views of the United States.

As previously reported, on September 11, 2014, the 3rd Circuit Court of Appeals affirmed¹⁵² the analogous October 11, 2013 decision of the United States District Court for the District of New Jersey declaring unconstitutional (and therefore null and void) New Jersey’s Long Term Capacity Agreement Pilot Program Act (“LCAPP”).¹⁵³ In affirming the New Jersey District Court’s decision, the 3rd Circuit concluded:

¹⁴⁵ *Id.* at p. 16.

¹⁴⁶ *Id.* at pp. 18-19.

¹⁴⁷ *Id.* at p. 20. The Court noted the limited scope of its holding, which “is addressed to the specific program at issue” and did not “express an opinion on other state efforts to encourage new generation.” *Id.* at p. 21.

¹⁴⁸ *Id.* at p. 27.

¹⁴⁹ *Id.* at p. 23.

¹⁵⁰ *Id.* at p. 24. (“Two features of the Order render its likely effect on federal markets particularly problematic. First, as noted, the CfDs are structured to actually set the price received at wholesale. They therefore directly conflict with the auction rates approved by FERC. Second, the duration of the subsidy -- twenty years -- is substantial.”)

¹⁵¹ *Id.* at p. 25.

¹⁵² *PPL EnergyPlus, LLC v. Hanna*, 977 F.Supp.2d 372 (D. NJ. Oct. 11, 2013); 2013 U.S. Dist. LEXIS 147273, (“*NJ Order*”).

¹⁵³ *PPL EnergyPlus, LLC v. Hanna*, 766 F.3d 241; 2014 U.S. App. LEXIS 17557 (Sep. 11, 2014).

LCAPP compels participants in a federally-regulated marketplace to transact capacity at prices other than the price fixed by the marketplace. By legislating capacity prices, New Jersey has intruded into an area reserved exclusively for the federal government. Accordingly, federal statutory and regulatory law preempts and, thereby, invalidates LCAPP and the Standard Offer Capacity Agreements.¹⁵⁴

No petition for rehearing or rehearing *en banc* was filed on or before September 25, 2014. Accordingly, the mandate was issued on October 3, 2014. As noted above, petitions for *certiorari* to the U.S. Supreme Court were filed and are pending before the Supreme Court.

- **Entergy Nuclear Fitzpatrick, LLC et al v. Zibelman et al (NY PSC Commissioners) (N.D.N.Y. 5:15-cv-00230-DNH-TWD)**

Entergy¹⁵⁵ filed, on February 27, in the United States District Court for the Northern District of New York, a Complaint that seeks a declaratory judgment that the NYPSC Commissioners' order ("Order") approving an agreement to keep NRG's 435 MW Dunkirk facility in the NYISO market, "repowered" as a natural gas-fired (rather than coal-fired) plant (the "Term Sheet")¹⁵⁶ is preempted by the FPA and invalid under the dormant Commerce Clause of the U.S. Constitution. Entergy also seeks a permanent injunction requiring the NYPSC Commissioners to withdraw its Order and/or preventing the NYPSC Commissioners from continuing to treat the Order as valid and binding. This case is noteworthy given the relationship of the issues raised to the Maryland and New Jersey CfD cases summarized above.

¹⁵⁴ *Id.* slip op. at 31.

¹⁵⁵ Plaintiffs are Entergy Nuclear FitzPatrick, LLC ("FitzPatrick"); Entergy Nuclear Power Marketing, LLC ("ENPM"); and Entergy Nuclear Operations, Inc. ("ENOI").

¹⁵⁶ The Term Sheet provides that, in exchange for Dunkirk's commitment to participate in the NYISO energy and capacity markets through 2025, Dunkirk will receive out-of-market payments of \$20.4 million per year from National Grid and a \$15 million one-time subsidy from a New York State agency. Entergy asserts that the contract structure will lead Dunkirk to bid below its actual costs in the capacity auction, causing the auction market to "clear" at a lower price than otherwise would have resulted, and resulting in all generators receiving lower capacity revenues than they otherwise would have received.

INDEX
Status Report of Current Regulatory and Legal Proceedings
as of August 5, 2015

I. Complaints

206 Investigation: Consistency of ISO-NE (DA) Scheduling Practices with Natural Gas Scheduling Practices to be Adopted in Docket RM14-2	(EL14-23)	5
206 Investigation: FCM Performance Incentives (Compliance Proceeding).....	(EL14-52; ER14-2419).....	4
206 Proceeding: Importers' FCA Offers Review/Mitigation	(EL14-99; ER15-117).....	3
Base ROE Complaints (2012 and 2014) (Consolidated)	(EL13-33 and EL14-86).....	4
NEPGA DR Capacity Complaint	(EL15-21)	2
NEPGA Peak Energy Rent (PER) Complaint	(EL15-25)	2
New Entry Pricing Rule Complaint.....	(EL15-23)	2
NRG Canal 2 2015/16 ARA3 Complaint/Waiver Request.....	(EL15-57)	1

II. Rate, ICR, FCA, Cost Recovery Filings

2014/15 Power Year Transmission Rate Filing: Public Representatives' Protest	(ER09-1532; RT04-2).....	7
2015/16 Power Year Transmission Rate Filing	(ER09-1532; RT04-2).....	7
Base ROE Complaints (2012 and 2014) (Consolidated)	(EL13-33 and EL14-86).....	4
FCA1 Results Remand Proceeding.....	(ER08-633)	7
FCA9 Results Filing	(ER15-1137)	6
<i>Opinion 531-A</i> Compliance Filing: TOs	(ER15-414)	6

III. Market Rule and Information Policy Changes, Interpretations and Waiver Requests

206 Investigation: Consistency of ISO-NE (DA) Scheduling Practices with Natural Gas Scheduling Practices to be Adopted in Docket RM14-2	(EL14-23)	5
206 Investigation: FCM Performance Incentives (Compliance Proceeding).....	(EL14-52; ER14-2419).....	4
206 Proceeding: Importers' FCA Offers Review/Mitigation	(EL14-99; ER15-117).....	3
CSO Termination: Efficiency Maine Trust	(ER15-1866)	10
CSO Terminations: Enerwise Global Technologies	(ER15-1944)	10
CSO Terminations: Enerwise Global Technologies	(ER15-2232)	8
CSO Terminations: Direct Energy Business.....	(ER15-1867)	10
CSO Termination: Hampshire Council of Governments	(ER15-2229)	9
Demand Curve Changes	(ER14-1639)	8
DNE Dispatch Changes	(ER15-1509)	11
eTariff Corrections (§ III.10).....	(ER15-1768)	10
FCM PI Jump Ball Compliance Filing I	(ER14-2419-001).....	4
FCM PI Jump Ball Compliance Filing II	(ER14-2419-002).....	4
IMM FCM Mitigation Package	(ER15-1650)	10
ISO Response to Show Cause Order	(ER15-117)	3
Jump Ball Filing: FCM Performance Incentives	(ER14-1050)	12
Jump Ball Filing: Winter Reliability Program.....	(ER15-2208)	9
NEPGA DR Capacity Complaint	(EL15-21)	2
NEPGA Peak Energy Rent (PER) Complaint	(EL15-25)	2
New Entry Pricing Rule Complaint.....	(EL15-23)	2
NRG Canal 2 2015/16 ARA3 Complaint/Waiver Request.....	(EL15-57)	1
Waiver Request: FCM Interconnection Deposit Qualification Deadline (Bellingham)	(ER15-1934)	10

IV. OATT Amendments/Coordination Agreements

<i>Order 676-H</i> Compliance: TOs	(ER15-517)	13
<i>Order 676-H</i> Compliance: TOs Additional Filing	(ER15-517)	13
<i>Order 676-H</i> Compliance: Revisions to Schedule 24	(ER15-519)	13
<i>Order 676-H</i> Compliance: ISO Additional Revisions to Schedule 24	(ER15-519)	13
<i>Order 1000</i> Compliance: Initial Regional Compliance Filing	(ER13-193; ER13-196)	14
<i>Order 1000</i> Compliance: 2nd (Nov 15 Order) Regional Compliance Filing	(ER13-193; ER13-196)	14
<i>Order 1000</i> Compliance: 3rd Regional Compliance Filing	(ER13-193; ER13-196)	14
<i>Order 1000</i> Interregional Requirements: Initial Compliance Filing	(ER13-1960; ER13-1957)	14
2nd <i>Order 1000</i> Interregional Compliance Changes	(ER13-1960; ER13-1957)	14

V. Financial Assurance/Billing Policy Amendments

No Activity to Report

VI. Schedule 20/21/22/23 Updates

LGIA – NU/CPV Towantic	(ER15-200)	16
<i>Opinion 531-A</i> Compliance Filing: CTMEEC	(ER15-584)	16
Schedule 21-CMP Annual Informational Filing	(ER09-938)	16
Schedule 21-FG&E Annual Informational Filing	(ER09-1498)	16
Schedule 21 NEP: Mass Elec/Paxton Facilities Coord. & Backup Service Agreement	(ER15-1838)	15
Schedule 21-NSTAR Annual Informational Filing	(ER09-1243; ER07-549)	16
Schedule 21-UI: Pootatuck Project Non-Pool Supported Cost Recovery	(ER15-1808)	15
Schedule 23: Green Mountain Power SGIA	(ER15-2289)	15

VII. NEPOOL Agreement/Participants Agreement Amendments

No Activity to Report

VIII. Regional Reports

Capital Projects Report - 2015 Q1	(ER15-1710)	17
LFTR Implementation: 27th Quarterly Status Report	(ER07-476; RM06-08)	17
IMM 2014 Annual Markets Report	(ZZ15-4)	17
IMM Quarterly Markets Reports - 2015 Q1	(ZZ15-4)	17
<i>Opinion 531-A</i> Refund Report: FG&E	(EL11-66)	17

IX. Membership Filings

August 2015 Membership Filing	(ER15-2339)	18
July 2015 Membership Filing	(ER15-2088)	18
June 2015 Membership Filing	(ER15-1807)	18
June 23, 2015 Membership Filing	(ER15-1959)	18

X. Misc. - ERO Rules, Filings; Reliability Standards

Compliance Filing: BES Exclusions for Local Network Configurations	(RM12-6)	23
FFT Report: July 2015	(NP15-32)	19
FFT Report: June 2015	(NP15-30)	19
New Reliability Standard: PRC-026-1	(RM15-8)	21
NOPR: BAL-002-1a Interpretation Remand	(RM13-6)	23
NOPR: New Reliability Standard: TPL-007-1	(RM15-11)	20
NOPR: Revised Rel. Standards: CIP-003-6, CIP-004-6, CIP-006-6, CIP-007-6, CIP-009-6, CIP-010-2, CIP-011-2	(RM15-14)	20
NOPR: Revised Rel. Standard: MOD-001-2	(RM14-7)	22
NOPR: Revised Rel. Standard: PRC-002-2	(RM15-4)	22
NOPR: Revised Rel. Standard: PRC-005-4	(RM15-9)	21
NOPR: Revised TOP and IRO Reliability Standards	(RM15-16)	19
<i>Order 810</i> : Revised Rel. Standard: BAL-001-2	(RM14-10)	22
Removal of LSE Category from NERC Compliance Registry	(RR15-4)	23

Revised Regional Delegation Agreements	(RR15-12)	23
Revised Reliability Standards: PRC-004-5; PRC-010-2	(RD15-5).....	19
Revised Reliability Standards: Transition to “Remedial Action Scheme”	(RM15-13).....	20

XI. Misc. Regional Interest

203 Application: CSC/AIA Energy	(EC15-122)	24
203 Application: Iberdrola/UI	(EC15-103)	24
Emera MPD OATT Changes.....	(ER15-1429)	25
E&P Agreement: MEPCO/Number Nine Wind Farm.....	(ER15-2060)	25
EPC Agreement: Blue Sky West & Emera Maine.....	(ER15-1459)	25
FERC Enforcement Action: City Power Marketing and Tsingas	(IN15-5).....	27
FERC Enforcement Action: Staff Notices of Alleged Violations (Etracom/M. Rosenberg)	26
FirstEnergy PJM DR Complaint.....	(EL14-55)	24
MISO Methodology to Involuntarily Allocate Costs to Entities Outside Its Control Area ..	(ER11-1844)	26
Study Agreement Termination: Eversource/Brookfield	(ER15-2218)	25

XII. Misc: Administrative & Rulemaking Proceedings

AWEA Petition for LGIA/LGIP Rulemaking	(RM15-21)	28
NOPR: MBR Authorization Refinements	(RM14-14)	28
NOPR: Third-Party Provision of Primary Frequency Response Service.....	(RM15-2).....	28
<i>Order 771</i> : Availability of E-Tag Information to FERC Staff	(RM11-12)	30
<i>Order 807</i> : Open Access and Priority Rights on ICIF.....	(RM14-11)	29
<i>Order 812</i> : Revisions to Public Utility Filing Requirements	(RM15-3).....	28
Price Formation in RTO/ISO Energy & Ancillary Services Markets.....	(AD14-14)	27
WIRES Request for Policy Statement on ROE for Electric Transmission	(RM13-18).....	29

XIII. Natural Gas Proceedings

206 Investigation: Consistency of ISO-NE (DA) Scheduling Practices with Natural Gas Scheduling Practices to be Adopted in Docket RM14-2	(EL14-23)	5
Enforcement Actions: Columbia Gas Transmission, LLC	(IN15-7).....	32
Inquiry Into Natural Gas Trading, and Proposal to Establish an Electronic Information and Trading Platform.....	(AD14-19)	30
New England Pipeline Proceedings.....	32
<i>Order 809</i> : Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities	(RM14-2).....	31
Posting of Offers to Purchase Capacity (Section 5 Proceeding).....	(RP14-442)	31

XIV. State Proceedings & Federal Legislative Proceedings

No Activity to Report

XV. Federal Courts

2013/14 Winter Reliability Program and Bid Results	14-1104 (DC Cir.).....	35
Base ROE Complaint (2011).....	15-1118 (DC Cir.).....	34
Base ROE Complaints (2012 and 2014).....	15-1212 (DC Cir.).....	34
<i>CPV Maryland, LLC v. PPL EnergyPlus et al.</i>	14-623 (Supreme Court)	37
<i>CPV Power Development, Inc., et al. v. PPL EnergyPlus, LLC, et al.</i>	14-634/694 (Supreme Ct)	38
Demand Curve Changes	15-1070 (DC Cir.)	35
<i>Entergy Nuclear Fitzpatrick, LLC et al. v. Zibelman et al.</i>	5:15-cv-00230 (N.D.N.Y.).....	39
FCM Administrative Pricing Rules Complaint	15-1071 (DC Cir.).....	34
FCA8 Results	14-1244 (DC Cir.).....	35
New England’s <i>Order 745</i> Compliance Filing	12-1306 (DC Cir.).....	36
<i>Orders 745/745-A</i>	14-840 (Supreme Court)	36
<i>Order 1000</i> Compliance Filings	15-1139 (DC Cir.).....	34