

To: NEPOOL Participants Committee Members and Alternates

Date: July 2, 2018

Re: Executive Summary – ISO-NE Mystic 8/9 Waiver Order, Docket Nos. ER18-1509 and EL18-182

Earlier this evening, the FERC issued an order that (i) **denied the ISO's request for waiver** of certain Tariff provisions that would have permitted the ISO to retain Mystic 8 & 9 for fuel security purposes (ER18-1509); and (ii) **instituted an FPA Section 206 proceeding** (EL18-182) (having preliminarily found the ISO Tariff may be unjust and unreasonable in that it fails to address specific regional fuel security concerns identified in the record that could result in reliability violations as soon as year 2022). The order requires the ISO, on or before **August 31, 2018** to either: (a) submit interim Tariff revisions that provide for the filing of a short-term, cost-of-service agreement (COS Agreement) to address demonstrated fuel security concerns (and to submit by **July 1, 2019** permanent Tariff revisions reflecting improvements to its market design to better address regional fuel security concerns); or (b) show cause as to why the Tariff remains just and reasonable in the short- and long-term such that one or both of Tariff revisions filings is not necessary. In addition, the FERC sua sponte extended the deadline in two Tariff provisions to enable Exelon to postpone its Mystic 8 and 9 retirement decision to and including January 4, 2019.

Addressing the waiver element, the FERC found the waiver request “an inappropriate vehicle for allowing Mystic 8 and 9 to submit a [COS Agreement] in response to the identified fuel security need” and further that the request “would not only suspend tariff provisions but also alter the existing conditions upon which a market participant could enter into a [COS Agreement] (for a transmission constraint that impacts reliability) and allow for an entirely new basis (for fuel security concerns that impact reliability) to enter into such an agreement.” The FERC concluded that “[s]uch new processes may not be effectuated by a waiver of the ISO-NE Tariff; they must be filed as proposed tariff provisions under FPA section 205(d).” [P47] Even if it were inclined to apply its waiver criteria, the FERC stated that it would still have denied the waiver request as “not sufficiently limited in scope.” [P48]

Although it denied the waiver request, the FERC was persuaded that the record supported “the conclusion that, due largely to fuel security concerns, the retirement of Mystic 8 and 9 may cause ISO-NE to violate NERC reliability criteria.” Finding the ISO's methodology and assumptions in the Operational Fuel-Security Analysis (OFSA) and Mystic Retirement Studies reasonable, the FERC directed the filing of both interim and permanent Tariff revisions to address fuel security concerns (or a filing showing why such revisions are not necessary). [P55] The FERC directed the ISO to consider the possibility that a resource owner may need to decide, prior to receiving approval of a COS Agreement, whether to unconditionally retire, and provided examples of how to address that possibility. [PP 56-57] The FERC also directed the ISO include with any proposed Tariff revisions a mechanism that addresses how cost-of-service-retained resources would be treated in the FCM [P57] and an ex ante cost allocation proposal that appropriately identifies beneficiaries and adheres to FERC cost causation precedent [P58].

The FERC added that it continues to evaluate Mystic's COS Agreement filing (ER18-1639). [P59]

Included with the order were four separate statements, with Commissioners LaFleur and Chatterjee each concurring and with Commissioners Powelson and Glick each dissenting in part.

We are continuing to digest the implications of the order, including potential next steps for NEPOOL and the ISO, and will provide additional information if and as appropriate.