

**EXECUTIVE SUMMARY**  
**Status Report of Current Regulatory and Legal Proceedings**  
**as of March 3, 2021**

The following activity, as more fully described in the attached litigation report, has occurred since the report dated February 2, 2021 ("last Report") was circulated. New matters/proceedings since the last Report are preceded by an asterisk '\*'. Page numbers precede the matter description.

**COVID-19**



*No Activity to Report*

**I. Complaints/Section 206 Proceedings**



* 2	Green Development DAF Charges Complaint Against National Grid (ER21-47)	Feb 10 Feb 19-Mar 2 Mar 2	Green Development files Complaint Avangrid, Energy Development Partners, NY TOs intervene National Grid answers Complaint; SEIA, Dry Bridge Solar submit comments
5	RNS/LNS Rates and Rate Protocols Settlement Agreement II (ER20-2054)	Feb 24	FERC accepts TOs' compliance filing establishing effective dates for the ISO-NE Tariff records that implement Settlement Agreement II

**II. Rate, ICR, FCA, Cost Recovery Filings**



* 8	FCA15 Results Filing (ER21-1226)	Feb 26 Mar 1-Mar 2	ISO-NE files FCA15 results; comment date <b>Apr 12, 2021</b> NESCOE, Public Citizen intervene
* 8	Essential Power Newington CIP IROL (Schedule 17) Cost Recovery Filing (ER21-1171)	Feb 18  Feb 22	EP Newington requests FERC acceptance of a proposed rate schedule to allow EP Newington to begin the recovery period for certain CIP-IROL Costs under ISO-NE Tariff Schedule 17; comment date <b>Mar 11, 2021</b> NESCOE intervenes
9	Dynegy CIP IROL (Schedule 17) Cost Recovery Filing (ER21-774)	Feb 26	FERC accepts CIP IROL Cost Recovery Period Filing, eff. Mar 1, 2021
10	Mystic 8/9 Cost of Service Agreement (ER18-1639)	Feb 25	Mystic submits 3 <sup>rd</sup> compliance filing; comment date <b>Mar 18, 2021</b>

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



11	Elimination of Price Lock and Zero-Price Offer Rule for New Entrants Starting in FCA16 (ER21-1010)	Feb 3-23 Feb 9, 23 Mar 1	BSW ProjectCo, Calpine, Eversource, National Grid, NESCOE, NRG intervene NEPOOL, NEPGA submit comments supporting revisions FERC issues deficiency letter; ISO-NE responses due <b>Mar 31, 2021</b> (submission of responses will re-set the deadline for FERC action)
12	EER Exemption from PFP Settlement (ER21-943)	Feb 4-16 Feb 16  Mar 3	Calpine, Eversource, MA AG, National Grid, NRG, Vistra intervene NEPOOL, IMM, LS Power companies, NEPGA file comments supporting exemption; AEE protests revisions ISO-NE answers AEE protest
12	Updated CONE, Net Cone and PPR Values (eff. FCA16) (ER21-787)	Feb 12 Feb 16-17	ISO-NE answers Jan 21 protests EPSA, NEPGA and CPV Towantic answer ISO-NE's Feb 12 answer
13	New DDBT Methodology (ER21-782)	Mar 1	FERC accepts new methodology, eff. Mar 2, 2021
13	EER FCM Qualification Modifications (ER21-640)	Feb 11	FERC accepts modifications, eff. Feb 12, 2021

14	Order 841 Compliance Filings (Electric Storage in RTO/ISO Markets) (ER19-470)	Feb 12	FERC accepts Dec 7 Order 841 Further Compliance Filing, eff. Mar 1, 2021 (other than revisions specific to the Day-Ahead Energy Market which will be eff. Jan 1, 2026)
14	CASPR (ER18-619)	Feb 18	FERC rejects, as procedurally barred, the Sierra Club/NRDC/CLF request for rehearing of the Nov 19 CASPR <i>Allegheny Order</i>

## V. OATT Amendments / TOAs / Coordination Agreements



No Activity to Report

## V. Financial Assurance/Billing Policy Amendments



15	FAP Info Disclosure/KYC Requirements (ER21-816)	Feb 23	ISO-NE files an amendment that re-formats certain pages (without change to any text) so that the footnotes are visible in the eTariff system
		Mar 3	FERC accepts filing, eff. Mar 9, 2021; Market Participants must submit new Info Disclosure forms by <b>Apr 30, 2021</b>

## VI. Schedule 20/21/22/23 Changes



* 15	Schedule 20A NEP-Vitol Phase I/II HVDC-TF Service Agreement (ER21-1180)	Feb 19	National Grid files a new Phase I/II HVDC-TF Service Agreement between NEP and Vitol; comment date <b>Mar 12, 2021</b>
		Mar 1	Vitol intervenes

## VII. NEPOOL Agreement/Participants Agreement Amendments



No Activity to Report

## VIII. Regional Reports



* 17	Capital Projects Report - 2020 Q4 (ER21-1109)	Feb 12	ISO-NE files Q4 Report
		Feb 17	NEPOOL intervenes and files comments supporting Q4 Report
* 17	Interconnection Study Metrics Processing Time Exceedance Report Q4 2020 (ER19-1951)	Feb 16	ISO-NE files required quarterly report
* 18	IMM Quarterly Markets Reports - 2020 Fall (ZZ21-4)	Feb 5	IMM files Fall 2020 Report

## IX. Membership Filings



* 18	March 2021 Membership Filing (ER21-1228)	Feb 26	<b>Membership:</b> Trafigura Trading. <b>Terminations:</b> Axon Energy; Springfield Power; <b>Name Change:</b> Titan Gas LLC d/b/a CleanSky Energy; comment date <b>Mar 19, 2021</b>
18	January 2021 Membership Filing (ER21-761)	Feb 25	FERC accepts memberships of the following Supplier Sector members: Cassadaga Wind; Centrica Business Solutions Optimize; Pilot Power Group, LLC; and SmartestEnergy US; and the termination of the Participant status of Wheelabrator Bridgeport, LP

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



19	NERC Annual Report on FFT & Compliance Exception Programs (RC11-6-011)	Feb 19	FERC accepts NERC's annual report on FFT and Compliance Exception programs
* 20	Revised Reliability Standard: FAC-008-5 (RD21-4)	Feb 19	NERC files FAC-008-5 to remove Requirement R.7; comment date <b>Mar 22, 2021</b>
20	Revised Reliability Standard: CIP-002-6 (RM20-17)	Feb 5	NERC withdraws proposed CIP-002-6

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

* 22	203 Application: Exelon Generation (EC21-57)	Feb 25 Feb 26-27	ExGen files application; comment date <b>Mar 18, 2021</b> PJM, PJM IMM, Public Citizen intervene
23	LGIA: NSTAR / MMWEC (Stony Brook) (ER21-777)	Feb 26	FERC accepts LGIA, eff. Dec 31, 2020
23	LGIA: CMP / ReEnergy Stratton (ER21-769)	Feb 19	FERC accepts LGIA, eff. Dec 21, 2020
23	Interim Distribution Wheeling Agreement: Unitil / Briar Hydro (ER21-759)	Feb 22	FERC accepts Agreement, eff. Dec 28, 2020
24	SGIA: CL&P / ECRRA (ER21-651)	Feb 10	FERC accepts SGIA, eff. Dec 15, 2020
24	Orders 864/864-A (Public Util. Trans. ADIT Rate Changes): New England Compliance Filings (various)	Feb 11 Feb 12 Feb 16	ER20-2133 ( <i>Versant Power</i> ). FERC issues deficiency letter; response date <b>Mar 15, 2021</b> ER21-1130 ( <i>TOs</i> ). <i>TOs</i> supplement their Jul 30 compliance filing ER21-1154 ( <i>FG&amp;E</i> ). <i>FG&amp;E</i> submits changes to Sched. 21-FG&E

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

* 25	Electrification & the Grid of the Future Tech Conf (Apr 29, 2021) (AD21-12)	Mar 2	FERC issues notice of Apr 29, 2021 tech conf; panelist self-nominations due <b>Mar 19, 2021</b>
* 25	Resource Adequacy - Modernizing Electricity Mkt Design (AD21-10)	Feb 18	FERC issues notice of Mar 23, 2021 tech conf on resource adequacy in the evolving electricity sector
* 25	The Office of Public Participation (AD21-9)	Feb 22	FERC issues notice of Apr 16, 2021 workshop; panelist self-nominations due <b>Mar 10, 2021</b>
26	ISO/RTO Credit Principles and Practices (AD21-6)	Feb 10 Feb 25-26	FERC issues supplemental notice of tech conf Technical conference held
26	Offshore Wind Integration in RTOs/ISOs Tech Conf (Oct 27, 2020) (AD20-18)	Feb 9	Advanced Power Alliance files comments requesting that the FERC issue a notice providing an opportunity for interested persons to submit post-conference comments
28	Grid Resilience in RTO/ISOs (AD18-7)	Feb 18	FERC terminates proceeding, finding concerns are best addressed on a case-by-case and region-by-region basis
28	NOPR: Cybersecurity Incentives (RM21-3)	Feb 9 Feb 16	aDolus Inc., Fortress Info. Security, GMO GlobalSign Inc., Ion Channel, ReFirm Labs & Reliable Energy Analytics file joint comments George Cotter, Esq. files comments; <b>comment date Apr 6, 2021</b>
30	Order 2222: DER Participation in RTO/ISO Markets (RM18-9)	Feb 17 Feb 18 Feb 26	MISO requests extension of time to comply SPP requests extension of time to comply PJM requests extension of time to comply
31	Order 860/860-A: Data Collection for Analytics & Surveillance and MBR Purposes (RM16-17)	Feb 25	FERC issues notice of <b>Mar 25, 2021</b> tech workshop to discuss the functionality and features of the MBR Database
34	NOI: Certification of New Interstate Natural Gas Facilities (PL18-1)	Feb 18	FERC issues new NOI (2021 NOI) in which it seeks new information and additional stakeholder perspectives to help it explore whether it should revise its approach under the currently effective policy statement on the certification of new natural gas transportation facilities; comment date <b>Apr 26, 2021</b>

**XIII. Natural Gas Proceedings**

- \*\* 35 Atlantic Bridge Project (CP16-9) Feb 18 FERC, expressing concerns regarding operation of the project, establishes briefing procedures; Initial briefs due **April 5, 2021**; reply briefs, **May 5, 2021**

**XIV. State Proceedings & Federal Legislative Proceedings**

- 39 New England States' Vision Statement / On-Line Technical Forums Feb 25 Governance Reform Technical Forum held; comments due Mar 26

**XV. Federal Courts**

- 40 Exelon PP-10 Complaint (20-1509) Feb 16 Feb 18 Mystic moves to voluntarily dismiss Petition for Review Clerk issues order granting Mystic's request and issues mandate to the FERC, ending this proceeding
- 40 ISO-NE Implementation of Order 1000 Exemptions for Immediate Need Reliability Projects (20-1422) Mar 2 Court issues an amended briefing schedule to apply in this case
- 41 CIP IROL Cost Recovery Rules (20-1389) Mar 1 Cogentrix/Vistra file Petitioners' Brief
- 41 Mystic 8/9 Cost of Service Agreement (20-1343; 20-1361, 20-1362; 20-1365, 20-1368) (consolidated) Feb 17 Feb 24 Feb 26 Court consolidates 21-1067 (NESCOE) with Case 20-1343 Court consolidates 21-1070 (CT Parties) with Case 20-1343 FERC files motion indicating that this case can return to the Court's active docket and its expectation to file a proposed briefing schedule
- 41 CASPR (20-1333, 20-1331) (consolidated) Feb 18 Feb 26 NEPOOL moves for leave to intervene in this case Parties submit proposed briefing format; FERC requests 60 days between the Petitioners' opening brief and its brief in response
- 42 *Opinion 531-A* Compliance Filing Undo (20-1329) Feb 11 Court issues order holding case in abeyance pending further order of the Court and directing the parties to file motions to govern future proceedings in this case by **Apr 26, 2021**
- 43 ISO-NE's Inventoried Energy Program (Chapter 2B) Proposal (19-1224) (consol.) Feb 9 Feb 16 Feb 24 FERC files Respondent Brief ISO-NE and NEPGA file Intervenor for Respondent Briefs FERC files an amended certified index to the record
- 43 Order 872 (20-72788) (consol.) Feb 8 Court grants motion to consolidate and motion to continue to hold petitions in abeyance; directs petitioners to file a status report on or before **Apr 9, 2021**
- 44 Opinion 569/569-A: FERC's Base ROE Methodology (16-1325) (consol.) Feb 8 Statements of issues filed

## M E M O R A N D U M

**TO:** NEPOOL Participants Committee Members and Alternates

**FROM:** Patrick M. Gerity, NEPOOL Counsel

**DATE:** March 3, 2021

**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"),<sup>1</sup> state regulatory commissions, and the Federal Courts and legislatures through March 3, 2021. If you have questions, please contact us.

**COVID-19**

- **Jul 8-9 Tech Conf: Impacts of COVID-19 on the Energy Industry (AD20-17)**

On July 8-9, 2020, the FERC convened a Commissioner-led technical conference to explore the potential longer-term impacts of the emergency conditions caused by COVID-19 on FERC-jurisdictional entities "in order to ensure the continued efficient functioning of energy markets, transmission of electricity, transportation of natural gas and oil, and reliable operation of energy infrastructure today and in the future, while also protecting consumers". The conference included consideration of: (i) the energy industry's ongoing and potential future operational and planning challenges due to COVID-19 and as the situation evolves moving forward; (ii) the potential impacts of changes in electric demand on operations, planning, and infrastructure development; (iii) the potential impacts of changes in natural gas and oil demand on operations, planning, and infrastructure development; and (iv) issues related to access to capital, including credit, liquidity, and return on equity. Comments and speaker opening statements are posted in eLibrary.

Interested parties were invited to file, on or before August 31, 2020, post-technical conference comments on any or all of the topics discussed at the July 8-9 technical conference, as well as to respond to the questions outlined in the July 1, 2020 supplemental notice of technical conference. Comments were filed by AEP, APPA, America Forest & Paper, America's Power, EEI, IEEE Power & Energy Society, Clearview Energy Partners, TAPS, Assoc. of Oil Pipelines, Pilot Travel Centers, and Process Gas. This matter remains pending before the FERC.

- **Remote ALJ Hearings (AD20-12)**

All hearings before Administrative Law Judges ("ALJs") are being held remotely through video conference software (WebEx and SharePoint) until further notice.<sup>2</sup> The Presiding Judge in each remote hearing will ensure that the participants have access to an "IT Day" prior to the hearing to allow all participants, witnesses, and the public who will attend the hearing to learn more about the remote hearing software and to get their technical questions answered by the appropriate FERC staff. Uniform Hearing Rules for all Office of the ALJ hearings were adopted effective September 15, 2020.<sup>3</sup> The "Remote Hearing Guidance

<sup>1</sup> 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").

<sup>2</sup> Chief Administrative Law Judge's Notices to the Public, Docket No. AD20-12 (June 17, 2020).

<sup>3</sup> Chief Administrative Law Judge's Notices to the Public, Docket No. AD20-12 (Sep. 1, 2020).

for Participants” was revised on September 23, 2020 to make three changes.<sup>4</sup> The [Uniform Hearing Rules](#) and [Remote Hearing Guidance for Participants](#) are publicly available in this proceeding in eLibrary and on the [FERC’s Administrative Litigation webpage](#).

- **Extension of Filing Deadlines (AD20-11)**

On January 22, 2021, the waiver of FERC regulations that require that filings with the FERC be notarized or supported by sworn declarations was further **extended through July 30, 2021**.<sup>5</sup> The January 25 notice extended the waiver first noticed in May<sup>6</sup> and extended on August 20, 2020.<sup>7</sup> As previously reported, Entities may also seek waiver of FERC orders, regulations, tariffs and rate schedules, including motions for waiver of regulations that govern the form of filings, as appropriate, to address needs resulting from steps they have taken in response to the coronavirus.<sup>8</sup>

- **Blanket Waiver of ISO/RTO Tariff In-Person Meeting and Notarization Requirements (EL20-37)**

On January 25, 2021, the extension of the blanket waivers of ISO/RTO Tariff *in-person*<sup>9</sup> meeting and notarization requirements was further **extended through July 30, 2021**.<sup>10</sup> The January 25 order extended the blanket waivers first granted in the FERC’s April 2, 2020 order and extended in an August 20, 2020 order.<sup>11</sup>

## I. Complaints/Section 206 Proceedings

- **Green Development DAF Charges Complaint Against National Grid (EL21-47)**

On February 10, 2021, Green Development, LLC (“Green Development”) filed a Complaint against New England Power Company and Narragansett Electric Company (together, “National Grid” or “Grid”) requesting a finding that Grid’s assessment of Direct Assignment Facility (“DAF”) charges for Green Development’s projects is unauthorized under the ISO-NE Tariff. Summarizing at highest level, Green Development asserts that the upgrades associated with the interconnection of its distribution-level, state jurisdictional projects are not DAF as defined in the ISO-NE Tariff. Grid’s answer, as well as comments and interventions with respect to the Green Development DAF Complaint were due March 2, 2021. Grid filed its answer on March 2. Solar Energy Industries Association (“SEIA”) and Dry Bridge Solar submitted comments supporting the Complaint. Doc-less interventions were filed by Avangrid, Energy Development Partners and New York Transmission Owners (“NY TOs”). This matter is pending before the FERC. If you have any questions concerning this proceeding, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

<sup>4</sup> *Chief Administrative Law Judge’s Notices to the Public*, Docket No. AD20-12 (Sep. 23, 2020) (removing law clerk requirement to share screen when moving exhibits, revising procedures for requesting Live Litigation, and revising witness communication guidance to require that “[c]ommunications with a witness through concealed channels of communications are prohibited while the witness is providing testimony on the witness stand. Communications with a witness are allowed during breaks and when they are not on the witness stand.”)

<sup>5</sup> See *Extension of Non-Statutory Deadlines*, Docket No. AD20-11-000 (Jan. 25, 2021).

<sup>6</sup> *Extension of Non-Statutory Deadlines*, Docket No. AD20-11-000 (May 8, 2020).

<sup>7</sup> See *Extension of Non-Statutory Deadlines*, Docket No. AD20-11-000 (Aug. 20, 2020).

<sup>8</sup> *Extension of Non-Statutory Deadlines*, Docket No. AD20-11-000 (Apr. 2, 2020).

<sup>9</sup> The waiver only applies to a specific requirement that meetings be held *in person*. Other than the in-person requirement, such meetings must still be held consistent with the tariff, but should be conducted by other means (e.g. telephonically).

<sup>10</sup> *Temporary Action to Facilitate Social Distancing*, 174 FERC ¶ 61,047 (Jan. 25, 2021).

<sup>11</sup> *Temporary Action to Facilitate Social Distancing*, 171 FERC ¶ 61,004 (Apr. 2, 2020) (waiving notarization requirements through Sep. 1, 2020, contained in any tariff, rate schedule, service agreement, or contract subject to the FERC’s jurisdiction under the Federal Power Act (“FPA”), the Natural Gas Act (“NGA”), or the Interstate Commerce Act); *Temporary Action to Facilitate Social Distancing*, 172 FERC ¶ 61,151 (Aug. 20, 2020) (extending the waivers through Jan. 29, 2021).



- **NEPGA Net CONE Complaint (EL21-26)**

Pending before the FERC is NEPGA's December 11, 2020 complaint against ISO-NE. The Complaint alleged that ISO-NE violated its Tariff and the filed-rate doctrine by recalculating and reviewing with NEPOOL a Net CONE value methodology demonstrably inconsistent with the Tariff and prior practice. NEPGA sought an order directing ISO-NE to recalculate, review with NEPOOL stakeholders, and file with the FERC a Net CONE value consistent with the existing Tariff definition. Should its requested relief be granted, NEPGA asked the FERC to find unjust and unreasonable the Net CONE value for FCAs 16-18 (filed on December 31, see ER21-787 in Section III below) and, should there not be sufficient time to allow for completion of stakeholder review before the beginning of the FCA16 calendar (March 2021), NEPGA asked that ISO-NE be directed to apply the Tariff-defined annual adjustment factors to the FCA15 Net CONE value to be used for the FCA16 Net CONE value.

ISO-NE's answer, comments and interventions with respect to the Net CONE Complaint were due December 31, 2020. In its answer, [ISO-NE](#) explained why it acted legally and consistent with its Tariff, and requested a FERC order summarily dismissing or denying NEPGA's Complaint. [NEPOOL](#) filed comments explaining why the Complaint was premature and should be rejected so that NEPGA's arguments could be properly addressed in response to ISO-NE's filing of its proposed updates to CONE, Net CONE and the PPR values. NEPOOL's comments, alternatively, suggested that the Complaint proceeding be held in abeyance pending the outcome of ISO-NE's December 31 Updated CONE, Net CONE and PPR Values filing. Protests were also filed by [NESCOE](#), [NECOS/ENE](#)<sup>12</sup> and [CT State Agencies](#).<sup>13</sup> [EPSA](#) filed comments supporting NEPGA's Complaint. Doc-less interventions only were filed by Avangrid, Calpine, Dominion, Eversource, FirstLight, LS Power, MA AG, MMWEC, National Grid, NHEC, NRG, MA DPU, RI PUC, and Public Citizen. On January 8, 2021, NEPGA answered ISO-NE's Answer and the comments and protests filed in response to its Complaint. ISO-NE answered NEPGA's answer on January 25, 2021. This matter is pending before the FERC. If you have any questions concerning this proceeding, please contact Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)) or Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

- **NECEC/Avangrid Complaint Against NextEra/Seabrook (EL21-6)**

The October 13, 2020 complaint filed by NECEC Transmission LLC ("NECEC") and Avangrid Inc. (together, "Avangrid") against NextEra<sup>14</sup> remains pending. As previously reported, the Complaint requested FERC action "to stop NextEra from unlawfully interfering with the interconnection of the New England Clean Energy Connect transmission project ("NECEC Project")." The Complaint sought, among other things, an initial, expedited order that would grant certain relief<sup>15</sup> and direct NextEra to immediately commence engineering, design, planning and procurement activities that are necessary for NextEra to construct the generator owned transmission upgrades during Seabrook Station's Planned 2021 Outage.

---

<sup>12</sup> "NECOS/ENE" are: Belmont Municipal Light Department, Block Island Utility District, Braintree Electric Light Department, Georgetown Municipal Light Department, Groveland Electric Light Department, Hingham Municipal Lighting Plant, Littleton Electric Light Department, Merrimac Municipal Light Department, Middleborough Gas & Electric Department, Middleton Electric Light Department, North Attleborough Electric Department, Norwood Light & Broadband Department, Reading Municipal Light Department, Rowley Municipal Lighting Plant, Stowe Electric Department, Taunton Municipal Lighting Plant, and Wallingford Department of Public Utilities Electric Division (collectively, "NECOS"); and Energy New England, LLC ("ENE").

<sup>13</sup> "CT Agencies" are: the Connecticut Department of Energy and Environmental Protection ("CT DEEP"), William Tong, Attorney General for the State of Connecticut ("CT AG"), the Connecticut Public Utilities Regulatory Authority ("CT PURA") and the Connecticut Office of Consumer Counsel ("CT OCC")

<sup>14</sup> For purposes of this Complaint proceeding, "NextEra" is short for NextEra Energy Resources, LLC ("NextEra Energy Resources"), NextEra Energy Seabrook, LLC ("NextEra Seabrook"), FPL Energy Wyman LLC ("Wyman"), and FPL Energy Wyman IV LLC ("Wyman IV").

<sup>15</sup> Directing NextEra to comply with the ISO-NE OATT, to comply with open access requirements, and to cease and desist unlawful interference with the NECEC Project; and to have the FERC temporarily revoke NextEra's blanket waiver under Part 358 of the FERC's regulations and to initiate an investigation and require NextEra to preserve and provide documents related to the interconnection of the NECEC Project.

Comments on the Complaint were due on or before November 2, 2020. On November 2, NextEra submitted an answer to the Complaint (requesting the FERC dismiss or deny the Complaint) and National Grid filed comments. Doc-less interventions were filed by Dominion, Eversource, Calpine, Exelon, HQ US, MA AG, MMWEC National Grid, NESCOE, NRG, and Public Citizen. On November 17, Avangrid submitted an answer to NextEra's November 2 Answer. On November 30, NextEra answered Avangrid's November 17 answer ("supplemental answer"), repeating its request that the FERC dismiss or deny the Complaint. Avangrid answered the November 30 supplemental answer on December 7, 2020. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

- **NextEra Energy Seabrook Declaratory Order Petition re: NECEC Elective Upgrade Costs Dispute (EL21-3)**

In a related matter initiated a week earlier, NextEra Energy Seabrook, LLC ("Seabrook") filed a Petition for a Declaratory Order ("Petition") "by which it seeks to understand the scope of its FERC-jurisdictional regulatory obligations with respect to the project ("NECEC Elective Upgrade"), and to resolve its dispute with NECEC". Specifically, Seabrook asked the FERC to declare that: (1) Seabrook is not required to incur a financial loss to upgrade, for NECEC's sole benefit, a 24.5 kV generator circuit breaker and ancillary equipment ("Generation Breaker") at Seabrook Station; (2) "Good Utility Practice" for replacement of the nuclear plant Generation Breaker is defined in terms of the practices of the nuclear power industry, such that Seabrook's proposed definition of that term is appropriate for use in a facilities agreement with NECEC; and (3) Seabrook will not be liable for consequential damages for the service it provides to NECEC under a facilities agreement (collectively, the "Requested Declarations"). Alternatively, Seabrook asked that the FERC declare that nothing in ISO-NE's Tariff requires Seabrook to enter into an agreement to replace the Generation Breaker, and therefore, Seabrook and the Joint Owners are entitled to bargain for appropriate terms and conditions to recover their costs, to define Good Utility Practice, and to limit liability associated with providing the service ("Alternative Declaration").

Comments on Seabrook's Petition were due on or before November 4, 2020, and were filed by Eversource, MMWEC, and NEPGA. Avangrid and NECEC Transmission ("Avangrid") protested the Declaratory Order. Doc-less interventions were filed by Avangrid, Dominion, Eversource, Calpine, Exelon, HQ US, National Grid, NESCOE, NRG, and Public Citizen. On November 19, NextEra answered Avangrid's protest. On December 4, Avangrid answered NextEra's November 19 answer. This matter is also pending before the FERC. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

- **New England Generators' Exelon Complaint (EL20-67)**

New England Generators'<sup>16</sup> August 25, 2020 complaint against Exelon<sup>17</sup> remains pending. As previously reported, the Complaint requested that, if and to the extent the FERC does not grant all relief requested by the New England Generators in its August 27, 2020 request for clarification and/or rehearing of the *July 17 Orders* in the Mystic 8/9 Cost of Service Agreement ("COS Agreement") proceeding (see ER18-1639 below), the FERC should find that the new information about Exelon's two new queue positions and Exelon's intention to continue to operate Everett beyond the term of the Mystic Agreement makes the existing rate in the Mystic Agreement unjust and unreasonable. New England Generators further requested that the FERC change the Mystic Agreement to: (i) apply the clawback mechanisms to Exelon's two new interconnection queue positions (to prevent Exelon from using interconnection queue positions for "new" or "repowered" units to skirt restrictions imposed on Mystic's recovery of costs pursuant to the COS Agreement); (ii) delete or give no meaning to the words "that were expensed" (in order to prevent Exelon from shielding costs paid for by captive ratepayers from the application of the COS Agreement's clawback provision); and (iii) require that Mystic return any of the undepreciated Everett

---

<sup>16</sup> "New England Generators" are Vistra, Dynegy Marketing and Trade, NextEra Energy Resources, NRG Power Marketing, LS Power Associates, FirstLight Power, and Cogentrix Energy Power Management.

<sup>17</sup> For purposes of this Complaint, "Exelon" is short for Constellation Mystic Power, LLC ("Mystic"), Exelon Generation Company, LLC ("Exelon Generation") and Exelon Corporation ("Exelon Corp.").



repair and capital expenditure costs in the event that Mystic 8 or 9 return to the market after the end of the COS Agreement.

Exelon's answer and all interventions or protests were due on or before September 14, 2020. In addition to Exelon's answer, comments supporting the Complaint were filed by NESCOE, Public Systems<sup>18</sup> and Connecticut Parties.<sup>19</sup> On September 28, NEPGA answer Exelon's answer. Calpine, ENE, Eversource, Massachusetts Attorney General ("MA AG") National Grid, and Public Citizen filed doc-less interventions. The Complaint, as well as all of the pleadings in response, remain pending before the FERC. If you have any questions concerning this proceeding, please contact Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)) or Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

- **RNS/LNS Rates and Rate Protocols Settlement Agreement II Compliance Filing (ER20-2054)**

On February 24, 2021, the FERC accepted<sup>20</sup> the TO's January 27, 2021 compliance filing that established the following effective dates for the ISO-NE Tariff records that implement the Settlement approved by the FERC ("Settlement Agreement II").<sup>21</sup>

- ♦ **Jun 15, 2021** Interim Formula Rate Protocols (Appendix C to Attachment F)
- ♦ **Jan 1, 2022** Attachment F (other than Appendix C); Section II.25, Schedule 8, Schedule 9 and each of the OATT Schedule 21s
- ♦ **Jun 15, 2023** Final Formula Rate Protocols (Appendix C to Attachment F)

Unless the February 24 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

- **Base ROE Complaints I-IV: (EL11-66, EL13-33; EL14-86; EL16-64)**

There are four proceedings pending before the FERC in which consumer representatives seek to reduce the TOs' return on equity ("Base ROE") for regional transmission service.

- **Base ROE Complaint I (EL11-66).** In the first Base ROE Complaint proceeding, the FERC concluded that the TOs' ROE had become unjust and unreasonable,<sup>22</sup> set the TOs' Base ROE at 10.57% (reduced from 11.14%), capped the TOs' total ROE (Base ROE *plus* transmission incentive adders) at 11.74%, and required implementation effective as of October 16, 2014 (the date of *Opinion 531-A*).<sup>23</sup> However, the FERC's orders were challenged, and in *Emera Maine*,<sup>24</sup> the DC Circuit vacated the FERC's prior orders, and remanded the case for further proceedings consistent with its

<sup>18</sup> "Public Systems" are Mass. Municipal Wholesale Elec. Co. ("MMWEC") and New Hampshire Elec. Coop., Inc. ("NHEC").

<sup>19</sup> "Connecticut Parties" are CT PURA, CT DEEP, and the CT OCC.

<sup>20</sup> *ISO New England Inc., et al.*, Docket No. ER20-2054-001 (Feb. 24, 2021).

<sup>21</sup> *ISO New England Inc., et al.*, 173 FERC ¶ 61,270 (Dec. 28, 2020).

<sup>22</sup> The TOs' 11.14% pre-existing Base ROE was established in *Opinion 489*. *Bangor Hydro-Elec. Co.*, Opinion No. 489, 117 FERC ¶ 61,129 (2006), *order on reh'g*, 122 FERC ¶ 61,265 (2008), *order granting clarif.*, 124 FERC ¶ 61,136 (2008), *aff'd sub nom.*, Conn. Dep't of Pub. Util. Control v. FERC, 593 F.3d 30 (D.C. Cir. 2010) ("*Opinion 489*").

<sup>23</sup> *Coakley Mass. Att'y Gen. v. Bangor Hydro-Elec. Co.*, 147 FERC ¶ 61,234 (2014) ("*Opinion 531*"), *order on paper hearing*, 149 FERC ¶ 61,032 (2014) ("*Opinion 531-A*"), *order on reh'g*, 150 FERC ¶ 61,165 (2015) ("*Opinion 531-B*").

<sup>24</sup> *Emera Maine v. FERC*, 854 F.3d 9 (D.C. Cir. 2017) ("*Emera Maine*"). *Emera Maine* vacated the FERC's prior orders in the Base ROE Complaint I proceeding, and remanded the case for further proceedings consistent with its order. The Court agreed with both the TOs (that the FERC did not meet the Section 206 obligation to first find the existing rate unlawful before setting the new rate) and "Customers" (that the 10.57% ROE was not based on reasoned decision-making, and was a departure from past precedent of setting the ROE at the midpoint of the zone of reasonableness).

order. The FERC's determinations in *Opinion 531* are thus no longer precedential, though the FERC remains free to re-adopt those determinations on remand as long as it provides a reasoned basis for doing so.

- **Base ROE Complaints II & III (EL13-33 and EL14-86) (consolidated).** The second (EL13-33)<sup>25</sup> and third (EL14-86)<sup>26</sup> ROE complaint proceedings were consolidated for purposes of hearing and decision, though the parties were permitted to litigate a separate ROE for each refund period. After hearings were completed, ALJ Sterner issued a 939-paragraph, 371-page *Initial Decision*, which lowered the base ROEs for the EL13-33 and EL14-86 refund periods from 11.14% to 9.59% and 10.90%, respectively.<sup>27</sup> The *Initial Decision* also lowered the ROE ceilings. Parties to these proceedings filed briefs on exception to the FERC, which has not yet issued an opinion on the ALJ's *Initial Decision*.
- **Base ROE Complaint IV (EL16-64).** The fourth and final ROE proceeding<sup>28</sup> also went to hearing before an ALJ, Judge Glazer, who issued his initial decision on March 27, 2017.<sup>29</sup> The *Base ROE IV Initial Decision* concluded that the currently-filed base ROE of 10.57%, which may reach a maximum ROE of 11.74% with incentive adders, was **not** unjust and unreasonable for the Complaint IV period, and hence was not unlawful under section 206 of the FPA.<sup>30</sup> Parties in this proceeding filed briefs on exception to the FERC, which has not yet issued an opinion on the *Base ROE IV Initial Decision*.

**October 16, 2018 Order Proposing Methodology for Addressing ROE Issues Remanded in Emera Maine and Directing Briefs.** On October 16, 2018, the FERC, addressing the issues that were remanded in *Emera Maine*, proposed a new methodology for determining whether an existing ROE remains just and reasonable.<sup>31</sup> The FERC indicated its intention that the methodology be its policy going forward, including in the four currently pending New England proceedings (see, however, *Opinion 569-A*<sup>32</sup> (EL14-12; EL15-45) in

<sup>25</sup> The 2012 Base ROE Complaint, filed by Environment Northeast (now known as Acadia Center), 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% ROE, and seeks a reduction of the Base ROE to 8.7%.

<sup>26</sup> The 2014 Base ROE Complaint, filed July 31, 2014 by the Massachusetts Attorney General, 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.

<sup>27</sup> *Environment Northeast v. Bangor Hydro-Elec. Co. and Mass. Att'y Gen. v. Bangor Hydro-Elec. Co.*, 154 FERC ¶ 63,024 (Mar. 22, 2016) ("2012/14 ROE Initial Decision").

<sup>28</sup> The 4th ROE Complaint asked the FERC to reduce the TOS' current 10.57% return on equity ("Base ROE") to 8.93% and to determine that the upper end of the zone of reasonableness (which sets the incentives cap) is no higher than 11.24%. The FERC established hearing and settlement judge procedures (and set a refund effective date of April 29, 2016) for the 4th ROE Complaint on September 20, 2016. Settlement procedures did not lead to a settlement, were terminated, and hearings were held subsequently held December 11-15, 2017. The September 26, 2016 order was challenged on rehearing, but rehearing of that order was denied on January 16, 2018. *Belmont Mun. Light Dept. v. Central Me. Power Co.*, 156 FERC ¶ 61,198 (Sep. 20, 2016) ("Base ROE Complaint IV Order"), *reh'g denied*, 162 FERC ¶ 61,035 (Jan. 18, 2018) (together, the "Base ROE Complaint IV Orders"). The *Base ROE Complaint IV Orders*, as described in Section XV below, have been appealed to, and are pending before, the DC Circuit.

<sup>29</sup> *Belmont Mun. Light Dept. v. Central Me. Power Co.*, 162 FERC ¶ 63,026 (Mar. 27, 2018) ("Base ROE Complaint IV Initial Decision").

<sup>30</sup> *Id.* at P 2.; Finding of Fact (B).

<sup>31</sup> *Coakley v. Bangor Hydro-Elec. Co.*, 165 FERC ¶ 61,030 (Oct. 18, 2018) ("Order Directing Briefs" or "Coakley").

<sup>32</sup> *Ass'n of Buss. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, Opinion No. 569-A, 171 FERC ¶ 61,154 (2020) ("Opinion 569-A"). The refinements to the FERC's ROE methodology included: (i) the use of the Risk Premium model instead of only relying on the DCF model and CAPM under both prongs of FPA Section 206; (ii) adjusting the relative weighting of long- and short-term growth rates, increasing the weight for the short-term growth rate to 80% and reducing to 20% the weight given to the long-term growth rate in

Section XI below). The FERC established a paper hearing on how its proposed methodology should apply to the four pending ROE proceedings.<sup>33</sup>

At highest level, the new methodology will determine whether (1) an existing ROE is unjust and unreasonable under the first prong of FPA section 206 and (2) if so, what the replacement ROE should be under the second prong of FPA section 206. In determining whether an existing ROE is unjust and under the first prong of Section 206, the FERC stated that it will determine a “composite” zone of reasonableness based on the results of three models: the Discounted Cash Flow (“DCF”), Capital Asset Pricing Model (“CAPM”), and Expected Earnings models. Within that composite zone, a smaller, “presumptively reasonable” zone will be established. Absent additional evidence to the contrary, if the utility's existing ROE falls within the presumptively reasonable zone, it is not unjust and unreasonable. Changes in capital market conditions since the existing ROE was established may be considered in assessing whether the ROE is unjust and unreasonable.

If the FERC finds an existing ROE unjust and unreasonable, it will then determine the new just and reasonable ROE using an averaging process. For a diverse group of average risk utilities, FERC will average four values: the midpoints of the DCF, CAPM and Expected Earnings models, and the results of the Risk Premium model. For a single utility of average risk, the FERC will average the medians rather than the midpoints. The FERC said that it would continue to use the same proxy group criteria it established in *Opinion 531* to run the ROE models, but it made a significant change to the manner in which it will apply the high-end outlier test.

The FERC provided preliminary analysis of how it would apply the proposed methodology in the Base ROE I Complaint, suggesting that it would affirm its holding that an 11.14% Base ROE is unjust and unreasonable. The FERC suggested that it would adopt a 10.41% Base ROE and cap any preexisting incentive-based total ROE at 13.08%.<sup>34</sup> The new ROE would be effective as of the date of *Opinion 531-A*, or October 16, 2014. Accordingly, the issue to be addressed in the Base ROE Complaint II proceeding is whether the ROE established on remand in the first complaint proceeding remained just and reasonable based on financial data for the six-month period September 2013 through February 2014 addressed by the evidence presented by the participants in the second proceeding. Similarly, briefing in the third and fourth complaints will have to address whether whatever ROE is in effect as a result of the immediately preceding complaint proceeding continues to be just and reasonable.

The FERC directed participants in the four proceedings to submit briefs regarding the proposed approaches to the FPA section 206 inquiry and how to apply them to the complaints (separate briefs for each proceeding). Additional financial data or evidence concerning economic conditions in any proceeding must relate to periods before the conclusion of the hearings in the relevant complaint proceeding. Following a FERC notice granting a request by the TOs and Customers<sup>35</sup> for an extension of time to submit briefs, the latest date for filing initial and reply briefs was extended to January 11 and March 8, 2019, respectively. On January 11, initial briefs were filed by EMCOS, Complainant-Aligned Parties, TOs, EEI, Louisiana PSC, Southern California Edison, and AEP. As part of their initial briefs, each of the Louisiana PSC, SEC and AEP also moved to intervene out-of-time. Those interventions were opposed by the TOs on January 24, 2019. The Louisiana PSC answered

---

the two-step DCF model; (iii) modifying the high-end outlier test to treat any proxy company as high-end outlier if its cost of equity estimated under the model in question is more than 200% of the median result of all the potential proxy group members in that model before any high- or low-end outlier test is applied, subject to a natural break analysis. This is a shift from the 150% threshold applied in *Opinion 569*; and (iv) calculating the zone of reasonableness in equal thirds, instead of using the quartile approach that was applied in *Opinion 569*.

<sup>33</sup> *Id.* at P 19.

<sup>34</sup> *Id.* at P 59.

<sup>35</sup> For purposes of the motion seeking clarification, “Customers” are CT PURA, MA AG and EMCOS.

the TOs' January 24 motion on February 12. Reply briefs were due March 8, 2019 and were submitted by the TOs, Complainant-Aligned Parties, EMCOS, FERC Trial Staff.

***TOs Request to Re-Open Record and file Supplemental Paper Hearing Brief.*** On December 26, 2019, the TOs filed a Supplemental Brief that addresses the consequences of the November 21 *MISO ROE Order*<sup>36</sup> and requested that the FERC re-open the record to permit that additional testimony on the impacts of the *MISO ROE Order*'s changes. On January 21, 2020, EMCOS and CAPs opposed the TOs' request and brief.

These matters remain pending before the FERC. If you have any questions concerning these matters, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)) or Joe Fagan (202-218-3901; [jfagan@daypitney.com](mailto:jfagan@daypitney.com)).

## II. Rate, ICR, FCA, Cost Recovery Filings

- **FCA15 Results Filing (ER20-1226)**

On February 26, ISO-NE filed the results of the fifteenth FCA ("FCA15") held February 8, 2021. ISO-NE reported the following highlights:

- ◆ FCA15 Capacity Zones were the Southeastern New England ("SENE") Capacity Zone (the Northeastern Massachusetts ("NEMA")/Boston, Southeastern Massachusetts, and Rhode Island Load Zones), the Northern New England ("NNE") Capacity Zone (the Maine, New Hampshire and Vermont Load Zones), the Maine Capacity Zone (the Maine Load Zone) and the Rest-of-Pool ("ROP") Capacity Zone (the Connecticut and Western/Central Massachusetts Load Zones). NNE was modeled as an export-constrained Capacity Zone. The Maine Load Zone was modeled as a separate nested export-constrained Capacity Zone within NNE.
- ◆ FCA15 commenced with a starting price of \$13.932/kW-mo. and concluded for all Capacity Zones after five rounds.
- ◆ Capacity Clearing Prices were as follows (prices expressed per kw-mo.): SENE - \$3.980; NNE and Maine - \$2.477; ROP - \$2.611; imports over the NY AC Ties (684 MW) and the Phase I/II HQ Excess external interface (517 MW) - \$2.611; imports over Highgate (60 MW) and New Brunswick (226 MW) - \$2.477.
- ◆ There were no active demand bids for the substitution auction and, accordingly, the substitution auction was not conducted.
- ◆ No resources cleared as Conditional Qualified New Generating Capacity Resources.
- ◆ No Long Lead Time Generating Facilities secured a Queue Position to participate as a New Generating Capacity Resource.
- ◆ No de-list bids were rejected for reliability reasons.

ISO-NE asked the FERC to accept the FCA15 rates and results, effective June 26, 2021. Comments on this filing are due on or before April 12, 2021. Thus far, NESCOE and Public Citizen have filed doc-less interventions. If you have any questions concerning this matter, please contact Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)) or Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Essential Power Newington CIP IROL (Schedule 17) Cost Recovery Period Filing (ER21-1171)**

On February 18, 2021, Essential Power Newington, LLC ("EP Newington") requested FERC acceptance of a proposed rate schedule to allow EP Newington to begin the recovery period for certain Interconnection Reliability Operating Limits Critical Infrastructure Protection costs under Schedule 17 of the ISO-NE Tariff ("CIP-IROL Costs"). EP Newington stated that the rate schedule will provide interested parties notice of EP

<sup>36</sup> *Ass'n of Buss. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, Opinion No. 569, 169 FERC ¶ 61,129 (2019) ("*MISO ROE Order*"), *order on reh'g*, Opinion No. 569-A, 171 FERC ¶ 61,154 (May 21, 2020).

Newington's intent to recover CIP-IROL Costs for each affiliated facility designated as an IROL-Critical Facility, and an order accepting the rate schedule will provide an effective date after which associated costs incurred can be recovered following completion of the process contemplated by Schedule 17 and a subsequent section 205 filing identifying the specific costs to be recovered. A February 18, 2021 effective date was requested. Comments on this filing are due on or before March 11, 2021. Thus far, NESCOE has filed a doc-less intervention. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

- **Bucksport CIP IROL (Schedule 17) Cost Recovery Period Filing (ER21-957)**

On January 27, 2021, Bucksport Generation LLC ("Bucksport") requested FERC acceptance of a proposed rate schedule to allow Bucksport to begin the recovery period for certain Interconnection Reliability Operating Limits Critical Infrastructure Protection costs under Schedule 17 of the ISO-NE Tariff ("CIP-IROL Costs"). Bucksport stated that the rate schedule will provide interested parties notice of Bucksport's intent to recover CIP-IROL Costs for each affiliated facility designated as an IROL-Critical Facility, and an order accepting the rate schedule will provide an effective date after which associated costs incurred can be recovered following completion of the process contemplated by Schedule 17 and a subsequent section 205 filing identifying the specific costs to be recovered. A March 29, 2021 effective date was requested. Comments on this filing were due on or before February 17, 2021; none were filed. NESCOE filed a doc-less intervention. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

- **Stonepeak Kestrel CIP IROL (Schedule 17) Cost Recovery Period Filing (ER21-956)**

Also on January 27, 2021, Stonepeak Kestrel Energy Marketing LLC ("Stonepeak Kestrel") requested FERC acceptance of a proposed rate schedule to allow Stonepeak Kestrel to begin the recovery period for certain CIP-IROL Costs. Stonepeak Kestrel stated that the rate schedule will provide interested parties notice of Stonepeak Kestrel's intent to recover CIP-IROL Costs for each affiliated facility designated as an IROL-Critical Facility, and an order accepting the rate schedule will provide an effective date after which associated costs incurred can be recovered following completion of the process contemplated by Schedule 17 and a subsequent section 205 filing identifying the specific costs to be recovered. A March 29, 2021 effective date was requested. Comments on this filing were due on or before February 17, 2021; none were filed. NESCOE filed a doc-less intervention. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

- **Dynegy CIP IROL (Schedule 17) Cost Recovery Period Filing (ER21-774)**

On February 26, 2021, the FERC accepted the rate schedule that Dynegy Marketing & Trade, LLC ("Dynegy") proposed to allow it to begin the recovery period for certain CIP-IROL Costs, effective March 1, 2021.<sup>37</sup> In accordance with the order, CIP-IROL Costs incurred from and after March 1, 2021 can be recovered following completion of the process contemplated by Schedule 17 and a subsequent section 205 filing identifying the specific costs to be recovered.<sup>38</sup> Unless the *Dynegy CIP IROL Cost Recovery Period Order* is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

- **Amended and Restated IRH Support and Use Agreements (ER21-712)**

On December 18, 2020, New England Hydro-Transmission Electric Company, Inc.; New England Hydro-Transmission Corporation; New England Electric Transmission Corporation; and Vermont Electric Transmission Company (collectively the "Asset Owners") and the IRH Management Committee ("IMC") on behalf of the renewing Interconnection Rights Holders ("IRH") submitted for approval an Offer of Settlement that amends

---

<sup>37</sup> *Dynegy Marketing & Trade, LLC*, 174 FERC ¶ 61,155 (Feb. 26, 2021) ("*Dynegy CIP IROL Cost Recovery Period Order*").

<sup>38</sup> *Id.* at P 8.

and restates four Support Agreements and an Agreement with Respect to Use of Québec Interconnection (“Use Agreement”)<sup>39</sup> to provide for ongoing financial support of, and related rights and obligations with respect to, the United States portion of the 2,000 MW high-voltage, direct current (“HVDC”) transmission facilities interconnecting New England and Québec. The initial term of the existing Support Agreements was scheduled to end on October 31, 2020, and the Use Agreement by its own terms will remain in effect through the term of the last Support Agreement to expire. The filing extends the term of those Support Agreements (and thereby the Use Agreement) another 20 years, until October 31, 2040. A January 1, 2021 effective date was requested. Comments on this filing were due on or before January 8, 2021; none were filed. Avangrid, ENE, NESCOE, and Eversource (out-of-time) filed doc-less interventions. This matter is pending before the FERC. If you have any questions concerning these matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

- **Mystic 8/9 Cost of Service Agreement (ER18-1639)**

As previously reported, the FERC issued four orders in this proceeding in July 2020 (three on July 17 (together, the “July 17 Orders”); one on July 28, 2020). Each of the orders addressed in part or in whole the Cost-of-Service Agreement (“COS Agreement”)<sup>40</sup> among Constellation Mystic Power (“Mystic”), Exelon Generation Company (“ExGen”) and ISO-NE, which is to provide compensation for the continued operation of the Mystic 8 & 9 units from June 1, 2022 through May 31, 2024. As noted in Section XV below, each of the July 17 Orders<sup>41</sup> (and the earlier, underlying orders) have been appealed to the DC Circuit. Two aspects of this proceeding remain pending before the FERC:

**ROE Paper Hearings (-000).** The Dec 2018 Order established a paper hearing to determine the just and reasonable ROE to be used in setting charges under Mystic’s COS Agreement. On April 19, 2019, Mystic, Connecticut Parties, ENECOS, MA AG, and FERC Trial Staff filed initial briefs. On July 18, 2019, Constellation Mystic Power, CT Parties, ENECOS, MA AG, National Grid, FERC Trial Staff filed reply briefs. In a July 28, 2020 order,<sup>42</sup> the FERC reopened the record to allow parties an opportunity to present written evidence applying the FERC’s *Opinion 569-A* ROE methodology to the facts of this proceeding. CT Parties, EMCOS, MA AG, and FERC Trial Staff filed their initial “Opinion 569-A” briefs on September 28, 2020. Responses to those initial briefs were due October 28, 2020 and were filed by Mystic, CT Parties, ENECOS, and FERC Trial Staff. The ROE issue is now pending before the Commission.

---

<sup>39</sup> The Support Agreements are separate contracts between the IRH and each of the Asset Owners under which the IRH agree to financially support the elements of the Phase I/II HVDC-TF owned by each Asset Owner in exchange for rights to use the transmission capacity of the Phase I/II HVDC-TF to transmit power to and from the HQ system (“Use Rights”). The Use Agreement is a contract among the IRH that provides the rules for the exercise of the Use Rights, for making the Use Rights available to others, and for the collective management of those individual contractual rights through the IRH Management Committee.

<sup>40</sup> The COS Agreement, submitted on May 16, 2018, is between Mystic, Exelon Generation Company, LLC (“ExGen”) and ISO-NE. The COS Agreement is to provide cost-of-service compensation to Mystic for continued operation of Mystic 8 & 9, which ISO-NE has requested be retained to ensure fuel security for the New England region, for the period of June 1, 2022 to May 31, 2024. The COS Agreement provides for recovery of Mystic’s fixed and variable costs of operating Mystic 8 & 9 over the 2-year term of the Agreement, which is based on the pro forma cost-of-service agreement contained in Appendix I to Market Rule 1, modified and updated to address Mystic’s unique circumstances, including the value placed on continued sourcing of fuel from the Distrigas liquefied natural gas (“LNG”) facility, and on the continued provision of surplus LNG from Distrigas to third parties.

<sup>41</sup> The “July 17 Orders” are the July 2018 Rehearing Order, Dec 2018 Rehearing Order and the July 17 Compliance Order. *Constellation Mystic Power, LLC*, 164 FERC ¶ 61,022 (July 13, 2018) (“July 2018 Order”), *clarif. granted in part and denied in part, reh’g denied*, 172 FERC ¶ 61,043 (July 17, 2020) (“July 2018 Rehearing Order”); *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 (Dec. 20, 2018) (“Dec 2018 Order”), *set aside in part, clarification granted in part and clarification denied in part*, 172 FERC ¶ 61,044 (July 17, 2020) (“Dec 2018 Rehearing Order”); *Constellation Mystic Power, LLC*, 172 FERC ¶ 61,045 (July 17, 2020) (“July 17 Compliance Order”) (order on compliance and directing further compliance).

<sup>42</sup> *Constellation Mystic Power, LLC*, 172 FERC ¶ 61,093 (July 28, 2020), *order addressing arguments on reh’g*, 173 FERC ¶ 61,261 (Dec. 21, 2020).



**Sep 2020 Compliance Filing (-007).** On September 15, 2020, Mystic filed a revised COS Agreement in response to the requirements of the *July 17 Compliance Order*. Also included were typographical edits proposed by NESCOE in its protest of the First Compliance Filing. Mystic also filed revisions to the Fuel Security Agreement ("FSA") for informational purposes because some of the compliance directives required changes to the FSA. Comments on the Sep 2020 Compliance Filing were due on or before October 6, 2020. CT Parties and ENECOS protested the compliance filing. On October 21, 2021, Mystic answered the CT Parties' and ENECOS' protests. The compliance filing remains pending before the FERC.

**Feb 2021 Compliance Filing (-008).** On February 25, 2021, Mystic filed a revised COS Agreement in a third compliance filing, this time in response to the requirements of the FERC's *Dec 21, 2020 Third Compliance Order*.<sup>43</sup> The Feb 2021 Compliance Filing proposes changes to section 2.4 of the COS Agreement to align that section with the FERC's direction that the Agreement's clawback mechanism apply to costs "that are incurred" rather than those that "that were expensed." Comments on the third compliance filing are due on or before March 18, 2021.

If you have questions on any aspect of this proceeding, please contact Joe Fagan (202-218-3901; [jfagan@daypitney.com](mailto:jfagan@daypitney.com)) or Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)).

- **MPD OATT 2019 Annual Informational Filing Settlement Agreement (ER15-1429-014)**

On December 28, 2020, Versant Power submitted an uncontested Joint Offer of Settlement between itself, MPUC, MOPA, and the MCG to resolve certain issues raised by the MPUC and the MCG with regards to Versant Power's annual charges update under the Open Access Transmission Tariff for Maine Public District ("MPD OATT"), as filed in Docket No. ER15-1429-000 on May 1, 2019, and revised on May 16, 2019 (together, the "2019 Annual Update").<sup>44</sup> Initial comments and reply comments were due January 18 and 27, 2021, respectively; none were filed. This matter is pending before the FERC. If you have any questions concerning this proceeding, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

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

- **Elimination of Price Lock and Zero-Price Offer Rule for New Entrants Starting in FCA16 (ER21-1010)**

In response to the requirements of the *December 2 Order*,<sup>45</sup> ISO-NE submitted on February 1, 2021, Tariff revisions eliminating the price lock and associated zero-price offer rule for new entrants starting in FCA16. The ISO-NE's proposed compliance changes were supported by the Participants Committee at its February 4 meeting (Consent Agenda Item No. 4). Comments on ISO-NE's filing were due on or before February 22, 2021. Comments supporting the Tariff revisions were filed by NEPOOL (February 9) and NEPGA (February 23). No adverse comments were filed. Doc-less interventions were filed by BSW ProjectCo, Calpine, Eversource, National Grid, NESCOE, and NRG. This matter is pending before the FERC.

As described in previous Reports, the FERC, in response to a February 2, 2018 remand by the United States Court of Appeals for the District of Columbia Circuit ("DC Circuit"),<sup>46</sup> found preliminarily that ISO-NE's new entrant

<sup>43</sup> *Constellation Mystic Power, LLC*, 173 FERC ¶ 61,261 (2020) ("*Dec 21, 2020 Third Compliance Order*")

<sup>44</sup> As previously reported, MCG moved to strike the true-up to actuals portion of the 2019 Annual Update to the extent that the true-up proposed a change in the formula rate from a direct assignment of Maine Public District ("MPD") post-retirement benefits other than pensions ("PBOPs") to an allocation of company-wide PBOPs (which MCG argued would be a retroactive change to the formula rate, otherwise required to effect only prospectively).

<sup>45</sup> *ISO New England Inc.*, 173 FERC ¶ 61,198 (Dec. 2, 2020) ("*December 2 Order*") (finding the price-lock mechanism and zero-price offer rule ("New Entrant Rules") no longer just and reasonable and directing ISO-NE to remove the New Entrant Rules from the Tariff).

<sup>46</sup> *New England Power Generators Assoc. v FERC*, 881 F.3d 202 (DC Cir. 2018) (granting NEPGA's and Exelon's petitions for review of orders accepting the Forward Capacity Market's ("FCM") 7-year price lock-in (EL14-7) and capacity-carry-forward rules (EL15-23) after finding that the FERC did not adequately explain why it allowed ISO-NE to forego an offer floor for its seven-year price lock period despite previously rejecting PJM's request to remove the offer floor for its three-year price lock period).

rules may be unjust and unreasonable.<sup>47</sup> The FERC established paper hearing procedures, which included one round of briefs and reply briefs submitted in the late summer and early fall of 2020.<sup>48</sup> The *December 2 Order* found the New Entrant Rules no longer just and reasonable and directed ISO-NE to remove them from the Tariff.<sup>49</sup>

If you have any questions concerning this proceeding, please contact Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)) or Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

- **EER Exemption from PFP Settlement (ER21-943)**

On January 26, 2021, ISO-NE filed revisions to the Tariff (including related revisions to the FAP) to exclude energy efficiency resources (“EERs”) from Pay-for-Performance (“PFP”) obligations and settlement in all hours. EER capacity base payments are unaffected. The EER Exemption was considered, but not supported, by the Participants Committee at its October 2, 2020 meeting. The related FAP revisions were considered but were supported by the Participants Committee at the same meeting. An April 1, 2021 effective date was requested.<sup>50</sup> Comments on this filing were due on or before February 16, 2021. Comments supporting the revisions were filed by: NEPOOL; the ISO-NE Internal Market Monitor (“IMM”); LS Power Development, Helix Maine Wind Development, Ocean State Power, and Wallingford Energy (collectively, the “LS Power companies”); and NEPGA. AEE filed comments protesting the revisions, which ISO answered on March 3, 2021. Doc-less interventions were filed by Calpine, Dominion; Eversource, MA AG, National Grid, NESCOE, NRG, and Vistra. This matter is pending before the FERC. If you have any questions concerning this proceeding, please contact Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)) or Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

- **Updated CONE, Net Cone and PPR Values (eff. FCA16) (ER21-787)**

On December 31, 2020, ISO-NE filed changes to update the Cost of New Entry (“CONE”), Net CONE, and Payment Performance Rate (“PPR”) values beginning with FCA16. The values in this filing are the same CONE, Net CONE and PPR values that the NPC approved at its December 5 meeting as part of a broader FCM updates package; however, this filing did not include the updated Offer Review Trigger Prices (“ORTPs”), which were part of the broader package, and on which NEPOOL and ISO-NE will propose alternative values in a jump ball filing to be submitted later this month. ISO-NE explained in its filing that, if the schedule for FCA16 is to be maintained, the updated CONE, Net CONE and PPR values need to be acted on by the FERC and become effective by early March, 2021 (a March 2, 2021 effective date was requested). ISO-NE stated that the revised ORTPs and related Tariff changes, however, do not need to be effective until slightly later in the FCA16 qualification process (thereby permitting a slightly later submission of, and FERC action on, the various ORTPs and related Tariff changes). Because NEPOOL did not vote on the CONE, Net CONE and PPR values separately, but rather as part of a broader package with the alternative ORTP provisions, NEPOOL did not join this ISO-NE filing but will provide comments in response to the filing explaining the December 5 NEPOOL vote on the package of proposed FCM parameters.

Comments on this ISO-NE filing were due on or before January 21, 2021. Comments were filed by [NEPOOL](#), [MMWEC](#), [NESCOE](#), and [CT Agencies](#). Protests were filed by [CPV Towantic](#), [Dominion](#), [FirstLight](#), [NEPGA](#), and [NEI](#). Doc-less interventions were filed by Avangrid, Brookfield, BSW Project Co, Calpine, Cogentrix, Dominion,

<sup>47</sup> *ISO New England Inc.*, 172 FERC ¶ 61,005 (July 1, 2020) (“FCM Pricing Rules Complaints Remand Order”).

<sup>48</sup> Initial briefs, due Aug. 24, 2020, were filed by ISO-NE, ISO-NE External Market Monitor (“EMM”), MA AG, NEPGA, NRG, and RENEW Northeast. NEPOOL filed limited comments (urging the FERC, should it conclude that the Tariff is unjust and unreasonable and/or unduly discriminatory, to allow sufficient time and flexibility to permit meaningful opportunities for New England stakeholders to work with ISO-NE to develop any required market adjustments through the complete NEPOOL Participant Processes). Responses to the initial briefs were due Sept. 23, 2020 and were filed by Responses to the initial briefs were due September 23, 2020 and were filed by [ISO-NE](#), [BSW Project Co](#), [MA AG](#), [NEPGA](#), [MA AG](#), [CT PURA](#), [PJM IMM](#), and [RENEW/ESA](#). No additional answers or briefs were permitted. No additional answers or briefs were permitted.

<sup>49</sup> *December 2 Order* at PP 1, 77.

<sup>50</sup> ISO-NE requested in the alternative, that the revisions be accepted effective with FCA16 (June 1, 2025) should the FERC not grant an April 1, 2021 effective date.

Eversource, CT AG, CT OCC, CT DEEP, CT PURA, LS Power, MA AG, National Grid (out-of-time), NESCOE, NHEC, NRG, Vistra, EPSA, and MA DPU (out-of-time). On February 12, ISO-NE answered the protests filed. On February 16 and 17, answers to ISO-NE's February 12 answer were filed by EPSA, NEPGA and CPV Towantic.

**March 1, 2021 Deficiency Letter.** On March 1, 2021, the FERC issued a deficiency letter, directing ISO-NE to provide within 30 days additional information, including the following: (i) an example of a potential site for the reference unit (in or near New London County, CT) that is two miles from both a main natural gas transmission line and the point of interconnection to the electric grid; (ii) an estimate of NOx emissions limit and whether those limits affect the reference unit's revenues; and (iii) additional support for the assumption that the reference unit always runs on natural gas rather than oil in the dispatch model. The responses to the Deficiency Letter are due on or before March 31, 2021. The submission of the additional information will re-set the deadline for FERC action on this filing.

If you have any questions concerning this proceeding, please contact Dave Doot ([dtdoot@daypitney.com](mailto:dtdoot@daypitney.com); 860-275-0102), Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)) or Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

- **New DDBT Methodology (ER21-782)**

On March 1, the FERC accepted proposed Tariff revisions to implement a new methodology for calculating the FCM Dynamic De-List Bid Threshold ("DDBT").<sup>51</sup> As previously reported, the new DDBT Methodology will replace the current triennial update methodology with an annual one, with the DDBT to be calculated annually for each FCA, using a new Tariff-based DDBT calculation methodology. That methodology, referred to as the "recalibration method," updates the DDBT value for each auction based on the most recently available supply conditions, as evidenced in the last FCA, and the most up-to-date projected demand conditions, using the estimated system-wide demand curve for the next FCA. The new DDBT methodology filed was the compromise DDBT proposal overwhelmingly approved by the Participants Committee in November, rather than the one that had been offered by ISO-NE. The new DDBT methodology was accepted effective as of March 2, 2021, as requested. Unless the *New DDBT Methodology Order* is challenged, this proceeding will be concluded. If you have any questions concerning this proceeding, please contact Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

- **EER FCM Qualification Modifications (ER21-640)**

On February 11, 2021, the FERC accepted the EER FCM Qualification Modifications, effective as of February 12, 2021, as requested.<sup>52</sup> As previously reported, the "EER FCM Qualification Modifications" implement changes to the Market Rules (i) to produce Qualified Capacity values that better reflect performance capabilities of EERs; (ii) to modify the rules that determine the quantity of Capacity Supply Obligation ("CSO") that a resource of any type may acquire in monthly reconfiguration auctions or CSO Bilateral transactions to increase trading opportunities; and (iii) to reflect a number of conforming and clean-up changes. Unless the February 11 order is challenged, this proceeding will be concluded. If you have any questions concerning this proceeding, please contact Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)) or Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

---

<sup>51</sup> *ISO New England Inc. and New England Power Pool Participants Comm.*, 174 FERC ¶ 61,162 (Mar. 1, 2021) ("*New DDBT Methodology Order*").

<sup>52</sup> *ISO New England Inc. and New England Power Pool Participants Comm.*, Docket No. ER21-640-000 (Feb. 11, 2021) (unpublished letter order).

- **Order 841 Compliance Filings (Electric Storage in RTO/ISO Markets) (ER19-470)**

As previously reported, the FERC conditionally accepted both the November 22, 2019<sup>53</sup> and February 10, 2020<sup>54</sup> *Order 841*<sup>55</sup> compliance filings, each subject to additional compliance filing(s). On December 7, 2020, ISO-NE and NEPOOL filed, in one comprehensive filing, revisions to Market Rule 1 in response to the requirements of the *Order 841 Compliance Filing II Order*.<sup>56</sup> Those revisions were accepted on February 10, 2021.<sup>57</sup> The revisions accepted became effective on March 1, 2021, with the exception of the revisions specific to the Day-Ahead Energy Market, which will become effective on January 1, 2026. Unless the February 10 order is challenged, this proceeding will be concluded. If you have any questions concerning this proceeding, please contact Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)).

- **CASPR (ER18-619)**

On February 18, 2021, the FERC issued an order rejecting,<sup>58</sup> as procedurally barred, the [Sierra Club/NRDC/CLF request](#) for rehearing of the November 19 *CASPR Allegheny Order*.<sup>59</sup> The FERC had earlier issued a notice<sup>60</sup> that the Sierra Club/NRDC/CLF request for rehearing of the November 19 *CASPR Allegheny Order* was denied by operation of law and would be addressed in a future order. This matter is on appeal before the DC Circuit (see Section XV below, Case No. 20-1333). If you have any questions concerning this proceeding, please contact Dave Doot (860-275-0102; [dtdoot@daypitney.com](mailto:dtdoot@daypitney.com)) or Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)).

#### IV. OATT Amendments / TOAs / Coordination Agreements

- **Order 676-I Compliance Filing (ER21-946)**

On January 26, 2021, ISO-NE and NEPOOL, in response to *Order 676-I*, jointly filed changes to incorporate by reference in Schedule 24 of the OATT the latest version (Version 003.2) of certain Standards for Business Practices and Communication Protocols for Public Utilities adopted by the Wholesale Electric Quadrant (“WEQ”) of the North American Energy Standards Board (“NAESB”). The Participants Committee unanimously supported the *Order 676-I* revisions at its May 7, 2020 meeting. Comments on this filing were due on or before February 16, 2021; none were filed. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

<sup>53</sup> *ISO New England Inc.*, 169 FERC ¶ 61,140 (Nov. 22, 2019) (“*Order 841 Initial Compliance Filing Order*”).

<sup>54</sup> *ISO New England Inc.*, 172 FERC ¶ 61,125 (Aug. 4, 2020) (“*Order 841 Compliance Filing II Order*”).

<sup>55</sup> See *Elec. Storage Participation in Mkts. Operated by Regional Transmission Orgs. and Indep. Sys. Operators*, Order No. 841, 162 FERC ¶ 61,127 (Feb. 15, 2018) (“*Order 841*”).

<sup>56</sup> The compliance filing included revisions addressing (i) the application of transmission charges; (ii) ISO-NE Market participation (ensuring the Tariff cannot be read to create a barrier to entry); and (iii) how state of charge and duration characteristics will be accounted for in the Day-Ahead Energy Market.

<sup>57</sup> *ISO New England Inc. and New England Power Pool Participants Comm.*, Docket No. ER19-470-005 (Feb. 10, 2021) (unpublished letter order).

<sup>58</sup> *ISO New England Inc.*, 174 FERC ¶ 61,120 (Feb. 18, 2021) (“*Order Rejecting Rehearing of CASPR Allegheny Order*”)(Rehearing does not lie where the FERC did not change the outcome of the order appealed from).

<sup>59</sup> *ISO New England Inc.*, 173 FERC ¶ 61,161 (Nov. 19, 2020) (“*CASPR Allegheny Order*”).

<sup>60</sup> *ISO New England Inc.*, 174 FERC ¶ 62,041 (Jan. 21, 2021).

**V. Financial Assurance/Billing Policy Amendments****• FAP Info Disclosure/KYC Requirements (ER21-816)**

On March 3, 2021, the FERC accepted the revisions to the FAP, jointly filed by ISO-NE and NEPOOL on January 6, 2021 (as amended on February 23, 2021<sup>61</sup>).<sup>62</sup> As previously reported, the revisions (i) update FAP information disclosure requirements; (ii) update risk management disclosure requirements; and (iii) add a provision regarding prior uncured payment defaults and entry into the New England Markets (collectively, the “FAP Info Disclosure/KYC Requirements”). The revisions were accepted as of March 9, 2021, as requested. Unless the March 3 order is challenged this proceeding will be concluded. **Please note:** each Market Participant will have to submit, on or before April 30, 2021, the form of Information Disclosure approved in this proceeding (even if the former version was already submitted in 2021). If you have any questions concerning this matter, please contact Paul Belval ([pnbelval@daypitney.com](mailto:pnbelval@daypitney.com); 860-275-0381).

**VI. Schedule 20/21/22/23 Changes****• Schedule 20A NEP-Vitol Phase I/II HVDC-TF Service Agreement (ER21-1180)**

On February 19, 2021, New England Power Company (“NEP”) submitted a new Phase I/II HVDC-TF Service Agreement between NEP and Vitol Inc. (“Vitol”). The Service Agreement, based on the *pro forma* Phase I/II HVDC-TF Service Agreement set forth in Schedule 20A-Common Attachment A, provides for firm point-to-point transmission service over the Phase I/II HVDC transmission facilities (“Phase I/II HVDC-TF”) for the November 1, 2020 to November 1, 2025 period. The Agreement was filed separately because it contains potentially non-conforming terms that provide Vitol a right to terminate the Agreement if it finds unacceptable the terms and conditions of the Amended and Restated IRH Support and Use Agreements pending in ER21-712 (see Section II above). NEP requested a November 1, 2020 effective date for Agreement. Comments on this filing are due on or before March 12, 2021. Thus far, Vitol has submitted a doc-less intervention. If there are questions on this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

**• Schedule 20A-VP: Versant Power-Vitol Phase I/II HVDC-TF Service Agreement (ER21-827)**

On January 7, 2021, Versant Power submitted a non-conforming Phase I/II HVDC-TF Service Agreement between itself and Vitol Inc. (“Vitol”) for firm service under Schedule 20A-VP. Versant Power requested a November 1, 2020 effective date for the Agreement. Comments on this filing were due on or before January 28, 2021; none were filed. Vitol filed a doc-less intervention. This matter is pending before the FERC. If there are questions on this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

**• Schedule 21-VP: 2019 Annual Update Settlement Agreement (ER15-1434-004)**

Emera Maine’s (now Versant Power) joint offer of settlement, filed March 19, 2020, between itself and the MPUC to resolve all issues raised by the MPUC in response to Emera Maine’s 2019 annual charges update filed, as previously reported, on June 10, 2019 (the “Emera 2019 Annual Update Settlement Agreement”). Under Part V of Attachment P, “Interested Parties shall have the opportunity to conduct discovery seeking any information relevant to implementation of the [Attachment P] Rate Formula. . . .” and follow a dispute resolution procedure set forth there. In accordance with those provisions, the MPUC identified certain disputes with the 2019 Annual Update, all of which are resolved by the Emera 2019 Annual Update Settlement Agreement. Comments on the Emera 2019 Annual Update Settlement Agreement were due on or before April 9, 2020; none were filed. This matter continues to be pending before the FERC. If you

<sup>61</sup> The “Feb 23 Amendment” re-formatted the footnote text so that the text will be visible in the FERC’s eTariff system. No changes to the text were made.

<sup>62</sup> *ISO New England Inc. and the New England Power Pool Participants Comm.*, Docket Nos. ER21-816-000 and -001 (Mar. 3, 2021) (unpublished letter order).



have any questions concerning this proceeding, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Schedule 21-VP: Recovery of Bangor Hydro/Maine Public Service Merger-Related Costs (ER15-1434-001 et al.)**

The MPS Merger Cost Recovery Settlement, filed by Emera Maine on May 8, 2018 to resolve all issues pending before the FERC in the consolidated proceedings set for hearing in the *MPS Merger-Related Costs Order*,<sup>63</sup> and certified by Settlement Judge Dring<sup>64</sup> to the Commission,<sup>65</sup> remains pending before the FERC. As previously reported, under the Settlement, permitted cost recovery over a period from June 1, 2018 to May 31, 2021 will be \$390,000 under Attachment P of the BHD OATT and \$260,000 under the MPD OATT. If you have any questions concerning these matters, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Schedule 21-GMP Annual True Up Calculation Forecast Info Report (ER12-2304)**

On January 15, 2021, pursuant to Section 4 of Schedule 21-GMP, Green Mountain Power (“GMP”) supplemented its annual informational filing containing the forecast of its costs for the January 1, 2021 through December 31, 2021 time period. The supplement does not change the 2021 forecasted rates previously filed, but does contain a material accounting change to adjust the 2021 charges billed under the Formula Rate in connection with the sale of its share of the Highgate facility. GMP also disclosed that it is not using historical ADIT for this forecast. 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](mailto:pmgerity@daypitney.com)).

## VII. NEPOOL Agreement/Participants Agreement Amendments

No Activity to Report

## VIII. Regional Reports

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

FG&E’s June 29, 2015 refund report for its customers taking local service during *Opinion 531-A*’s refund period remains pending. If there are questions on this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

<sup>63</sup> *Emera Maine and BHE Holdings*, 155 FERC ¶ 61,230 (June 2, 2016) (“*MPS Merger-Related Costs Order*”). In the *MPS Merger-Related Costs Order*, the FERC accepted, but established hearing and settlement judge procedures for, filings by Emera Maine seeking authorization to recover certain merger-related costs viewed by the FERC’s Office of Enforcement’s Division of Audits and Accounting (“DAA”) to be subject to the conditions of the orders authorizing Emera Maine’s acquisition of, and ultimate merger with, Maine Public Service (“Merger Conditions”). The Merger Conditions imposed a hold harmless requirement, and required a compliance filing demonstrating fulfillment of that requirement, should Emera Maine seek to recover transaction-related costs through any transmission rate. Following an audit of Emera Maine, DAA found that Emera Maine “inappropriately included the costs of four merger-related capital initiatives in its formula rate recovery mechanisms” and “did not properly record certain merger-related expenses incurred to consummate the merger transaction to appropriate non-operating expense accounts as required by [FERC] regulations [and] inappropriately included costs of merger-related activities through its formula rate recovery mechanisms” without first making a compliance filing as required by the merger orders. The *MPS Merger-Related Costs Order* set resolution of the issues of material fact for hearing and settlement judge procedures, consolidating the separate compliance filing dockets.

<sup>64</sup> ALJ John Dring was the settlement judge for these proceedings. There were five settlement conferences -- three in 2016 and two in 2017. With the Settlement pending before the FERC, settlement judge procedures, for now, have not been terminated.

<sup>65</sup> *Emera Maine and BHE Holdings*, 163 FERC ¶ 63,018 (June 11, 2018).



- **Opinions 531-A/531-B Regional Refund Reports (EL11-66)**

The TOs' November 2, 2015 refund report documenting resettlements of regional transmission charges by ISO-NE in compliance with *Opinions No. 531-A*<sup>66</sup> and *531-B*<sup>67</sup> also remains pending. If there are questions on this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Opinions 531-A/531-B Local Refund Reports (EL11-66)**

The *Opinions 531-A and 531-B* refund reports filed by the following TOs for their customers taking local service during the refund period also remain pending before the FERC:

- |                       |                 |                       |
|-----------------------|-----------------|-----------------------|
| ◆ Central Maine Power | ◆ National Grid | ◆ United Illuminating |
| ◆ Emera Maine         | ◆ NHT           | ◆ VTransco            |
| ◆ Eversource          | ◆ NSTAR         |                       |

If there are questions on this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Capital Projects Report - 2020 Q4 (ER21-1109)**

On February 11, 2021, ISO-NE filed its Capital Projects Report and Unamortized Cost Schedule covering the fourth quarter ("Q4") of calendar year 2020 (the "Report"). ISO-NE is required to file the Report under section 205 of the FPA pursuant to Section IV.B.6.2 of the Tariff. Report highlights include the following new projects: (i) nGEM software development part II (\$4.79 million); (ii) Integrated Market Simulator Phase 1 (\$1.6 million); (iii) FCM Qualification Enhancements (\$1.2 million); (iv) CIP Electronic Security Perimeter Redesign (\$1.1 million); (v) Sub-accounts for FTR Market (\$0.98 million); (vi) Enterprise Phone System Upgrade (\$701,300); (vii) Wireless Infrastructure Upgrade (\$548,900); (viii) Time Entry System Upgrade (\$398,200); (ix) Ownership Transfer & External Registration (\$382,700); (x) PI Historian for Short-term PMU Data Repository (\$368,800); (xi) Annual Maintenance Schedule Automation (\$315,800); and (xii) FERC Form 1, 3-Q and 714 Project (\$162,400). There were no significant changes for Chartered Projects in 2020 Q4. Comments on this filing are due on or before March 4, 2021. NEPOOL filed comments on February 17 supporting the Q4 Report. If you have any questions concerning this matter, please contact Paul Belval (860-275-0381; [pnbelval@daypitney.com](mailto:pnbelval@daypitney.com)).

- **Interconnection Study Metrics Processing Time Exceedance Report Q4 2020 (ER19-1951)**

On February 16, 2021, ISO-NE filed, as required,<sup>68</sup> public and confidential<sup>69</sup> versions of its Interconnection Study Metrics Processing Time Exceedance Report (the "Exceedance Report") for the Fourth Quarter of 2020 ("2020 Q4"). ISO-NE reported that five of the six 2020 Q4 **Interconnection Feasibility Study ("IFS") reports** delivered to Interconnection Customers were delivered later than the best efforts completion timeline.<sup>70</sup> In addition, three IFS Reports that are not yet completed have exceeded the 90-day completion expectation. The average mean time from ISO-NE's receipt of the executed IFS Agreement to delivery of the completed IFS report to the Interconnection Customer was 178.5 days (down from 251 in 2020 Q3). All three **System Impact Study ("SIS") reports** delivered to Interconnection Customers were delivered later than the best efforts completion timeline of 270 days. The average mean time from ISO-NE's receipt of the executed SIS Agreement to delivery of the completed SIS report to the Interconnection Customer was 580 days (up from 458 in 2020 Q3). There were no

<sup>66</sup> *Martha Coakley, Mass. Att'y Gen.*, 149 FERC ¶ 61,032 (Oct. 16, 2014) ("*Opinion 531-A*").

<sup>67</sup> *Martha Coakley, Mass. Att'y Gen.*, Opinion No. 531-B, 150 FERC ¶ 61,165 (Mar. 3, 2015) ("*Opinion 531-B*").

<sup>68</sup> Under section 3.5.4 of ISO-NE's Large Generator Interconnection Procedures ("LGIP"), ISO-NE must submit an informational report to the FERC describing each study that exceeds its Interconnection Study deadline, the basis for the delay, and any steps taken to remedy the issue and prevent such delays in the future. The Exceedance Report must be filed within 45 days of the end of the calendar quarter, and ISO-NE must continue to report the information until it reports four consecutive quarters where the delayed amounts do not exceed 25 percent of all the studies conducted for any study type in two consecutive quarters.

<sup>69</sup> ISO-NE requested that the information contained in Section 3 of the un-redacted version of the Exceedance Report, which contains detailed information regarding ongoing Interconnection Studies and if released could harm or prejudice the competitive position of the Interconnection Customer, be treated as confidential under FERC regulations.

<sup>70</sup> 90 days from the Interconnection Customer's execution of the study agreement.

Interconnection Requests with projects in the Interconnection Facilities Study phase of the interconnection process. Section 4 of the Report identified steps ISO-NE has identified to remedy issues and prevent future delays, including mitigating the impact of backlogs and initiating clustering, moving to earlier in the process certain Interconnection Customer data reviews, and enhanced information sharing and coordination efforts with Interconnecting TOs. This report was not noticed for public comment.

- **Transmission Projects Annual Informational Filing (ER13-193)**

On January 29, 2021, ISO-NE filed, as required under Section 4.1(j)(iii) of the OATT, its annual informational filing of projects on the Regional System Plan (“RSP”) project list that had a year of need three years or less from the completion of the Needs Assessment. The list of prior year designations is maintained on the ISO-NE website at <https://www.iso-ne.com/static-assets/documents/2021/01/2020-prior-year-projects-section-4-j-iii-final.pdf>. This filing will not be noticed for public comment by the FERC.

- **IMM Quarterly Markets Reports – Fall 2020 (ZZ21-4)**

On February 5, 2021, the IMM filed with the FERC its Fall 2020 report of “market data regularly collected by [the IMM] 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. The Fall 2020 Report will be discussed with the Markets Committee at its March 9-10, 2021 meeting.

## IX. Membership Filings

- **March 2021 Membership Filing (ER21-1228)**

On February 26, 2021, NEPOOL requested that the FERC accept: (i) the membership of Trafigura Trading LLC (Supplier Sector); (ii) the termination of Axon Energy (Supplier Sector) and Springfield Power [Related Person to Stored Solar J&WE, LLC (AR Sector)]; and (iii) to reflect Titan Gas LLC’s d/b/a as CleanSky Energy. Comments on this filing are due on or before February 19, 2021.

- **February 2021 Membership Filing (ER21-1008)**

On January 29, 2021, NEPOOL requested that the FERC accept: (i) the memberships of the following: Axpo U.S. LLC (Supplier Sector); Catalyst Power & Gas, LLC (Supplier Sector); Palm Energy LLC (Provisional Member); Madison ESS, LLC [Related Person to Madison BTM and New England Battery Storage (Generation Group Seat)]; Rumford ESS, LLC [Related Person to Madison BTM and New England Battery Storage (Generation Group Seat)]; Vineyard Reliability LLC (Generation Group Seat); West Medway II, LLC [Related Person to Exelon Generation Company and Constellation NewEnergy, Inc. (Supplier Sector)]; and Dick Brooks (End User Sector, Governance Only Member); (ii) the termination of the Participant status of: Energy Federation Inc. (“EFI”) (AR Sector, LR Sub-Sector, Small LR Group Seat); Great American Power, LLC (Supplier Sector); Oasis Power, LLC d/b/a Oasis Energy [Related Person to Spark Energy et al., (Supplier Sector)]; Praxair, Inc. (End User Sector); Rubicon NYP Corp. (Supplier Sector); and Verde Group, LLC (Provisional Member); and (iii) the Name change of Utility Services of Vermont (f/k/a Utility Services, Inc.). Comments on this filing were due on or before February 22, 2021; none were filed. This matter is pending before the FERC.

- **January 2021 Membership Filing (ER21-761)**

On February 25, 2021, the FERC accepted: (i) the memberships of the following Supplier Sector Participants: Cassadaga Wind LLC; Centrica Business Solutions Optimize, LLC; Pilot Power Group, LLC; and SmartestEnergy US LLC; and (ii) the termination of the Participant status of Wheelabrator Bridgeport, LP.<sup>71</sup> Unless the February 25 order is challenged, this proceeding will be concluded.

<sup>71</sup> *New England Power Pool Participants Comm.*, Docket No. ER21-761 (Feb. 25, 2021) (unpublished letter order).

- **Invenia Additional Conditions Informational Filing (ER20-2001)**

Still pending before the FERC is the June 5, 2020 informational filing submitted by ISO-NE pursuant to Section II.A.1(b) of the FAP identifying the additional condition (supplemental financial assurance) required of Invenia for participation in the New England Markets. The additional condition was supported, and made a condition of Invenia's membership, by the Participants Committee at its June 4, 2020 meeting. A doc-less intervention was submitted by Public Citizen. This informational filing is still pending before the FERC.

## 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](mailto:pmgerity@daypitney.com)).

- **Joint Staff White Papers on Notices of Penalty for Violations of CIP Standards (AD19-18)**

On September 23, 2020, following review of the comments submitted on their First White Paper,<sup>72</sup> FERC and NERC staff ("Joint Staffs") issued their second White Paper on Notices of Penalty Pertaining to Violations of Critical Infrastructure Protection ("CIP") Reliability Standards ("Second White Paper"). Having determined based on those comments that the First White Paper proposal was insufficient to protect the security of the BPS, Joint Staffs modified the prior proposal. Going forward, CIP noncompliance submissions<sup>73</sup> will be filed or submitted by NERC with a request that the *entire* filing or submittal be designated as Critical Energy/Electric Infrastructure Information ("CEII") and FERC staff will designate the entire filing or submittal accordingly. Because of the risk associated with the disclosure of CIP noncompliance information, NERC will no longer publicly post redacted versions of CIP noncompliance filings and submittals.

- **NERC Annual Report on FFT & Compliance Exception Programs (RC11-6-011)**

On February 19, 2021, the FERC accepted NERC's annual report on Find, Fix, and Track ("FFT") and Compliance Exception programs.<sup>74</sup> As previously reported, the annual FFT report was submitted in accordance with prior FERC Orders.<sup>75</sup> In the 2020 report, NERC stated that the ERO Enterprise appropriately handles noncompliance posing a minimal or moderate risk through these programs and that the results of the annual report show consistent improvement in program implementation. The report also demonstrates, NERC suggests, significant alignment across the ERO Enterprise, particularly in the processing and understanding of the risk associated with individual noncompliance. Unless the February 19 order is challenged, this proceeding will be concluded.

---

<sup>72</sup> The first White Paper, prepared jointly by FERC and NERC staff, was issued on August 27, 2019. The First White Paper set out a proposed new format for NERC Notices of Penalty ("NOP") involving violations of CIP Reliability Standards. The First White Paper explained that the revised format was intended to improve the balance between security and transparency in the filing of NOPs. Specifically, NERC CIP NOP submissions would consist of a proposed public cover letter that discloses the name of the violator, the Reliability Standard(s) violated (but not the Requirement), and the penalty amount. NERC would submit the remainder of the CIP NOP filing containing details on the nature of the violation, mitigation activity, and potential vulnerabilities to cyber systems as a nonpublic attachment, along with a request for the designation of such information as CEII.

Few commenters supported the First Joint White Paper proposal without seeking modifications to either expand or reduce the amount of information that would be publicly disclosed. Comments submitted by private citizens, state representatives, and consumer advocate offices supported more disclosure of CIP noncompliance information. By contrast, most industry commenters and trade organizations raised concerns with at least some of the proposed disclosures because of the increased risk to the security of the Bulk-Power System ("BPS").

<sup>73</sup> Non-compliance submissions include Notices of Penalty ("NOPs"), Spreadsheet NOPs ("SNOPs"), Find, Fix and Track submissions ("FFTs") and Compliance Exceptions ("CEs").

<sup>74</sup> *N. Am. Elec. Rel. Corp.*, Docket No. RC11-6-011 (Feb. 19, 2021) (unpublished letter order).

<sup>75</sup> See *N. Am. Elec. Rel. Corp.*, 138 FERC 61,193 (2012) ("March 2012 Order"); *N. Am. Elec. Rel. Corp.*, 143 FERC 61,253 (2013) ("June 2013 Order"); *N. Am. Elec. Rel. Corp.*, 148 FERC 61,214 (2014) ("September 2014 Order"); and *N. Am. Elec. Rel. Corp.*, Docket No. RC11-6-004 (Nov. 13, 2015) (unpublished letter order) ("November 2015 Order").

- **Revised Reliability Standard: FAC-008-5 (RD21-4)**

On February 19, 2021, NERC filed for approval proposed changes to Reliability Standard FAC-008-5 (Facility Ratings). FAC-008-5 reflects the retirement of Requirement R7, recommended as part of NERC's Standards Efficiency Review because of its redundancy with requirements in other Reliability Standards. NERC asked that FAC-008-5 become effective (and the currently effective versions be retired) on the first day of the first calendar quarter that is three months following FERC approval. Comments on FAC-008-5 are due on or before March 22, 2021.

- **Revised Reliability Standards: CIP-013-2, CIP-005-7, CIP-010-4 (RD21-2)**

On December 14, 2020, NERC filed for approval proposed changes to Reliability Standards CIP-013-2, CIP-005-7, and CIP-010-4 (the "Supply Chain Standards"). The Supply Chain Standards address supply chain cybersecurity risk management, broadening requirements to include Electronic Access Control or Monitoring Systems ("EACMS") and Physical Access Control Systems ("PACS") as applicable systems. NERC asked that the Supply Chain Standards become effective (and the currently effective versions be retired) on the first day of the first calendar quarter that is 18 months following FERC approval. Comments on the Supply Chain Standards were due on or before January 28, 2021; none were filed. This matter is pending before the FERC.

- **CIP Standards Development: Informational Filings on Virtualization and Cloud Computing Services Projects (RD20-2)**

As previously reported, NERC is required to file on an informational basis quarterly status updates regarding the development of new or modified Reliability Standards pertaining to virtualization and cloud computing services (resulting from Projects 2016-02 (Modifications to CIP Standards) and 2019-02 (BES Cyber System Information Access Management)). NERC filed its fourth informational filing on December 15, 2020, reporting no change in schedule for either project from that reported in its supplemental November 2020 filing -- filing of proposed Reliability Standards in December 2021 for both Projects (2019-02 and 2016-02).

- **Revised Reliability Standard: CIP-002-6 (RM20-17)**

On February 5, 2021, NERC withdrew its proposed revised Reliability Standard -- CIP-002-6 (Cyber Security -- BES Cyber System Categorization), and associated implementation plan, VRFs and VSLs (together, the "CIP-002 Changes"). NERC stated that, "in light of recent cybersecurity events and the evolving threat landscape, ... additional caution is warranted regarding any criteria that may permit more entities to categorize Bulk Electric System ("BES") Cyber Systems as low impact, such as the revisions proposed in CIP-002-6, and recommends further study." Accordingly, reporting on this proceeding is now concluded.

- **NOI: Enhancements to CIP Standards (RM20-12)**

On June 18, 2020, the FERC issued a notice of inquiry ("NOI") seeking comments on certain potential enhancements to the currently-effective CIP Reliability Standards. In particular, the FERC asked for comments on whether the CIP Standards adequately address: (i) cybersecurity risks pertaining to data security, (ii) detection of anomalies and events, and (iii) mitigation of cybersecurity events. In addition, the FERC asked for comments on the potential risk of a coordinated cyberattack on geographically distributed targets and whether FERC action including potential modifications to the CIP Standards would be appropriate to address such risk.

Comments were filed by NERC, the ISO/RTO Council ("IRC"), APPA/LPPC, Canadian Electricity Assoc. ("CEA"), Cogentrix, EEI/EPSCA, Forescout Technologies, MISO TOs, NJ BPU, NRECA, Reliable Energy Analytics, Southwestern Power Administration, SEIA, Siemens Energy, Southern Companies, TAPS, U.S. Bureau of Reclamation, U.S. Corp of Army Engineers, Western Area Power Administration ("WAPA"), Wolverine Power Supply Cooperative, XTec, and J. Applebaum, J. Christopher/T. Conway, and J. Cotter. No reply comments were filed. This matter is pending before the FERC.

- **NOI: Virtualization and Cloud Computing Services in BES Operations (RM20-8)**

On February 20, 2020, the FERC issued a NOI seeking comments on (i) the potential benefits and risks associated with the use of virtualization and cloud computing services in association with bulk electric system (“BES”) operations; and (ii) whether the CIP Reliability Standards impede the voluntary adoption of virtualization or cloud computing services.<sup>76</sup> On March 25, 2020, Joint Associations<sup>77</sup> requested an extension of time to submit comments and reply comments. On April 2, the FERC granted Joint Associations’ request and extended the deadline for initial comments on the NOI to July 1, 2020; the deadline for reply comments, July 31, 2020. Comments were filed by NERC, the IRC, Accenture, Amazon Web Services (“Amazon”), Bonneville, the Bureau of Reclamation, Barry Jones, Georgia System Operations, GridBright, Idaho Power, Microsoft, MISO, MISO Transmission Owners, Siemens Energy Management, Tri-State Generation and Transmission Association, VMware, Inc., AEE, American Association for Laboratory Accreditation (“A2LA”), APPA, Canadian Electricity Assoc., EEI, NRECA, and Waterfall Security Solutions. Reply comments were due on or before July 31, 2020, and were filed by AEE, Amazon and Microsoft.

In part in response the comments filed, the FERC, in a December 17, 2020 order,<sup>78</sup> directed NERC to begin a formal process to assess, and to make an informational filing in a little over one year (January 1, 2022) that addresses, the feasibility of voluntarily conducting BES operations in the cloud in a secure manner, as well as the status and schedule for any plans to modify the standards.

- **Order 873 - Retirement of Reliability Standard Requirements (Standards Efficiency Review) (RM19-17; RM19-16)**

On September 17, 2020, the FERC approved the retirement of the 18 Reliability Standard requirements through the retirement of four Reliability Standards and the modification of five Reliability Standards,<sup>79</sup> concluding that the 18 requirements “(1) provide little or no reliability benefit; (2) are administrative in nature or relate expressly to commercial or business practices; or (3) are redundant with other Reliability Standards.”<sup>80</sup> The FERC also approved the associated violation risk factors, violation severity levels, implementation plan, and effective dates proposed by NERC. Because it was not persuaded by NERC’s justification for the retirement of FAC-008-4 requirement R8, the FERC remanded the retirement of requirements R7 and R8 to NERC for further consideration.<sup>81</sup>

The FERC left for another day its final action on the remaining 56 requirements for which the FERC proposed to approve retirement in the *Retirements NOPR*<sup>82</sup> (the “MOD A Reliability Standards”). The FERC intends

<sup>76</sup> *Virtualization and Cloud Computing Services*, 170 FERC ¶ 61,110 (Feb. 20, 2020).

<sup>77</sup> “Joint Associations” are for purposes of this proceeding: EEI, APPA, NRECA, and LPPC.

<sup>78</sup> *Virtualization and Cloud Computing Services*, 173 FERC ¶ 61,243 (Dec. 17, 2020) (“*Order Directing Jan 2022 Info. Filing*”).

<sup>79</sup> *Elec. Rel. Org. Proposal to Retire Reqs. in Rel. Standards Under the NERC Standards Efficiency Review*, Order No. 873, 172 FERC ¶ 61,225 (Sep. 17, 2020) (“*Order 873*”). The four Reliability Standards being eliminated in their entirety are FAC-013-2 (Assessment of Transfer Capability for the Near-term Transmission Planning Horizon), INT-004-3.1 (Dynamic Transfers), INT-010-2.1 (Interchange Initiation and Modification for Reliability), MOD-020-0 (Providing Interruptible Demands and Direct Control Load Management Data to System Operations and Reliability Coordinators). The five modified Reliability Standards are INT-006-5 (Evaluation of Interchange Transactions), INT-009-3 (Implementation of Interchange) and PRC-004-6 (Protection System Misoperation Identification and Correction), IRO-002-7 (Reliability Coordination—Monitoring and Analysis), TOP-001-5 (Transmission Operations).

<sup>80</sup> *Order 873* at P 2.

<sup>81</sup> *Order 873* at P 5. Pursuant to FPA section 215(d)(4), if the FERC disapproves a modification to a Reliability Standard in whole or in part, it must remand the entire Reliability Standard to NERC for further consideration. Accordingly, although it was satisfied here with the justification for the retirement of R7, the FERC was required to remand both R7 and R8 so that its concerns with the retirement of Requirement R8 could be addressed.

<sup>82</sup> *Electric Reliability Organization Proposal to Retire Requirements in Rel. Standards Under the NERC Standards Efficiency Review*, 170 FERC ¶ 61,032 (Jan. 23, 2020) (“*Retirements NOPR*”) (proposing to approve the retirement of 74 of 77 Reliability Standard requirements requested to be retired by NERC in these two dockets in connection with the first phase of work under NERC’s Standards Efficiency Review, an initiative begun in 2017 that reviewed the body of NERC Reliability Standards to identify those Reliability Standards and requirements

to coordinate the effective dates for the retirement of the MOD A Reliability Standards with successor North American Energy Standards Board (“NAESB”) business practice standards (v. 003.3) that include Modeling business practices pending in the *NAESB WEQ v. 003.3 Standards NOPR* (see Section XII below).<sup>83</sup>

- **Amended and Restated NERC Bylaws (RR21-1)**

NERC’s October 14, 2020 petition for FERC approval of its amended and restated Bylaws remains pending. As previously reported, NERC stated that the amendments (i) address governance matters relating to the composition of NERC’s membership Sectors, certain rules relating to the Member Representatives Committee, as well as the qualification of independent trustees for the Board; (ii) update certain provisions to conform with applicable state law; and (iii) improve internal consistency and introduce ministerial changes within the Bylaws with respect to capitalizing defined terms consistently and removing inoperative provisions. Comments, if any, on the Amended and Restated Bylaws were due on or before November 4, 2020; none were filed. This matter remains pending before the FERC.

## XI. Misc. - of Regional Interest

- **203 Application: Exelon Generation (EC21-57)**

On February 25, 2021, Exelon Generation Company, LLC (“ExGen”), on behalf of its public utility subsidiaries, requested authorization for a “spin” transaction in which, after completion of an internal reorganization, the ownership of Applicants’ intermediate holding company owner, HoldCo, will be distributed to the shareholders of Applicants’ current ultimate upstream owner, Exelon Corporation (the “Transaction”). Following the Transaction, Exelon Corporation and its remaining subsidiaries will retain no interest in or affiliation with ExGen or the ExGen Utility Subsidiaries; Exelon Corporation and HoldCo will be separate publicly-traded companies. Comments on this filing are due on or before March 18, 2021. Thus far, doc-less interventions have been filed by PJM, PJM IMM and Public Citizen. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **SGIA Cancellation: CL&P/Covanta Wallingford (ER21-867)**

On January 11, 2021, CL&P filed a notice of cancellation of the Small Generator Interconnection Agreement (“SGIA”) between itself and Covanta Projects of Wallingford, L.P. (“Covanta Wallingford”) (designated as service agreement IA-NU-16 and accepted in Docket No. ER10-1654), reflecting the request of Covanta Wallingford, whose Non-Price Retirement request notice was accepted by ISO-NE on December 17, 2014. A January 11, 2021 effective date for the notice of cancellation was requested. Comments on this filing were due on or before February 1; none were filed. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **LGIA Cancellation: Mt. Tom (ER21-845)**

On January 7, 2021, ISO-NE and Eversource filed a notice of cancellation of the Large Generator Interconnection Agreement (“LGIA”) governing the interconnection of Mt. Tom Station. On June 1, 2018, Engie Energy Marketing NA, Inc. formally retired the Mt. Tom Station from the New England Markets. Decommissioning work on the facility began in 2018 and was substantially completed as of February 2020. The interconnection rights for Mt. Tom Station terminated upon the date of its retirement. This filing is to terminate the Original Service Agreement. A March 8, 2021 effective date was requested. Comments on this filing were due on or before January 28; none were filed. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

---

that were administrative in nature, duplicative to other standards, or provided no benefit to reliability). As previously reported, NERC withdrew its proposed changes to VAR-001-6 on May 14, 2020, reducing to 76 the number of requirements proposed to be retired.

<sup>83</sup> *Standards for Bus. Practices and Communication Protocols for Pub. Utils.*, 85 Fed. Reg. 55201 (Sep. 4, 2020).



- **LGIA: NSTAR / MMWEC (Stony Brook) (ER21-777)**

On February 26, 2021, the FERC accepted an LGIA between NSTAR and MMWEC for the continued interconnection of MMWEC'S Stony Brook Generating Station located in Ludlow, Massachusetts to NSTAR's transmission system.<sup>84</sup> As previously reported, the LGIA replaces the original 1992 Stony Brook interconnection agreement which, as previously reported, had been extended three times<sup>85</sup> and expired on December 31, 2020. Since the LGIA covers an existing, interconnected facility, and does not set forth any terms or conditions that would otherwise modify the interconnection services provided under the original IA, NSTAR states that a new three-party interconnection agreement (that would include ISO-NE) was not required. The LGIA was accepted effective as of December 31, 2020, as requested. Unless the February 26 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **LGIA: CMP / ReEnergy Stratton (ER21-769)**

On February 19, 2021, the FERC accepted an LGIA that renews and replaces the terms of an original interconnection agreement entered into between CMP and ReEnergy Stratton's predecessor in interest (Stratton Energy Associates).<sup>86</sup> The LGIA was accepted effective as of December 21, 2020, as requested. Unless the February 19 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **Interim Distribution Wheeling Agreement: Unitil / Briar Hydro (ER21-759)**

On February 22, 2021, the FERC accepted an Interim Distribution Wheeling Service Agreement between Unitil Energy Systems ("UES") and Briar Hydro Associates ("Briar").<sup>87</sup> The Agreement provides for Briar's ongoing receipt of distribution wheeling services for the Penacook Lower Falls Resource<sup>88</sup> (pending UES' filing of a distribution wheeling rate in early 2021). Briar intends to sell the output of the facility into the New England Market. The Agreement was accepted effective as of December 28, 2020, as requested. Unless the February 22 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **D&E Agreement Cancellation: NSTAR / SEMASS (ER21-676)**

On February 11, 2021, the FERC accepted, effective December 21, 2020, a notice of cancellation of a Design and Engineering Agreement ("D&E Agreement") between NSTAR and SEMASS Partnership ("SEMASS").<sup>89</sup> As previously reported, the D&E Agreement set forth the terms and conditions under which NSTAR undertook preliminary engineering, design and construction activities on its interconnection facilities to accommodate SEMASS's planned construction activity at its switchyards within its generation station. The D&E Agreement terminated by its terms on July 1, 2020 and all billing reconciliations under the D&E Agreement since completed. The notice of cancellation was accepted effective as of December 17, 2020, as requested. Unless the February 11 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

---

<sup>84</sup> *NSTAR Elec. Co.*, Docket No. ER21-777 (Feb 26, 2021) (unpublished letter order).

<sup>85</sup> See *NSTAR Elec. Co.*, Docket No. ER19-2303 (Feb. 22, 2019) (unpublished letter order) (1<sup>st</sup> extension); *NSTAR Elec. Co.*, Docket No. ER19-2303 (Aug. 22, 2019) (unpublished letter order) (2<sup>nd</sup> extension); *NSTAR Electric Co.*, Docket No. ER19-2897 (Nov. 5, 2019) (unpublished letter order) (3<sup>rd</sup> extension).

<sup>86</sup> *Central Maine Power Co.*, Docket No. ER21-769 (Feb. 19, 2021) (unpublished letter order).

<sup>87</sup> *Unitil Energy Systems, Inc.*, Docket No. ER21-759 (Feb. 22, 2021) (unpublished letter order).

<sup>88</sup> The Penacook Lower Falls Resource is a 4.5 MW hydro unit located in Boscawen, New Hampshire on the southern bank of the Contoocook River.

<sup>89</sup> *NSTAR Electric Co.*, Docket No. ER21-676 (Feb. 11, 2021) (unpublished letter order).

- **SGIA: CL&P / ECRRA (ER21-651)**

On February 19, 2020, the FERC accepted a SGIA between CL&P and Eastern Connecticut Resource Recovery Authority (“ECRRA”) that allows for the continued interconnection of ECRRA’s refuse-to-energy municipal solid waste facility.<sup>90</sup> As previously reported, ECRRA, through Wheelabrator North Andover, intends to sell the output of the facility into the New England Market. The SGIA was accepted effective as of December 15, 2020, as requested. Unless the February 19 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **Orders 864/864-A (Public Util. Trans. ADIT Rate Changes): New England Compliance Filings (various)**

In accordance with *Order 864*<sup>91</sup> and *Order 864-A*,<sup>92</sup> and extensions of time granted, New England’s public utilities with transmission have submitted their *Order 864* compliance filings, with the specific dockets and filing dates identified in the following table (all remain pending):

Date Filed	Docket	Transmission Provider	Date Accepted
Feb 16, 2021	ER21-1154	Fitchburg Gas & Electric (“FG&E”)	pending
Oct 30, 2020	ER21-311	Green Mountain Power	pending
Aug 5, 2020	ER20-2614	New England Power Support Agreement	pending
Aug 5, 2020	ER20-2610	CL&P	pending
Aug 5, 2020	ER20-2609	NSTAR	pending
Aug 5, 2020	ER20-2608	PSNH	pending
Aug 4, 2020	ER20-2607	NEP – Seabrook Transmission Support Agreement	pending
Jul 31, 2020	ER20-2594	VTransco	pending
Jul 30, 2020	ER20-2551	New England Power	pending
Jul 30, 2020	ER20-2553	NEP – LSA with MECO/Nantucket	pending
Jul 30, 2020	ER20-2572 ER21-1130	New England TOs	pending
Jul 15, 2020	ER20-2429	CMP	pending
Jun 29, 2020	ER20-2219	New England Power	pending
Jun 23, 2020	ER20-2133	Versant Power	pending
May 18, 2020 Jan 7, 2021	ER20-1839	VETCO	pending
Feb 26, 2020 Dec 11, 2020	ER20-1089	New England Elec. Trans. Corp.	pending
Feb 26, 2020 Dec 11, 2020	ER20-1088	New England Hydro Trans. Elec. Co.	pending
Feb 26, 2020 Dec 11, 2020	ER20-1087	New England Hydro Trans. Corp.	pending

<sup>90</sup> *The Conn. Light and Power Co.*, Docket No. ER21-651 (Feb. 10, 2021) (unpublished letter order).

<sup>91</sup> *Public Util. Trans. Rate Changes to Address Accumulated Deferred Income Taxes*, Order No. 864, 169 FERC ¶ 61,139 (Nov. 21, 2019), *reh’g denied and clarification granted in part*, 171 FERC ¶ 61,033 (Apr. 16, 2020) (“*Order 864*”). *Order 864* requires all public utility transmission providers with transmission rates under an OATT, a transmission owner tariff, or a rate schedule to revise those rates to account for changes caused by the 2017 Tax Cuts and Jobs Act (“2017 Tax Law”). Specifically, for transmission formula rates, *Order 864* requires public utilities (i) to deduct excess ADIT from or add deficient ADIT to their rate bases and adjust their income tax allowances by amortized excess or deficient ADIT; and (ii) to incorporate a new permanent worksheet into their transmission formula rates that will annually track ADIT information.

<sup>92</sup> *Public Util. Trans. Rate Changes to Address Accumulated Deferred Income Taxes*, 171 FERC ¶ 61,033, Order No. 864-A (Apr. 16, 2020) (“*Order 864-A*”).

Since the last Report, *Order 864*-related activity included:

- ♦ **ER21-1124 (FG&E).** FG&E submits changes to its local service schedule (Sched. 21-FG&E) in light of the FERC's order approving RNS/LNS Rates and Rate Protocols Settlement Agreement II.<sup>93</sup>
- ♦ **ER20-2133 (Versant Power).** FERC issued a deficiency letter, directing Versant to provide within 30 days additional information related to its June 23, 2020 filing.
- ♦ **ER21-1130 (TOs).** TOs submit supplemental compliance filing to supplement their July 30 compliance filing (ER21-2572) in light of the FERC's order approving RNS/LNS Rates and Rate Protocols Settlement Agreement II.

## XII. Misc. - Administrative & Rulemaking Proceedings

- **Electrification and the Grid of the Future: Apr 29 Technical Conference (AD21-12)**

On March 2, 2021, the FERC issued a notice that a Commissioner-led technical conference will be convened electronically on April 29, 2021 to discuss electrification—the shift from non-electric to electric sources of energy at the point of final consumption (e.g., to fuel vehicles, heat and cool homes and businesses, and provide process heat at industrial facilities). The purpose is to “initiate a dialog between Commissioners and stakeholders on how to prepare for an increasingly electrified future.” Specifically, the conference will address: projections, drivers, and risks of electrification in the US; the extent to which electrification may influence or necessitate additional transmission and generation infrastructure; whether and how newly electrified sources of energy demand (e.g., electric vehicles, smart thermostats, etc.) could provide grid services and enhance reliability; and the role of state and federal coordination as electrification advances. Individuals interested in participating as panelists should submit a self-nomination form by March 19, 2021 at: <https://ferc.webex.com/ferc/onstage/g.php?MTID=e5e9ee76e4711c2f3a74fa036bab3a646>. A supplemental notice will be issued prior to the conference with further details regarding the agenda and organization.

- **Resource Adequacy - Modernizing Electricity Mkt Design (Mar 23 tech conf) (AD21-10)**

On February 18, 2021, the FERC issued a notice that a Commissioner-led technical conference workshop will be convened electronically on March 23, 2021 to provide input to the Commission on resource adequacy in the evolving electricity sector. A supplemental notice with further details will be issued prior to the technical conference.

- **Office of Public Participation: Apr 16 Workshop (AD21-9)**

On February 22, 2021, the FERC issued a notice that a Commissioner-led workshop will be convened electronically on April 16, 2021 to provide input to the Commission on the creation of the Office of Public Participation. The Commission intends to establish and operate the Office of Public Participation to “coordinate assistance to the public with respect to authorities exercised by the Commission,” including assistance to those seeking to intervene in Commission proceedings, pursuant to FPA section 319. The Commission plans to hear input on the following considerations in forming the Office of Public Participation, including: (1) the office's function and scope as authorized by FPA section 319; (2) the office's organizational structure and approach, including the use of equity assessment tools; (3) participation by tribes, environmental justice communities, and other affected individuals and communities, including those who have not historically participated before the Commission; and (4) intervenor compensation. Nominations for panelists to address each of these areas should be submitted on or before March 10, 2021 at: [OPPWorkshopNominations@ferc.gov](mailto:OPPWorkshopNominations@ferc.gov). A supplemental notice will be issued prior to the workshop with further details regarding the agenda, panelists, registration, and log-in information.

<sup>93</sup> See *supra* n. 21.

- **ISO/RTO Credit Principles and Practices (AD21-6)**

On February 25-26, 2021, the FERC held a technical conference to discuss principles and best practices for credit risk management in ISO/RTOs. Panel topics included: Credit Principles and Practices in ISO/RTO Markets; RTO/ISO Comparison of Risk Management Structure, Credit Enhancements and Lessons Learned; Internal Resources and Expertise within RTOs/ISOs; Impact of Market Design on Credit Risk; Addressing Counterparty Risk: Minimum Participation Requirements and Know Your Customer Protocols; and Collateral, Initial and Variation Margining for FTR and non-FTR positions. Speaker materials are posted in the FERC's eLibrary.

Recall that, as previously reported, Energy Trading Institute<sup>94</sup> requested that the FERC hold a technical conference and conduct a rulemaking to update the requirements adopted in *Order 741*<sup>95</sup> and section 35.47 of the FERC's regulations addressing credit and risk management in the markets operated by ISO/RTOs. The FERC issued a notice of and received comments on ETI's request (AD20-6) in early 2020. The February technical conference was held, in part, in response to that request.

- **Offshore Wind Integration in RTOs/ISOs Tech Conf (Oct 27, 2020) (AD20-18)**

On October 27, 2020, the FERC convened a staff-led technical conference to consider whether and how existing RTO and ISO interconnection, merchant transmission and transmission planning frameworks can accommodate anticipated growth in offshore wind generation in an efficient or cost-effective manner that safeguards open access transmission principles. The conference also provided an opportunity for participants to discuss possible changes or improvements to the current regulatory frameworks that may accommodate such growth. Speaker materials and a transcript of the technical conference are posted in eLibrary. Since the last Report, Advanced Power Alliance filed comments requesting that the FERC issue a notice providing an opportunity for interested persons to submit post-conference comments and to thereafter "take action to facilitate transmission planning and interconnection policies that will enable construction of the cost-effective, efficient, resilient and environmentally-sound transmission infrastructure needed to connect new offshore wind generation to the onshore grid." This matter remains pending before the FERC.

- **Carbon Pricing in RTO/ISO Markets Tech Conf (Sep 30, 2020) (AD20-14)**

On September 30, 2020, the FERC convened a Commissioner-led technical conference to discuss considerations related to state adoption of mechanisms to price carbon dioxide emissions, commonly referred to as carbon pricing, in regions with FERC-jurisdictional organized wholesale electricity markets. The September 30 conference was a response to (i) the April 14, 2020 request by Interest Parties,<sup>96</sup> who asserted that a technical conference "would be helpful to the Commission and stakeholders in the electric energy industry in deciding how best to move forward at the state and regional levels on these issues and in the relevant organized markets" complementing "state, regional, and national discussions currently taking place" as well as to (ii) the more than 30 sets of comments on the request that were filed. Speaker opening remarks (including those of [Gordon van Welie](#),

---

<sup>94</sup> In its request, The Energy Trading Institute ("ETI") describes itself generally as "represent[ing] a diverse group of energy market participants, all with substantial interests in wholesale electricity transactions in Commission-jurisdictional markets. ETI members provide important services to a wide variety of wholesale energy market participants. They act as intermediaries between producers and consumers of electric energy that have mismatched quantity, timing, and contract type needs. In addition, they provide liquidity by engaging in energy related commercial transactions with a variety of market entities including, but not limited to, generation owners, project developers, load-serving entities, and investors. ETI members advocate for markets that are open, transparent, competitive and fair - all necessary attributes for markets ultimately to benefit electricity consumers."

<sup>95</sup> *Credit Reforms in Organized Wholesale Elec. Mkts.*, 75 Fed. Reg. 65942 (2010), FERC Stats. & Regs. ¶ 31,317 (2010) ("*Order 741*"); *order on reh'g*, 76 Fed. Reg. 10492 (2011), FERC Stats. & Regs. ¶ 31,320 (2011) ("*Order 741-A*"); *order on reh'g*, 135 FERC ¶ 61,242 (2011) ("*Order 741-B*"); 18 C.F.R. § 35.47.

<sup>96</sup> "Interested Parties" are AEE, the American Council on Renewable Energy, the American Wind Energy Association, Brookfield Renewable, Calpine, CPV, EPSA, the Independent Power Producers of New York ("IPPNY"), LS Power Associates ("LS Power"), the Natural Gas Supply Association ("NGSA"), NextEra, PJM Power Providers Group, R Street Institute, and Vistra Energy Corp.

[Matt White](#), and other New England stakeholders), and comments are posted in eLibrary, as is a [transcript of the conference](#).

**Notice of Proposed Policy Statement.** Following the technical conference, on October 15, 2020, the FERC issued a Notice of Proposed Policy Statement.<sup>97</sup> The FERC stated that the *Proposed Policy Statement* is “to clarify the Commission’s jurisdiction over RTO/ISO market rules that incorporate a state-determined carbon price and to encourage RTO/ISO efforts to explore and consider the benefits of potential [FPA] section 205 filings to establish such rules.” Specifically, the FERC proposed “to make it the policy of this Commission to encourage efforts by RTOs/ISOs and their stakeholders—including States, market participants, and consumers—to explore establishing wholesale market rules that incorporate state-determined carbon prices in RTO/ISO markets.”<sup>98</sup> The FERC solicited comment on whether the following information and considerations it identified are “germane to the Commission’s evaluation of a section 205 filing to determine whether an RTO/ISO’s market rules that incorporate a state-determined carbon price in RTO/ISO markets are just, reasonable and not unduly discriminatory or preferential” or whether different or additional considerations may be or must be taken into account:

- a. How, if at all, do the relevant market design considerations change depending on the manner in which the state or states determine the carbon price (e.g., price-based or quantity-based methods)? How will that price be updated?
- b. How does the FPA section 205 proposal ensure price transparency and enhance price formation?
- c. How will the carbon price or prices be reflected in LMP?
- d. How will the incorporation of the state-determined carbon price into the RTO/ISO market affect dispatch? Will the state-determined carbon price affect how the RTO/ISO co-optimizes energy and ancillary services? Are any reforms to the co-optimization rules necessary in light of the state-determined carbon price?
- e. Does the proposal result in economic or environmental leakage? How does the proposal address any such leakage?

Comments on the *Proposed Policy Statement* were due by November 16, 2020 and were filed by, among others: NEPOOL, NESCOE, AEE, Brookfield, Calpine, Eversource, HQUS, LSP Power, MA AG, National Grid, NEPGA, and NRG. Reply comments were due by December 1, 2020, and were filed by 12 parties, including Covanta, Exelon, EPSA, NRG, the NYPSC. This matter is pending before the FERC.

- **Hybrid Resources (AD20-9)**

On July 23, 2020, the FERC convened a technical conference to discuss technical and market issues prompted by growing interest in projects that are comprised of more than one resource type at the same plant location (“hybrid resources”). The focus was on generation resources and electric storage resources paired together as hybrid resources. Speaker materials and a transcript of the technical conference have been posted to the FERC’s eLibrary. Post-technical conference comments were filed by ISO-NE, CAISO, MISO, NYISO, PJM, Enel, American Council on Renewable Energy, AWEA, EEI, EPRI, R Street Institute, Savion, and SEIA.

On January 19, 2021, the FERC issued an order directing each ISO/RTO to submit, within 6 months (or before July 19, 2021), a report that provides: (a) a description of its current practices related to each of the following four hybrid resource issues: (1) terminology; (2) interconnection; (3) market participation; and (4) capacity valuation (collectively, the Issues); (b) an update on the status of any ongoing efforts to develop reforms

<sup>97</sup> *Carbon Pricing in Organized Wholesale Electricity Markets*, 173 FERC ¶ 61,062 (Oct. 15, 2020) (“*Proposed Policy Statement*”).

<sup>98</sup> *Id.* at P 15.

related to each of the Issues; and (c) responses to the specific requests for information contained in the order. Public comments in response to the RTO/ISO reports may be submitted within 30 days of the filing of the reports. The FERC will use the reports and comments to determine whether further action is appropriate.

- **Grid Resilience in RTO/ISOs; DOE NOPR (AD18-7)**

On February 18, 2021, the FERC terminated this proceeding.<sup>99</sup> As previously reported, the FERC initiated this proceeding on January 8, 2018, (AD18-7)<sup>100</sup> and terminated a DOE NOPR rulemaking proceeding (RM18-1).<sup>101</sup> In terminating this proceeding, the FERC stated that it did not believe that generic action was appropriate<sup>102</sup> and “concerns about the resilience of the bulk power system are best addressed on a case-by-case and region-by-region basis.”<sup>103</sup> The FERC committed to “work closely with RTOs, ISOs, and other public utilities to address grid resilience and take all appropriate actions to ensure that the electric grid remains reliable.”<sup>104</sup>

- **NOPR: Cybersecurity Incentives (RM21-3)**

On December 17, 2020, the FERC issued a NOPR<sup>105</sup> proposing to establish rules for incentive-based rate treatments for voluntary cybersecurity investments by a public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission, and rates or practices affecting or pertaining to such rates for the purpose of ensuring the reliability of the Bulk-Power System. Comments on the *Cybersecurity Incentives NOPR* are due on or before April 6, 2021; reply comments, May 6, 2021.<sup>106</sup> Thus far, comments have been submitted jointly by aDolus Inc., Fortress Information Security, GMO GlobalSign Inc., Ion Channel, ReFirm Labs and Reliable Energy Analytics LLC; and George Cotter, Esq.

- **NOPR: Managing Transmission Line Ratings (RM20-16)**

On November 19, 2020, the FERC issued a NOPR<sup>107</sup> proposing to reform both the *pro forma* OATT and its regulations to improve the accuracy and transparency of transmission line ratings. Specifically, the NOPR proposes to require: transmission providers to implement ambient-adjusted ratings on the transmission lines over which they provide transmission service; ISO/RTOs to establish and implement the systems and procedures necessary to allow transmission owners to electronically update transmission line ratings at least hourly; and transmission owners to share transmission line ratings and transmission line rating methodologies with their respective transmission provider(s) and, in ISO/RTOs, with their respective market monitor(s). Comments on the *Managing Transmission Line Ratings NOPR* are due on or before March 22, 2021.<sup>108</sup> Thus far, comments have been submitted by PacificCorp and New England State Agencies.<sup>109</sup>

---

<sup>99</sup> *Grid Resilience in RTOs and ISOs*, 174 FERC ¶ 61,111 (Feb. 18, 2021) (“*Order Terminating Proceeding*”).

<sup>100</sup> *Grid Rel. and Resilience Pricing*, 162 FERC ¶ 61,012 (Jan. 8, 2018), *reh’g requested*.

<sup>101</sup> In terminating the DOE NOPR proceeding, the FERC concluded that the Proposed Rule and comments received did not support FERC action under Section 206 of the FPA, but did suggest the need for further examination by the FERC and market participants of the risks that the bulk power system faces and possible ways to address those risks in the changing electric markets.

<sup>102</sup> *Order Terminating Proceeding* at P 4.

<sup>103</sup> *Id.* at P 5.

<sup>104</sup> *Id.*

<sup>105</sup> *Cybersecurity Incentives*, 173 FERC ¶ 61,240 (Dec. 17, 2020) (“*Cybersecurity Incentives NOPR*”).

<sup>106</sup> The *Cybersecurity Incentives NOPR* was published in the *Fed. Reg.* on Feb. 5, 2021 (Vol. 86, No. 23) pp. 8,309-8,325.

<sup>107</sup> *Managing Transmission Line Ratings*, 173 FERC ¶ 61,165 (Nov. 19, 2020) (“*Managing Transmission Line Ratings NOPR*”).

<sup>108</sup> The *Managing Transmission Line Ratings NOPR* was published in the *Fed. Reg.* on Jan. 21, 2021 (Vol. 86, No. 12) pp. 6,420-6,444.

<sup>109</sup> “New England State Agencies” are for purposes of this proceeding: CT Att’y Gen. William Tong, MA AG Maura Healey, the CT Dept. of Energy and Environ. Protection, the CT OCC, MOPA, NH OCA, Peter F. Neronha, RI AG, and Thomas J. Donovan, Jr., VT AG. The Feb 1 comments by the New England State Agencies broadly supported the FERC’s proposals.



- **NOPR: Electric Transmission Incentives Policy (RM20-10)**

Still pending is the FERC's March 20, 2020 NOPR<sup>110</sup> proposing to revise its existing transmission incentives policy and corresponding regulations.<sup>111</sup> The proposed revisions include the following:

- ◆ A shift from risks and challenges to a **consumers' benefits test** that focuses on ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.
- ◆ **ROEs incentive for Economic Benefits.** A 50-basis-point adder for transmission projects that meet an economic benefit-to-cost ratio in the top 75th percentile of transmission projects examined over a sample period and an additional 50-basis-point adder for transmission projects that demonstrate *ex post* cost savings that fall in the 90th percentile of transmission projects studied over the same sample period, as measured at the end of construction.
- ◆ **ROE for Reliability Benefits.** A 50-basis-point adder for transmission projects that can demonstrate potential reliability benefits by providing quantitative analysis, where possible, as well as qualitative analysis.
- ◆ **Abandoned Plant Incentive.** 100 percent of prudently incurred costs of transmission facilities selected in a regional transmission planning process that are cancelled or abandoned due to factors that are beyond the control of the applicant. Recovery from the date that the project is selected in the regional transmission planning process.
- ◆ **Eliminate Transco Incentives.**
- ◆ **RTO-Participation Incentive.** A 100-basis-point increase for transmitting utilities that turn over their wholesale facilities to an RTO, ISO, or Transmission Organization, and available regardless of whether participation is voluntary.
- ◆ **Transmission Technologies Incentives.** Eligible for both a stand-alone, 100-basis-point ROE incentive on the costs of the specified transmission technology project and specialized regulatory asset treatment. Pilot programs presumptively eligible (though rebuttable).
- ◆ **250-Basis-Point Cap.** Total ROE incentives capped at 250 basis points in place of current "zone of reasonableness" limit.
- ◆ **Updated Date Reporting Processes.** Information to be obtained on a project-by-project basis, information collection expanded, updated reporting process.

A more detailed summary of the NOPR was distributed to the Transmission Committee and discussed at the TC's March 25, 2020 meeting. Over 80 sets of comments on the proposed revisions were filed on or before the July 1, 2020<sup>112</sup> comment date, including comments by: Avangrid, EDF Renewables, EMCOS, Eversource, Exelon, LS Power, MMWEC/NHEC/CMEEC, National Grid, NESOCE, NextEra, UCS, CT PURA, and Potomac Economics. Reply comments were filed by AEP, ITC Holding, the N. California Transmission Agency, and WIRES. The NOPR remains pending before the FERC. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

---

<sup>110</sup> *Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act*, 170 FERC ¶ 61,204 (Mar. 20, 2020) ("*Electric Transmission Incentives NOPR*").

<sup>111</sup> 18 CFR 35.35 (2020).

<sup>112</sup> The *Electric Transmission Incentives NOPR* was published in the *Fed. Reg.* on Apr. 2, 2020 (Vol. 85, No. 64) pp. 18,784-18,810. Requests for extension of time to file comments were filed by American Manufacturers, APPA/TAPS, and State Entities; WIRES and EEI each opposed the requested extensions. No extension of time to file comments was granted.

- **Order 2222: DER Participation in RTO/ISO Markets (RM18-9)**

On September 17, 2020, the FERC issued a final rule (“*Order 2222*”)<sup>113</sup> adopting reforms to remove what it found were barriers to the participation of distributed energy resource (“DER”)<sup>114</sup> aggregations in the RTO/ISO markets. *Order 2222* requires each RTO/ISO to revise its tariff to ensure that its market rules facilitate the participation of DER aggregations. Specifically, the tariff provisions addressing DER aggregations must:

- (1) allow DER aggregations to participate directly in RTO/ISO markets and establish DER aggregators as a type of market participant;
- (2) allow DER aggregators to register DER aggregations under one or more participation models that accommodate the physical and operational characteristics of the DER aggregations;
- (3) establish a minimum size requirement for DER aggregations that does not exceed 100 kW;
- (4) address locational requirements for DER aggregations;
- (5) address distribution factors and bidding parameters for DER aggregations;
- (6) address information and data requirements for DER aggregations;
- (7) address metering and telemetry requirements for DER aggregations;
- (8) address coordination between the RTO/ISO, the DER aggregator, the distribution utility, and the relevant electric retail regulatory authorities;
- (9) address modifications to the list of resources in a DER aggregation;
- (10) address market participation agreements for DER aggregators; and
- (11) Accept bids from a DER aggregator if its aggregation includes DERs that are customers of utilities that distributed more than 4 million MWh in the previous fiscal year. An RTO/ISO must not accept bids from a DER aggregator if its aggregation includes DERs that are customers of utilities that distributed 4 million MWhs or less in the previous fiscal year, unless the relevant electric retail regulatory authority permits such customers to be bid into RTO/ISO markets by a DER aggregator.

Each RTO/ISO must file the tariff changes needed to implement the requirements of *Order 2222* on or before July 19, 2021.<sup>115</sup> To the extent that an RTO/ISO proposes to comply with any or all of the requirements in *Order 2222* using its currently effective requirements for DERs, it must demonstrate on compliance that its existing approach meets *Order 2222*’s requirements. Requests for extension of time to comply with *Order 2222* have been filed by MISO, SPP and PJM. Those requests are pending before the FERC.

***Requests for Rehearing Denied by Operation of Law.*** Requests for clarification and/or rehearing of *Order 2222* were filed by Excel Energy Services, the Kansas Corporation Commission, AEE and AEMA, and Public Interest

---

<sup>113</sup> *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators*, 172 FERC ¶ 61,247 (Sep. 17, 2020).

<sup>114</sup> The FERC defined a DER as “any resource located on the distribution system, any subsystem thereof or behind a customer meter. These resources may include, but are not limited to, electric storage resources, distributed generation, demand response, energy efficiency, thermal storage, and electric vehicles and their supply equipment.”

<sup>115</sup> *Order 2222* was published in the *Fed. Reg.* on Oct. 21, 2020 (Vol. 85, No. 204) pp. 67,094-6,158.

Organizations.<sup>116</sup> On November 19, 2020, the FERC issued a “Notice of Denial of Rehearings by Operation of Law and Providing for Further Consideration”.<sup>117</sup> The Notice confirmed that the 60-day period during which a petition for review of *Order 2222* can be filed with an appropriate federal court was triggered when the FERC did not act on the requests for rehearing of *Order 2222*. The Notice also indicated that the FERC would address, as is its right, the rehearing requests in a future order, and may modify or set aside its orders, in whole or in part, “in such manner as it shall deem proper.”

- **Order 860/860-A: Data Collection for Analytics & Surveillance and MBR Purposes (RM16-17)**

As previously reported, *Order 860*,<sup>118</sup> issued three years after the FERC’s *Data Collection NOPR*,<sup>119</sup> (i) revises the FERC’s MBR regulations by establishing a relational database of ownership and affiliate information for MBR Sellers (which, among other uses, will be used to create asset appendices and indicative screens), (ii) reduces the scope of information that must be provided in MBR filings, modifies the information required in, and format of, a MBR Seller’s asset appendix, (iii) changes the process and timing of the requirements to advise the FERC of changes in status and affiliate information, and (iv) eliminates the requirement adopted in *Order 816* that MBR Sellers submit corporate organization charts. In addition, the FERC stated that it will not adopt the *Data Collection NOPR* proposal to collect Connected Entity data from MBR Sellers and entities trading virtuals or holding FTRs. The FERC will post on its website high-level instructions that describe the mechanics of the relational database submission process and how to prepare filings that incorporate information that is submitted to the relational database. As recently extended (see below), *Order 860* will become effective April 1, 2021, and submitters will have until close of business on August 2, 2021 to make their initial baseline submissions. Submitters will be required to obtain in Spring 2021 FERC-generated IDs for reportable entities that do not have CIDs or LEIs, as well as Asset IDs for reportable generation assets without an EIA code so that every ultimate upstream affiliate or other reportable entity has a FERC-assigned company identifiers (“CID”), Legal Entity Identifier,<sup>120</sup> or FERC-generated ID and that all reportable generation assets have an code from the Energy Information Agency (“EIA”) Form EIA-860 database or a FERC-assigned Asset ID. Requests for rehearing and/or clarification of *Order 860* were denied,<sup>121</sup> other than TAPS’ request that the FERC clarify that the public will be able to access the relational database. On that point, the FERC clarified “that we will make available services through which the public will be able to access organizational charts, asset appendices, and other reports, as well as have access to the same historical data as Sellers, including all market-based rate information submitted into the database. We also clarify that the database will retain information submitted by Sellers and that historical data can be accessed by the public.”

**MBR Database.** On January 10, 2020, the FERC issued a notice that updated versions of the XML, XSD, and MBR Data Dictionary are available on the FERC’s [website](#) and that the test environment for the MBR Database is now available and can be accessed on the [MBR Database webpage](#).

**Effective Date Extended by 6 Months.** On May 6, 2020, EEI requested a four-month extension of implementation of *Order 860*. EPSA supported that request on May 13, 2020. On May 20, the FERC issued a

---

<sup>116</sup> For purposes of this proceeding, “Public Interest Organizations” are Sierra Club, Sustainable FERC Project and NRDC.

<sup>117</sup> *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Indep. Sys. Operators*, 173 FERC ¶ 62,090 (Nov. 19, 2020).

<sup>118</sup> *Data Collection for Analytics and Surveillance and Market-Based Rate Purposes*, 168 FERC ¶ 61,039 (July 18, 2019) (“*Order 860*”), order on reh’g and clarif., 170 FERC ¶ 61,129 (Feb. 20, 2020).

<sup>119</sup> *Data Collection for Analytics and Surveillance and Market-Based Rate Purposes*, 156 FERC ¶ 61,045 (July 21, 2016) (“*Data Collection NOPR*”).

<sup>120</sup> An LEI is a unique 20-digit alpha-numeric code assigned to a single entity. They are issued by the Local Operating Units of the Global LEI System.

<sup>121</sup> *Data Collection for Analytics and Surveillance and Market-Based Rate Purposes*, Order No. 860-A, 170 FERC ¶ 61,129 (Feb. 20, 2020) (“*Order 860-A*”).

notice extending the effective and associated implementation dates of *Order 860* by six months. The new *Order 860* effective date will be April 1, 2021, and the deadline for baseline submissions to and including August 2, 2021. First change in status filings under these new timelines will be due August 31, 2021.

**March 25, 2021 Technical Workshop.** On February 25, 2021, the FERC issued a notice of a technical workshop to discuss the functionality and features of the MBR Database. The workshop will be held electronically on March 25, 2021 from 10 a.m. to 3 p.m. The FERC will issue a supplemental notice prior to the workshop with further details regarding the agenda. Individuals who are interested in registering for the conference can do so here: <https://ferc.webex.com/ferc/j.php?MTID=e6dd18def200b281ff165e57325102ee0>.

- **NOPR: NAESB WEQ Standards v. 003.3 - Incorporation by Reference into FERC Regs (RM05-5-029, -030)**

On July 16, 2020, the FERC issued a NOPR proposing to incorporate by reference, with certain enumerated exceptions, the latest version (Version 003.3) of certain Standards for Business Practices and Communication Protocols for Public Utilities adopted by the NAESB Wholesale Electric Quadrant ("WEQ").<sup>122</sup> Despite having only recently incorporated Version 003.2 in its regulations, the FERC proposed to move forward on Version 003.3 because this Version contains a number of major initiatives whose incorporation by reference "will improve the security and the efficiency of business transactions. These include enhanced cybersecurity standards resulting from an assessment by Sandia, improved methodologies for resolving transmission loading relief, and standards for determining available transfer capacity."<sup>123</sup> Comments on the *NAESB WEQ v. 003.3 Standards NOPR* were due on or before November 3, 2020<sup>124</sup> and were filed by Bonneville Power Administration ("BPA"), EEI, the IRC, and Open Access Technology International. The *NAESB WEQ v. 003.3 Standards NOPR* is pending before the FERC.

- **Waiver of Tariff Requirements (PL20-7)**

On May 21, 2020, the FERC issued a Proposed Policy Statement that would clarify its policy regarding requests for waiver of tariff provisions.<sup>125</sup> The *Proposed Policy Statement* sets forth the approach the FERC would take going forward to ensure compliance with the filed rate doctrine and the rule against retroactive making. The proposed policy will both clarify and modify waiver standards, and in some instances, make it harder to obtain waivers.

Specifically, the FERC proposed the following guidance on filing procedures to implement its new approach for granting waivers of tariff provisions and to no longer grant retroactive waivers except as consistent with the *Proposed Policy Statement*:

1. *Style Requests as Requests for Remedial Relief.* Filings seeking relief in connection with actions or omissions that have already occurred prior to the date relief is sought from the FERC would be characterized as a request for remedial relief (rather than as a request for a waiver). In response to such a request, the FERC will focus on what remedy, if any, is required to cure acknowledged or alleged deviations from a filed tariff. "Waiver" is to be limited to (a) requests for prospective relief when a requested future deviation from the filed tariff has not yet occurred at the time a request is filed; or (b) petitions for remedial relief when a tariff expressly authorizes regulated entities to seek a remedial waiver from the FERC for past non-compliance with the filed tariff.

<sup>122</sup> *Standards for Business Practices and Communication Protocols for Public Utilities*, 172 FERC ¶ 61,047 (July 16, 2020) ("*NAESB WEQ v. 003.3 Standards NOPR*").

<sup>123</sup> The *NAESB WEQ v. 003.3 NOPR* at P .

<sup>124</sup> The *NAESB WEQ v. 003.3 NOPR* was published in the *Fed. Reg.* on Sep. 4, 2020 (Vol. 85, No. 173) pp. 55,201-55,219.

<sup>125</sup> *Waiver of Tariff Requirements*, 171 FERC ¶ 61,156 (May 21, 2020) ("*Proposed Policy Statement*").

2. *Form of Filing.* When the entity requesting remedial relief is the entity that acted (or believes it may have acted) in a manner inconsistent with the tariff, such requests should be filed as petitions for declaratory order under Rule 207 of the FERC's Rules of Practice and Procedure. When the filing entity alleges a different entity has acted in a manner inconsistent with the tariff, such requests should be filed as complaints under Rule 206. Given the filing fees associated with petitions for declaratory order, the industry was encouraged to directly address this aspect of the proposal.
3. *Expressly Request FERC Action pursuant to FPA section 309 or NGA section 16.4.* These provisions have been found to afford the FERC the latitude to remedy past non-compliance "provided the agency's action conforms with the purposes and policies of Congress and does not contravene any terms of the Act."

The FERC acknowledged that this Policy would represent a change from its past approach, particularly in situations where inadvertent failures to comply with ministerial tariff requirements have not been protested. The FERC suggested a few ways tariffs may be modified to avoid what may appear by comparison to be harsh outcomes, including expressly stating in the tariff that a failure to comply with a certain deadline may be waived by order of the FERC or by allowing various kinds of errors to be cured within a reasonable period of time after a default has occurred or an error has been discovered, but is difficult to imagine how feasible or how well these options might work in practice.

The FERC proposed to incorporate its current four-part analysis<sup>126</sup> in considering both requests for prospective waiver and petitions for remedial relief, but cautioned that it would apply that analysis only in those limited circumstances where the request for remedial relief would not violate the filed rate doctrine or the rule against retroactive ratemaking due to adequate prior notice, or the requested relief is within the FERC's authority to grant under FPA section 309 or NGA section 16.

Finally, the FERC proposed requiring a stronger showing when a petitioner is seeking remedial relief for its own failure to comply with a tariff – petitions will be more compelling when the failure to comply was due to something more than inadvertent error or administrative oversight. Petitions for remedial relief will generally be denied when a protestor credibly contends, or the FERC independently determines, that the requested remedial relief will result in undesirable consequences (e.g. harm to third parties).

With respect to prospective requests to waive the 60-day prior notice requirement under FPA section 205(d) (or the 30-day prior notice requirement under NGA section 4(d)), which the FERC has discretion to waive "for good cause shown," the FERC proposes to leave in effect its policy of generally granting such waivers,<sup>127</sup> to the extent that entities seek an effective date no earlier than the day *after* the date a rate change is submitted to the FERC.

Comments on the Proposed Policy Statement were due on or before June 18, 2020 and were filed by the IRC, AEE, APPA, AWEA/SEIA, EEI, EPSA, Indicated Generators,<sup>128</sup> INGAA, Kansas Electric Power Coop. ("KEPC"), NGA, NGSA, NRECA, Public Citizen, Sunflower Electric Power, and TAPS. Reply comments were filed

---

<sup>126</sup> Under current practice, the FERC grants tariff provision waivers where: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.

<sup>127</sup> See *Cent. Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, order on reh'g, 61 FERC ¶ 61,089 (1992) ("*Central Hudson*"). Factors that will generally support a waiver of prior notice include: (1) uncontested filings that do not change rates; (2) filings that reduce rates and charges; and (3) filings that increase rates as prescribed by a previously accepted contract or settlement on file with the FERC.

<sup>128</sup> "Indicated Generators" are Vistra, NRG, FirstLight, Cogentrix, and LS Power.

by APPA, Joint Trade Associations,<sup>129</sup> KEPC, and the Sustainable FERC Project. The proposed Policy Statement is pending before the FERC.

- **FERC's ROE Policy for Natural Gas and Oil Pipelines (PL19-4)**

On May 21, 2020, the FERC issued a Policy Statement that applies to natural gas and oil pipelines, with certain exceptions to account for the statutory, operational, organizational and competitive differences among the electric, natural gas and oil pipeline industries, the FERC's ROE methodology adopted in *Opinion No. 569-A*.<sup>130</sup> Specifically, the FERC revised its policy and will determine natural gas and oil pipeline ROEs by averaging the results of the DCF and CAPM, but will not use the risk premium model discussed in *Opinion 569/569-A* ("Risk Premium").<sup>131</sup> In addition, the FERC clarified its policies governing the formation of proxy groups and the treatment of outliers in proceedings addressing natural gas and oil pipeline ROEs. Finally, the FERC encouraged oil pipelines to file revised FERC Form No. 6, page 700s for 2019 reflecting the revised ROE policy. This Policy Statement became effective May 27, 2020.<sup>132</sup> On July 7, the FERC issued a notice that pipelines choosing to file updated FERC Form No. 6, page 700 data consistent with the ROE Policy Statement should file such data on or before July 21, 2020.

Complainant-Aligned Parties<sup>133</sup> answered the New England TO's May 10 supplemental comments. On June 15, 2020, Joint Parties<sup>134</sup> submitted supplemental comments arguing that the FERC should use the midpoint, rather than the median, as the measure of central tendency for public utilities that file individually to establish a ROE. Joint Parties' comments were opposed by Six Cities.<sup>135</sup> WIRES submitted supplemental comments on June 18, 2020 requesting that the FERC take further action in this proceeding to "resolve the uncertainty surrounding its base ROE methodology and establish a policy consistent with the recommendations made in these comments" (recommending a framework that employs all four of the previously proposed ROE models, including the Expected Earnings model, along with certain modifications, to ensure that ROEs attract capital investment in needed transmission infrastructure). On June 24, EEI and WIRES requested the FERC issue a NOI regarding the FERC's policy for determining base ROE applicable to the electric industry as a whole. Six Cities answered Joint Parties on June 30. APPA answered EEI and WIRES' June 24 motion.

- **NOI: Certification of New Interstate Natural Gas Facilities (PL18-1)**

Since the last Report, on February 18, 2021, the FERC issued a new notice of inquiry ("NOI") in which it seeks new information and additional stakeholder perspectives to help it explore whether it should revise its approach under the currently effective policy statement on the certification of new natural gas transportation

<sup>129</sup> "Joint Trade Associations" are AEE, AWEA, EEI, EPSA, INGAA, NGS, NRECA and SEIA.

<sup>130</sup> *Inquiry Regarding the Commission's Policy for Determining Return on Equity*, 171 FERC ¶ 61,155 (May 21, 2020) ("*Natural Gas and Oil Pipeline ROE Policy Statement*").

<sup>131</sup> As previously reported, the FERC issued a notice of inquiry on March 21, 2019 seeking information and views to help the FERC explore whether, and if so how, it should modify its policies concerning the determination of ROE to be used in designing jurisdictional rates charged by public utilities.<sup>131</sup> The FERC also sought comment on whether any changes to its policies concerning public utility ROEs should be applied to interstate natural gas and oil pipelines. This NOI followed *Emera Maine*, which reversed *Opinion 531*, and seeks to engage interests beyond those represented in the *Emera Maine* proceeding (see EL11-66 *et al.* in Section I above).

<sup>132</sup> The *Natural Gas and Oil Pipeline ROE Policy Statement* was published *Fed. Reg.* on May 27, 2020 (Vol. 85, No. 102) pp. 31,760-31,773.

<sup>133</sup> For this purpose, "Complainant-Aligned Parties" are: Connecticut Public Utilities Regulatory Authority, Connecticut Office of the Attorney General, Connecticut Department of Energy and Environmental Protection, Connecticut Office of Consumer Counsel, Massachusetts Office of the Attorney General, Massachusetts Department of Public Utilities, Massachusetts Municipal Wholesale Electric Company, and New Hampshire Electric Cooperative.

<sup>134</sup> "Joint Parties" are: AEP, Avista, Evergy Companies, Entergy Services, Exelon, FirstEnergy, Portland Gen. Elec., PG&E, Corporation, Puget Sound Energy, PacifiCorp, Idaho Power, PSEG, So. Cal. Edison, and San Diego Gas & Elec.

<sup>135</sup> "Six Cities" are the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California.



facilities to determine whether a proposed natural gas project is or will be required by the public convenience and necessity, as that standard is established in section 7 of the Natural Gas Act.<sup>136</sup> The 2021 NOI is to provide an opportunity for stakeholders to refresh the record and provide updated information and additional viewpoints to help the FERC assess its policy.<sup>137</sup> The FERC strongly urged stakeholders to not resubmit previously filed comments, which remain in the record of this proceeding.<sup>138</sup> Comments on the 2021 NOI are due on or before April 26, 2021.<sup>139</sup>

### XIII. Natural Gas Proceedings

For further information on any of the natural gas proceedings, please contact Joe Fagan (202-218-3901; [jfagan@daypitney.com](mailto:jfagan@daypitney.com)).

- **New England Pipeline Proceedings**

The following New England pipeline projects are currently under construction or before the FERC:

- ***Iroquois ExC Project (CP20-48)***

- ▶ 125,000 Dth/d of incremental firm transportation service to ConEd and KeySpan by building and operating new natural gas compression and cooling facilities at the sites of four existing Iroquois compressor stations in Connecticut (Brookfield and Milford) and New York (Athens and Dover)
    - ▶ Three-year construction project; service request by November 1, 2023
    - ▶ February 2, 2020 application for a certificate of public convenience and necessity pending; Iroquois requests on Jan 26, 2021 that the FERC act promptly and issue the certificate

- ***Atlantic Bridge Project (CP16-9)***

- ▶ On February 24, 2020, the FERC authorized Algonquin Gas Transmission, LLC (“Algonquin”) and Maritimes & Northeast Pipeline, LLC (“Maritimes”) to place facilities associated with the Atlantic Bridge Project into service.<sup>140</sup> Rehearing of the Authorization Order was timely requested, but denied by operation of law.
    - ▶ In a fairly unprecedented order issued February 18, 2021,<sup>141</sup> the FERC, expressing concerns regarding operation of the project, established briefing on the following matters:
      - In light of the concerns expressed regarding public safety, is it consistent with the FERC’s responsibilities under the Natural Gas Act (“NGA”) to allow the Weymouth Compressor Station to enter and remain in service?
      - Should the Commission reconsider the current operation of the Weymouth Compressor Station in light of any changed circumstances since the project was authorized? For example, are there changes in the Weymouth Compressor Station’s projected air emissions impacts or public safety impacts the Commission

<sup>136</sup> *Certification of New Interstate Natural Gas Facilities*, 174 FERC ¶ 61,125 (Feb. 18, 2021) (“2021 NOI”).

<sup>137</sup> *Id.* at P 3.

<sup>138</sup> The 2021 NOI follows an April 19, 2018 NOI that sought comments on four broad issue categories: (1) project need, including whether precedent agreements are still the best demonstration of need; (2) exercise of eminent domain; (3) environmental impact evaluation (including climate change and upstream and downstream greenhouse gas emissions); and (4) the efficiency and effectiveness of the FERC certificate process. Literally thousands of individual and mass-mailed comments were filed on the 2018 NOI.

<sup>139</sup> The 2021 NOI was published *Fed. Reg.* on Feb. 24, 2021 (Vol. 86, No. 35) pp. 11,268-11,274.

<sup>140</sup> *Algonquin Gas Transmission, LLC*, Docket No. CP16-9 at 1 (Sep. 24, 2020) (delegated order) (“Authorization Order”).

<sup>141</sup> *Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, LLC*, 174 FERC ¶ 61,126 (Feb. 18, 2021) (“Briefing Order”).

should consider? We encourage parties to address how any such changes affect the surrounding communities, including environmental justice communities.

- Are there any additional mitigation measures the Commission should impose in response to air emissions or public safety concerns?
  - What would the consequences be if the Commission were to stay or reverse the Authorization Order?
- Initial briefs are due April 5, 2021; reply briefs, May 5, 2021.
  - The FERC noted that the facilities placed in service pursuant to the Authorization Order may remain in service while it considers the issues set for briefing.

- **Non-New England Pipeline Proceedings**

The following pipeline projects could affect ongoing pipeline proceedings in New England and elsewhere:

- **Northern Access Project (CP15-115)**

- The New York State Department of Environmental Conservation (“NY DEC”) and the Sierra Club requested rehearing of the *Northern Access Certificate Rehearing Order* on August 14 and September 5, 2018, respectively. On August 29, National Fuel Gas Supply Corporation and Empire Pipeline (“Applicants”) answered the NY DEC’s August 14 rehearing request and request for stay. On April 2, 2019, the FERC denied the NY DEC and Sierra Club requests for rehearing.<sup>142</sup> Those orders have been challenged on appeal to the US Court of Appeals for the Second Circuit (19-1610).
- As previously reported, the August 6, 2018 *Northern Access Certificate Rehearing Order* dismissed or denied the requests for rehearing of the *Northern Access Certificate Order*.<sup>143</sup> Further, in an interesting twist, the FERC found that a December 5, 2017 “Renewed Motion for Expedited Action” filed by National Fuel Gas Supply Corporation and Empire Pipeline, Inc. (the “Companies”), in which the Companies asserted a separate basis for their claim that the NY DEC waived its authority under section 401 of the Clean Water Act (“CWA”) to issue or deny a water quality certification for the Northern Access Project, served as a motion requesting a waiver determination by the FERC,<sup>144</sup> and proceeded to find that the NY DEC was obligated to act on the application within one year, failed to do so, and so waived its authority under section 401 of the CWA.
- The FERC authorized the Companies to construct and operate pipeline, compression, and ancillary facilities in McKean County, Pennsylvania, and Allegany, Cattaraugus, Erie, and Niagara Counties, New York (“Northern Access Project”) in an order issued February 3, 2017.<sup>145</sup> The Allegheny Defense Project and Sierra Club (collectively, “Allegheny”) requested rehearing of the *Northern Access Certificate Order*.
- Despite the FERC’s *Northern Access Certificate Order*, the project remained halted pending the outcome of National Fuel’s fight with the NY DEC’s April denial of a Clean Water Act permit. NY DEC found National Fuel’s application for a water quality certification under Section 401 of the Clean Water Act, as well as for stream and wetlands disturbance permits, failed to comply with water regulations aimed at protecting wetlands and wildlife

<sup>142</sup> *Nat’l Fuel Gas Supply Corp. and Empire Pipeline, Inc.*, 167 FERC ¶ 61,007 (Apr. 2, 2019).

<sup>143</sup> *Nat’l Fuel Gas Supply Corp. and Empire Pipeline, Inc.*, 164 FERC ¶ 61,084 (Aug. 6, 2018) (“*Northern Access Rehearing & Waiver Determination Order*”), *reh’g denied*, 167 FERC ¶ 61,007 (Apr. 2, 2019).

<sup>144</sup> The DC Circuit has indicated that project applicants who believe that a state certifying agency has waived its authority under CWA section 401 to act on an application for a water quality certification must present evidence of waiver to the FERC. *Millennium Pipeline Co., L.L.C. v. Seggos*, 860 F.3d 696, 701 (D.C. Cir. 2017).

<sup>145</sup> *Nat’l Fuel Gas Supply Corp.*, 158 FERC ¶ 61,145 (2017) (“*Northern Access Certificate Order*”), *reh’g denied*, 164 FERC ¶ 61,084 (Aug 6, 2018) (“*Northern Access Certificate Rehearing Order*”).

and that the pipeline failed to explore construction alternatives. National Fuel appealed the NY DEC's decision to the 2nd Circuit on the grounds that the denial was improper.<sup>146</sup> On February 2, 2019, the 2nd Circuit vacated the decision of the NY DEC and remanded the case with instructions for the NY DEC to more clearly articulate its basis for the denial and how that basis is connected to information in the existing administrative record. The matter is again before the NY DEC.

- ▶ On November 26, 2018, the Applicants filed a request at FERC for a 3-year extension of time, until February 3, 2022, to complete construction and to place the certificated facilities into service. The Applicants cited the fact that they “do not anticipate commencement of Project construction until early 2021 due to New York's continued legal actions and to time lines required for procurement of necessary pipe and compressor facility materials.” The extension request was granted on January 31, 2019.
- ▶ On August 8, 2019, the NY DEC again denied Applicants request for a Water Quality Certification, and as directed by the Second Circuit,<sup>147</sup> provided a “more clearly articulate[d] basis for denial.”
- ▶ On August 27, 2019, Applicants requested an additional order finding on additional grounds that the NY DEC waived its authority over the Northern Access 2016 Project under Section 401 of the CWA, even if the NY DEC and Sierra Club prevail in their currently pending court petitions challenging the basis for the Commission's Waiver Order.<sup>148</sup>
- ▶ On October 16, 2020, Applicants requested, due to ongoing legal and regulatory delays, an additional 2-year extension of time, until December 1, 2024, to complete construction of the Project and enter service. More than 50 sets of comments on the requested extension were filed and on December 1, 2020, the FERC dismissed, without prejudice, Applicants' request for an extension of time,<sup>149</sup> finding the request premature. The FERC reiterated its encouragement that pipeline applicants requesting extensions “file their requests no more than 120 days before the deadline to complete construction”, so that the FERC has the relevant information available to determine whether good cause exists to grant an extension of time and whether the FERC's prior findings remain valid.<sup>150</sup>

- **Natural Gas-Related Enforcement Actions**

**Freeport LNG (IN21-7).** On January 28, 2021, the FERC approved a Stipulation and Consent Agreement (“Agreement”) with Freeport LNG Development L.P. (“Freeport LNG”)<sup>151</sup> that resolved OE's investigation into whether Freeport LNG violated Section 3(e) of the Natural Gas Act (“NGA”) (15 U.S.C. § 717b(e) (2012)) and the FERC's Order in *Freeport LNG Dev., L.P.*, 148 FERC ¶ 61,076 (2014) (“*Freeport Order*”). Enforcement determined that Freeport (i) violated NGA Section 3(e) and the *Freeport Order* when its contractor engaged in clearing and stabilization activities on 75, rather than 50, acres as authorized in the *Freeport Order* and (ii) violated the *Freeport Order* when it failed to fully and accurately describe the known violation on its site (providing statements in its Bi-Weekly Construction Reports that were inconsistent with materials gathered as part of an internal investigation). Under the Agreement, in which Freeport LNG neither admits nor denies the

<sup>146</sup> *Nat'l Fuel Gas Supply Corp. v. NYSDEC et al.* (2d Cir., Case No. 17-1164).

<sup>147</sup> Summary Order, *Nat'l Fuel Gas Supply Corp. v. N.Y. State Dep't of Env'tl. Conservation*, Case 17-1164 (2d Cir, issued Feb. 5, 2019).

<sup>148</sup> See *Sierra Club v. FERC*, No. 19-01618 (2d Cir. filed May 30, 2019); *NYSDEC v. FERC*, No. 19-1610 (2d. Cir. filed May 28, 2019) (consolidated).

<sup>149</sup> *National Fuel Gas Supply Corp. and Empire Pipeline, Inc.*, 173 FERC ¶ 61,197 (Dec. 1, 2020).

<sup>150</sup> *Id.* at P 10.

<sup>151</sup> *Freeport LNG Dev., L.P.*, 174 FERC ¶ 61,055 (Jan. 28, 2021).

alleged violations, Freeport LNG must **pay a \$500,00 civil penalty** to the United States Treasury. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

**Tres Palacios (IN21-3).** On January 19, 2021, the FERC approved a Stipulation and Consent Agreement (“Agreement”) with Tres Palacios LLC (“Tres Palacios”)<sup>152</sup> that resolved OE’s investigation into whether Tres Palacios violated Section 7(e) of the NGA related to its failure to timely conduct sonar surveys as required by the FERC’s 2007 *Tres Palacios Certificate Order*.<sup>153</sup> Enforcement determined that sonar surveys required under the *Certificate Order* were not undertaken within the time frame required and Tres Palacios failed to seek an extension of time to comply until faced with an inquiry into its non-compliance. Under the Agreement, in which Tres Palacios neither admits nor denies the alleged violations, Tres Palacios must **pay a \$700,00 civil penalty** to the United States Treasury. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

**BP (IN13-15).** On December 17, 2020, the FERC issued *Opinion 549-A*,<sup>154</sup> a 159-page decision addressing arguments raised on rehearing requested of *Opinion 549*.<sup>155</sup> *Opinion 549-A* modifies the discussion in *Opinion 549*, but reaches the same the result (ultimately requiring BP to pay a **\$20.16 million civil penalty (roughly \$24.4 million with accrued interest) and disgorge \$207,169**). Of note, *Opinion 549-A* denied BP’s motion to dismiss this enforcement action as time barred (by the five-year statute of limitations set forth in 28 U.S.C. § 2462), finding BP waived any statute of limitations defense by failing to raise it earlier in this proceeding.<sup>156</sup> *Opinion 549-A* revised Ordering Paragraph (C) to direct the disgorged profits to non-profits that disburse the Low Income Home Energy Assistance Program of Texas funds, rather than to the Texas Department of Housing.<sup>157</sup>

On December 29, BP filed a notice that it intends to appeal *Opinion 549-A* to the Fifth Circuit Court of Appeals and paid the civil penalty amount on December 28, 2020, under protest and with full reservation of rights pending the outcome of judicial review of that Opinion. On January 19, BP filed a notice that it disgorged \$250,295 (\$207,169 principal plus interest), divided equally (\$83,431.67) among the following 3 entities identified in the “2016 Comprehensive Energy Assistance Program Subrecipient List”: Dallas County Dept. of Health and Human Services (serving Dallas); El Paso Community Action, Project Bravo (Serving El Paso); and Panhandle Community Services (serving Armstrong and numerous other counties), again under protest and with full reservation of rights pending the outcome of judicial review of *Opinion 549/549-A*.

**Total Gas & Power North America, Inc. et al. (IN12-17).** On April 28, 2016, the FERC issued a show cause order<sup>158</sup> in which it directed Total Gas & Power North America, Inc. (“TGPNA”) and its West Desk traders and supervisors, Therese Tran f/k/a Nguyen (“Tran”) and Aaron Hall (collectively, “Respondents”) to show cause why Respondents should not be found to have violated NGA Section 4A and the FERC’s Anti-Manipulation Rule through

<sup>152</sup> *Tres Palacios LLC*, 174 FERC ¶ 61,060 (Jan. 19, 2021).

<sup>153</sup> *Tres Palacios Gas Storage LLC*, 120 FERC ¶ 61,253 (2007) (“*Tres Palacios Certificate Order*”).

<sup>154</sup> *BP America Inc. et al.*, Opinion No. 549-A, 173 FERC ¶ 61,239 (Dec. 17, 2020) (“*BP Penalties Allegheny Order*”).

<sup>155</sup> *BP America Inc.*, Opinion No. 549, 156 FERC ¶ 61,031 (July 11, 2016) (“*BP Penalties Order*”) (affirming Judge Cintron’s Aug. 13, 2015 Initial Decision finding that BP America Inc., BP Corporation North America Inc., BP America Production Company, and BP Energy Company (collectively, “BP”) violated Section 1c.1 of the FERC’s regulations (“Anti-Manipulation Rule”) and NGA Section 4A (*BP America Inc. et al.*, 152 FERC ¶ 63,016 (Aug. 13, 2015) (“*BP Initial Decision*”))).

<sup>156</sup> *BP Penalties Allegheny Order* at P 1.

<sup>157</sup> *Id.* at P 319.

<sup>158</sup> *Total Gas & Power North America, Inc.*, 155 FERC ¶ 61,105 (Apr. 28, 2016) (“*TGPNA Show Cause Order*”).

a scheme to manipulate the price of natural gas at four locations in the southwest United States between June 2009 and June 2012.<sup>159</sup>

The FERC also directed TGPNA to show cause why it should not be required to disgorge unjust profits of **\$9.18 million**, plus interest; TGPNA, Tran and Hall to show cause why they should not be assessed civil penalties (TGPNA - **\$213.6 million**; Hall - **\$1 million** (jointly and severally with TGPNA); and Tran - **\$2 million** (jointly and severally with TGPNA)). In addition, the FERC directed TGPNA's parent company, Total, S.A. ("Total"), and TGPNA's affiliate, Total Gas & Power, Ltd. ("TGPL"), to show cause why they should not be held liable for TGPNA's, Hall's, and Tran's conduct, and be held jointly and severally liable for their disgorgement and civil penalties based on Total's and TGPL's significant control and authority over TGPNA's daily operations. Respondents filed their answer on July 12, 2016. OE Staff replied to Respondents' answer on September 23, 2016. Respondents answered OE's September 23 answer on January 17, 2017, and OE Staff responded to that answer on January 27, 2017. This matter remains pending before the FERC.

#### XIV. State Proceedings & Federal Legislative Proceedings

- **New England States' Vision Statement**

In October 2020, the six New England states released their "[Vision Statement](#)", outlining their vision for "a clean, affordable, and reliable 21st century regional electric grid" and committing to engage in a collaborative and open process, supported by NESCOE, intended to advance the principles discussed in the Vision Statement. As part of that effort, a series of online technical forums to discuss the issues presented in the Vision Statement have been held or announced by certain State Agencies.<sup>160</sup> Thus far, the following on-line technical forums have been held:

Jan 13, 2021	Wholesale Market Reform
Jan 25, 2021	Wholesale Market Reform
Feb 2, 2021	Transmission Planning
Feb 25, 2021	Governance Reform

Written comments on the topics and discussions addressed in the Governance Reform Wholesale Market Reform forums are due by March 26, 2021 and may be submitted at [WholesaleEnergy@NewEnglandEnergyVision.com](mailto:WholesaleEnergy@NewEnglandEnergyVision.com). Written comments will be posted publicly on this website after this deadline.

Recordings of the technical forums, as well as draft notices, agendas, and additional information on these sessions, are available on the New England States' Vision Statement website (<https://newenglandenergyvision.com/>). Details on an evening forum related to environmental justice issues has yet to be announced.

<sup>159</sup> The allegations giving rise to the Total Show Cause Order were laid out in a September 21, 2015 FERC Staff Notice of Alleged Violations which summarized OE's case against the Respondents. Staff determined that the Respondents violated section 4A of the Natural Gas Act and the Commission's Anti-Manipulation Rule by devising and executing a scheme to manipulate the price of natural gas in the southwest United States between June 2009 and June 2012. Specifically, Staff alleged that the scheme involved making largely uneconomic trades for physical natural gas during bid-week designed to move indexed market prices in a way that benefited the company's related positions. Staff alleged that the West Desk implemented the bid-week scheme on at least 38 occasions during the period of interest, and that Tran and Hall each implemented the scheme and supervised and directed other traders in implementing the scheme.

<sup>160</sup> "State Agencies" jointly announcing the technical forums are identified as: CT DEEP, ME Governor's Energy Office, MA Executive Office of Energy and Environmental Affairs, NH PUC, RI Office of Energy Resources, and VT DPS.

**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](mailto:pmgerity@daypitney.com)).

- **Exelon PP-10 Complaint (20-1509)**

**Underlying FERC Proceeding: EL20-52<sup>161</sup>**

**Petitioner: Exelon**

On December 18, 2020, Constellation Mystic Power, LLC (“Exelon”) petitioned the DC Circuit Court of Appeals for review of the FERC’s orders denying Exelon’s PP-10 Complaint and the denial of its request for rehearing of the *Order Denying PP-10 Complaint*.<sup>162</sup> Appearances were due January 22, 2021. ISO-NE, NESCOE, CT PURA, MMWEC, and Vistra/Dynegy moved to intervene. On January 21, Exelon filed a docketing statement and statement of issues to be raised. On January 22, the FERC moved for a 60-day interval between Exelon’s Opening Brief and its Answering Brief. On February 16, 2021, Exelon moved to voluntarily dismiss its Petition. Its motion was unopposed, and the Court dismissed the case and issued a mandate to the FERC on February 18, 2021, ending this proceeding.

- **ISO-NE Implementation of Order 1000 Exemptions for Immediate Need Reliability Projects (20-1422)**

**Underlying FERC Proceeding: EL19-90<sup>163</sup>**

**Petitioner: LS Power**

On October 16, 2020, LSP Transmission Holdings II, LLC (“LS Power”) petitioned the DC Circuit Court of Appeals for review of the FERC’s orders addressing ISO-NE’s implementation of the Order 1000 exemptions for immediate need reliability projects. Since the last Report, and after the Clerk granted extensions of time to file procedural and dispositive motions, the FERC on December 10, 2020 requested at least 60 days between the filing of LS Power’s opening brief and the FERC’s brief in response, and on December 28, 2020, filed a certified index to the record. On December 29, 2020, the Court granted the motions to intervene by Avangrid and MMWEC.

On March 2, 2021, the Court at FERC’s request, issued an amended briefing schedule to apply in this case, adding roughly one month to each deadline previously identified: Petitioner’s Brief due April 5, 2021; Intervenor’s in Support of Petitioners Brief, April 12/15, 2021; FERC’s brief, June 11, 2021; Intervenor’s in Support of FERC, July 9, 2021; Petitioner’s Reply Brief, July 9, 2021; Intervenor’s in Support of Petitioner Reply Brief, July 9, 2021; Deferred Appendix, July 16, 2021; and Final Briefs July 30, 2021.

---

<sup>161</sup> *Constellation Mystic Power, LLC v. ISO New England Inc.*, 173 FERC ¶ 62,034 (Oct. 19, 2020); *Constellation Mystic Power, LLC v. ISO New England Inc.*, 172 FERC ¶ 61,144 (Aug. 17, 2020) (“*Order Denying PP-10 Complaint*”), *reh’g denied by operation of law*, 173 FERC ¶ 62,034 (Oct. 19, 2020).

<sup>162</sup> The PP-10 Complaint requested that ISO-NE be prohibited from (i) implementing changes to the Planning Procedure to Support the Forward Capacity Market (“PP-10”), which Exelon asserted would significantly affect the rates, terms and conditions of jurisdictional services by dramatically changing the way in which ISO-NE conducts its annual transmission security review of capacity auction retirement bids and the Network Model upon which the capacity auction is based, and (ii) violating the requirements of its Tariff for *Order 1000* competitive transmission procurements.

<sup>163</sup> *ISO New England Inc.*, 171 FERC ¶ 61,211 (June 18, 2020) (“*Order Terminating Proceeding*”) (finding (i) “insufficient evidence in the record to find under FPA section 206 that [ISO-NE’s] implementation of the exemption for immediate need reliability projects is unjust, unreasonable, or unduly discriminatory or preferential; (ii) “insufficient evidence in the record to find that ISO-NE implemented the immediate need reliability project exemption in a manner that is inconsistent with or more expansive than [the FERC] directed”; and (iii) that ISO-NE complies with the five criteria established for the immediate need reliability project exemption); and *ISO New England Inc.*, 172 FERC ¶ 61,293 (Sep. 29, 2020) (“*Order 1000 Exemptions Allegheny Order*”) (addressing arguments raised by request for rehearing denied by operation of law, modifying discussion in *Order Terminating Proceeding*, but reaching same result).



- **CIP IROL Cost Recovery Rules (20-1389)**  
**Underlying FERC Proceeding: ER20-739<sup>164</sup>**  
**Petitioner: Cogentrix, Vistra**

On September 25, 2020, Cogentrix and Vistra petitioned the DC Circuit Court of Appeals for review of the FERC's orders allowing for recovery of expenditures to comply with the IROL-CIP requirements, but only those costs incurred on or after the effective date of the relevant individual FPA section 205 filing, including undepreciated costs of any such past capital expenditures to comply with the IROL-CIP requirements. On December 22, 2020, the Court adopted a proposed *revised* briefing schedule that added roughly 45 days to each procedural deadline previously established. On March 1, 2021, Cogentrix and Vistra filed Petitioners' Brief. Next up are FERC's Respondent Brief (April 30, 2021); Intervenor for Respondent Brief (June 1, 2021); Petitioners' Reply Briefs (June 28, 2021); Deferred Appendix (July 16, 2021); and Final Briefs (July 26, 2021).

- **Mystic 8/9 Cost of Service Agreement (20-1343; 20-1361, 20-1362; 20-1365, 20-1368; 21-1067; 21-1070)(consolidated)**  
**Underlying FERC Proceeding: EL18-1639<sup>165</sup>**  
**Petitioners: Mystic (20-1343), NESCOE (20-1361, 21-1067), MA AG (20-1362), CT Parties (20-1365, 20-1368, 21-1070)**

Mystic, NESCOE, MA AG, and CT Parties have separately petitioned the DC Circuit Court of Appeals for review of the FERC's orders addressing the COS Agreement among Mystic, ExGen and ISO-NE.<sup>166</sup> The cases have been consolidated into Case No. 20-1343. Since the last Report, on February 17 and 24, 2021, the Court consolidated with 20-1343 the most recent appeals in cases 21-1067 (NESCOE) and 21-1070 (CT Parties), respectively. On February 26, 2021, the FERC filed a motion indicating that this case can return to the Court's active docket and its anticipation that it will file a proposed briefing schedule in this consolidated case.

- **CASPR (20-1333, 20-1331) (consolidated)\*\***  
**Underlying FERC Proceeding: ER18-619<sup>167</sup>**  
**Petitioners: Sierra Club, NRDC, RENEW Northeast, and CLF**

On August 31, 2020, the Sierra Club, NRDC, RENEW Northeast, and CLF petitioned the DC Circuit Court of Appeals for review of the FERC's order accepting ISO-NE's CASPR revisions (which, under *Allegheny*, is ripe for review). On October 2, 2020, appearances, docketing statements, a statement of issues to be raised, and a statement of intent to utilize deferred joint appendix were filed. On October 19, 2020, the FERC moved to dismiss the case for a lack of jurisdiction (arguing that Petitioners missed their opportunity to timely file their Petition for review in 2018, and filing within 60 days of *Allegheny* did not make their Petition timely). Alternatively, the FERC asked that the case be held in abeyance for 60 days pending issuance of a further FERC order on this matter. On October 29, Petitioners opposed the FERC's motion. On November 5, 2020, the FERC filed a reply, indicated that an order on rehearing would be issued imminently and suggested that, if the Court declines to dismiss the petition, it should be held in abeyance until the Commission issues an order on rehearing. As noted above, the FERC issued the *CASPR Allegheny Order* on November 19, modifying the discussion in the *CASPR Order*, but reaching the same the result. The Sierra Club, NRDC and CLF also requested rehearing of the November 19 order.

On January 12, 2021, the Court dismissed as moot the FERC's October 19 motion to hold this proceeding in abeyance and ordered that the motion to dismiss be referred to the merits panel (Judges Pillard, Katsas and

<sup>164</sup> *ISO New England Inc.*, 171 FERC ¶ 61,160 (May 26, 2020) ("*CIP IROL Cost Recovery Order*") and *ISO New England Inc.*, 172 FERC ¶ 61,251 (Sep. 17, 2020) ("*CIP IROL Allegheny Order*", and together with the CIP IROL Cost Recover Order, the "*CIP IROL Orders*").

<sup>165</sup> *July 2018 Order; July 2018 Rehearing Order; Dec 2018 Order; Dec 2018 Rehearing Order; Jul 17 Compliance Order.*

<sup>166</sup> The COS Agreement is to provide compensation for the continued operation of the Mystic 8 & 9 units from June 1, 2022 through May 31, 2024.

<sup>167</sup> *ISO New England Inc.*, 162 FERC ¶ 61,205 (Mar. 9, 2018) ("*CASPR Order*").

Walker) and addressed by the parties in their briefs. On January 25 and 26, CT Parties and MMWEC and NHEC filed statements of issues and notices that they intend to participate in support of Petitioners. On January 27, the Court ordered the parties to submit by February 26, 2021, proposed formats for the briefing of these cases.

Since the last Report, NEPOOL moved for leave to intervene in this case. In addition, on February 26, 2021, the parties submitted a proposed briefing format and the FERC submitted a motion request 60 days between the submission of Petitioners' opening brief and its brief in response.

- **Opinion 531-A Compliance Filing Undo (20-1329)**

**Underlying FERC Proceeding: ER15-414<sup>168</sup>**

**Petitioners: TOs' (CMP et al.)**

On August 28, 2020, the TOs<sup>169</sup> petitioned the DC Circuit Court of Appeals for review of the FERC's October 6, 2017 order rejecting the TOs' filing that sought to reinstate their transmission rates to those in place prior to the FERC's orders later vacated by the DC Circuit's *Emera Maine*<sup>170</sup> decision. On September 22, 2020, the FERC submitted an unopposed motion to hold this proceeding in abeyance for four months to allow for the Commission to "a future order on petitioners' request for rehearing of the order challenged in this appeal, and the rate proceeding in which the challenged order was issued remains ongoing before the Commission." On October 2, 2020, the Court granted the FERC's motion, and directed the parties to file motions to govern future proceedings in this case by February 2, 2021. On January 25, 2021, the FERC requested that the Court continue to hold this petition for review in abeyance for an additional three months, with parties to file motions to govern future proceedings at the end of that period. The FERC requested continued abeyance because of its intention to issue a future order on petitioners' request for rehearing of the order challenged in this appeal, and the rate proceeding in which the challenged order was issued remains ongoing before the FERC. Petitioners consented to the requested abeyance. On February 11, 2021, the Court issued an order that this case remain in abeyance pending further order of the court and directed the parties to file motions to govern future proceedings in this case by April 26, 2021.

- **2013/14 Winter Reliability Program Order on Compliance and Remand (20-1289, 20-1366 ) (consol.)**

**Underlying FERC Proceeding: ER13-2266<sup>171</sup>**

**Petitioner: TransCanada**

On July 30, 2020, TransCanada Power Marketing ("Petitioner" or "TransCanada") again petitioned the DC Circuit Court of Appeals for review of the FERC's action on the 2013/2014 Winter Reliability Program, this time in the FERC's April 1, 2020 *2013/14 Winter Reliability Program Order on Compliance and Remand*.<sup>172</sup> NEPGA intervened on October 15, 2020 (and its intervention granted on October 28). On October 16, TransCanada filed a docketing statement and statement of issues. On October 29, the FERC filed a certified index to the record and an unopposed motion for a 60-day briefing period. On December 2, 2020, the Court granted the FERC's October 29 motion. On January 11, 2021, TransCanada submitted its initial brief. Respondent Brief of FERC is due March 12, 2021; Intervenor's Joint Brief in Support of Respondent, March 19, 2021; Petitioners' Reply Briefs, April 9, 2021; the Deferred Appendix, April 16, 2021; and Final Briefs, April 30, 2021.

<sup>168</sup> *ISO New England Inc.*, 161 FERC ¶ 61,031 (Oct. 6, 2017) ("Order Rejecting Filing").

<sup>169</sup> The "TOs" are CMP; Eversource Energy Service Co., on behalf of its affiliates CL&P, NSTAR and PSNH; National Grid; New Hampshire Transmission; UI; Unitil and Fitchburg; VTransco; and Versant Power.

<sup>170</sup> *Emera Maine v. FERC*, 854 F.3d 9 (D.C. Cir. 2017) ("*Emera Maine*").

<sup>171</sup> 171 FERC ¶ 61,003 (Apr. 1, 2020) ("*2013/14 Winter Reliability Program Order on Compliance and Remand*") (accepting ISO-NE's January 23, 2017 compliance filing, finding that the bid results from the 2013/14 Winter Reliability Program were just and reasonable, and providing for this finding the further reasoning requested by the DC Circuit in *TransCanada Power Mktg. Ltd. v. FERC*, 811 F.3d 1 (DC Cir. 2015) ("*TransCanada*").)

<sup>172</sup> In *TransCanada*, the DC Circuit granted TransCanada's prior petition in part, and directed the FERC to either better justify its determination or revise its disposition to ensure that the rates under the Program are just and reasonable. *TransCanada* at 1.

- **ISO-NE's Inventoried Energy Program (Chapter 2B) Proposal (19-1224\*\*\*; 19-1247; 19-1252; 19-1253)(consolidated); Underlying FERC Proceeding: ER19-1428<sup>173</sup>**  
**Petitioners: ENECOS (Belmont et al.) (19-1224); MA AG (19-1247); NH PUC/NH OCA (19-1252); Sierra Club/UCS (19-1253)**

As previously reported, at the unopposed request of the FERC, the Court issued an order suspending the previous briefing schedule and remanding the record back to the FERC. Subsequently, the FERC issued its *IEP Remand Order* (June 18, 2020) and its Notice of Denial by Operation of Law of the requests for rehearing of its *IEP Remand Order* (August 20, 2020). As previously reported, each of the Petitioners filed amended petitions for review in the consolidated proceeding in order to bring the FERC's *IEP Remand Order* and the post-remand FERC record before the DC Circuit. On November 10, the Court ordered that the cases be removed from abeyance and set a revised briefing schedule that called for the following: Petitioners' Opening Briefs (December 11, 2020); Respondent Brief of FERC (February 9, 2021); Intervenor's Joint Brief in Support of Respondent (February 16, 2021); Petitioners' Reply Briefs (March 30, 2021); Deferred Appendix (April 20, 2021); and Final Briefs (May 4, 2021). Opening Briefs from Petitioners were filed on December 11, 2020. Since the last Report, the FERC filed its Respondent Brief on February 9. Intervenor for Respondent Briefs were filed on February 16 by ISO-NE and NEPGA. On February 24, the FERC filed an amended certified index to the record. Next up will be Petitioners' Reply Briefs.

#### Other Federal Court Activity of Interest

- **Order 872 (20-72788,\* 21-70113; 20-73375, 21-70113) (consol.) (9<sup>th</sup> Cir.)**  
**Underlying FERC Proceeding: RM19-15<sup>174</sup>**  
**Petitioners: SEIA et al.**

On September 17, 2020, SEIA petitioned the 9<sup>th</sup> Circuit Court of Appeals for review of *Order 872*.<sup>175</sup> On October 9, the FERC filed an unopposed motion for the Court to hold this appeal in abeyance, suspend filing of the certified index to the record, and issue a new briefing schedule after January 4, 2021. The abeyance will permit the FERC to address the pending rehearing requests in a future order. On October 26, 2020, the Court granted the FERC's motion. On January 29, 2021, SEIA requested that this case be consolidated with the others, and that the abeyance period be extended to give the parties additional time to coordinate and develop a unified, efficient briefing schedule. Since the last Report, on February 8, 2021, the Court granted the motion to consolidate and the motion to continue to hold these petitions in abeyance. The Court directed petitioners to file a status report on or before April 9, 2021.

- **PennEast Project (18-1128)**  
**Underlying FERC Proceeding: CP15-558<sup>176</sup>**  
**Petitioners: NJ DEP, DE and Raritan Canal Commission, NJ Div. of Rate Counsel**

Abeyance continues of the appeal before the DC Circuit of the FERC's orders granting certificates of public convenience and necessity to PennEast Pipeline Company, LLC ("PennEast")<sup>177</sup> for the construction and operation of a new 116-mile natural gas pipeline from Luzerne County, Pennsylvania, to Mercer County, New Jersey, along

<sup>173</sup> 162 FERC ¶ 61,127 (Feb. 15, 2018) ("*Order 841*"); 167 FERC ¶ 61,154 (May 16, 2019) ("*Order 841-A*").

<sup>174</sup> *Transcontinental Gas Pipe Line Co., LLC*, 159 FERC ¶ 62,181 (Feb. 3, 2017); *Transcontinental Gas Pipe Line Co., LLC*, 161 FERC ¶ 61,250 (Dec. 6, 2017).

<sup>175</sup> *Order 872* approved pricing and eligibility revisions to the FERC's long-standing regulations implementing sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), including: state flexibility in setting QF rates; a decrease (to 5 MW) to the threshold for a rebuttable presumption of access to nondiscriminatory, competitive markets; updates to the "One-Mile Rule"; clarifications to when a QF establishes its entitlement to a purchase obligation; and provision for certification challenges.

<sup>176</sup> *PennEast Pipeline Co., LLC*, 162 FERC ¶ 61,053 (Jan. 19, 2018), *reh'g denied*, 163 FERC ¶ 61,159 (May 30, 2018).

<sup>177</sup> PennEast is a joint venture owned by Red Oak Enterprise Holdings, Inc., a subsidiary of AGL Resources Inc.; NJR Pipeline Company, a subsidiary of New Jersey Resources; SJI Midstream, LLC, a subsidiary of South Jersey Industries; UGI PennEast, LLC, a subsidiary of UGI Energy Services, LLC; and Spectra Energy Partners, LP.

with three laterals extending off the mainline, a compression station, and appurtenant above ground facilities (“PennEast Project”). The cases are being held in abeyance “pending final disposition of any post-dispositional proceedings [ ] before the United States Supreme Court resulting from the Third Circuit’s decision in No. 19-1191 (In re: PennEast Pipeline Company, LLC (3rd Cir. Sep. 10, 2019)), or other action that resolves the obstacle PennEast poses”. That decision held that the Eleventh Amendment barred condemnation cases brought by PennEast in federal district court in New Jersey to gain access to property owned by the State or its agencies, thus calling into question the viability of PennEast’s proposed project route, and the certificates issued in the underlying case. Until the Third Circuit case is resolved, which is in the midst of proceedings before the Supreme Court, the DC Circuit will not take up this case. The last Joint Status Report was filed on December 23, 2020, noting developments since the September 28, 2020 Status Report, and reporting that none of the events “constitute any of the conditions that [the DC Circuit] enumerated in its October 1, 2019 Order as triggering an obligation to file a motion governing future proceedings.”

- **Opinion 569/569-A: FERC’s Base ROE Methodology (16-1325, 20-1182, 20-1240, 20-1241, 20-1248, 20-1251, 20-1267, 20-1513)**

**Underlying FERC Proceeding: EL14-12; EL15-45<sup>178</sup>**

**Petitioners: MISO TOs, Transource Energy, Dec 23 Petitioners et al.**

The MISO Transmission Owners (TOs), Transource and “Dec 23 Petitioners”,<sup>179</sup> among others, have appealed *Opinion 569/569-A*. The MISO TOs’ case has been consolidated with previous appeals that had been held in abeyance, with the lead case number assigned as 16-1325. Since the last Report, the FERC filed a certified Index to the Record (December 3), the Parties filed a joint unopposed briefing schedule (December 23) and First Energy moved to voluntarily dismiss the cases it initiated (20-1227 & 20-1275), which the Court granted on January 5, 2021. The Court also consolidated case no. 20-1513 (filed by Dec 23 Petitioners) with the lead case (16-1325).

On February 2, 2021, the Court issued a revised briefing format and schedule to apply in these consolidated cases: Statement of issues due February 8, 2021; Petitioners’ Briefs, March 10, 2021; Intervenor in Support of Petitioners Briefs and Amici Curiae Briefs, March 24, 2021; FERC’s brief, June 8, 2021; Intervenor in Support of FERC, June 22, 2021; Petitioners Reply Briefs, July 8, 2021; Intervenor in Support of Petitioners Reply Briefs, July 22, 2021; Joint Deferred Appendix, August 6, 2021; and Final Briefs, August 19, 2021. Since the last Report, Statements of issues were filed on February 8, 2021. Next up are Briefs from Petitioners, Intervenor in Support of Petitioners, and Amici Curiae.

---

<sup>178</sup> *Transcontinental Gas Pipe Line Co., LLC*, 159 FERC ¶ 62,181 (Feb. 3, 2017); *Transcontinental Gas Pipe Line Co., LLC*, 161 FERC ¶ 61,250 (Dec. 6, 2017).

<sup>179</sup> “Dec 23 Petitioners” are: Assoc. of Bus. Advocating Tariff Equity; Coalition of MISO Transmission Customers: IL Industrial Energy Consumers; IN Industrial Energy Consumers, Inc.; MN Large Industrial Group; WI Industrial Energy Group; AMP; Cooperative Energy; Hoosier Energy Rural Elec. Coop.; MS Public Service Comm.; MO Public Service Comm.; MO Joint Municipal Electric Utility Comm.; Organization of MISO States, Inc.; Southwestern Elec. Coop., Inc.; and Wabash Valley Power Assoc.

## INDEX

### Status Report of Current Regulatory and Legal Proceedings as of March 3, 2021

#### COVID-19

Blanket Waiver of ISO/RTO Tariff In-Person Meeting & Notarization Requirements .....	(EL20-37).....	2
Extension of Filing Deadlines .....	(AD20-11).....	2
Jul 8-9 Tech Conf: Impacts of COVID-19 on the Energy Industry.....	(AD20-17).....	1
Remote ALJ Hearings .....	(AD20-12).....	1

#### *I. Complaints/Section 206 Proceedings*

Base ROE Complaints I-IV .....	(EL11-66, EL13-33; EL14-86; EL16-64) .....	5
Green Development DAF Charges Complaint Against National Grid .....	(EL21-47).....	2
New England Generators' Exelon Complaint.....	(EL20-67).....	4
NECEC/Avangrid Complaint Against NextEra/Seabrook.....	(EL21-6).....	3
NEPGA Net CONE Complaint .....	(EL21-26).....	3
NextEra Energy Seabrook Declar. Order Petition: NECEC Elective Upgrade Costs Dispute ..	(EL21-3).....	4
RNS/LNS Rates and Rate Protocols Settlement Agreement II Compliance Filing.....	(ER20-2054; EL16-19-002) .....	5

#### *II. Rate, ICR, FCA, Cost Recovery Filings*

Amended and Restated IRH Support and Use Agreements .....	(ER21-712) .....	9
Bucksport CIP IROL (Schedule 17) Cost Recovery Filing .....	(ER21-957) .....	9
Dynegy CIP IROL (Schedule 17) Cost Recovery Filing.....	(ER21-774) .....	8
Essential Power Newington CIP IROL (Schedule 17) Cost Recovery Period Filing .....	(ER21-117157) .....	8
FCA15 Results Filing.....	(ER21-1226) .....	8
MPD OATT 2019 Annual Informational Filing Settlement Agreement .....	(ER15-1429-014) .....	11
Mystic 8/9 Cost of Service Agreement .....	(ER18-1639) .....	10
Orders 864/864-A (Public Util. Trans. ADIT Rate Changes): New England Compliance Filings (various).....	.....	24
RNS/LNS Rates and Rate Protocols Settlement Agreement II .....	(ER20-2054; EL16-19-002) .....	5
Stonepeak Kestrel CIP IROL (Schedule 17) Cost Recovery Filing .....	(ER21-956) .....	9

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

CASPR .....	(ER18-619) .....	14
EER Exemption from PFP Settlement .....	(ER21-943) .....	12
EER FCM Qualification Modifications .....	(ER21-640) .....	13
Elimination of Price Lock and Zero-Price Offer Rule for New Entrants Starting in FCA16 ....	(ER21-1010) .....	11
New DDBT Methodology .....	(ER21-782) .....	12
Order 841 Compliance Filings (Electric Storage in RTO/ISO Markets) .....	(ER19-470) .....	14
Updated CONE, Net Cone and PPR Values (eff. FCA16) .....	(ER21-787) .....	12

#### *IV. OATT Amendments/Coordination Agreements*

Order 676-I Compliance Filing .....	(ER21-946) .....	14
RNS/LNS Rates and Rate Protocols Settlement Agreement II Compliance Filing.....	(ER20-2054; EL16-19-002) .....	5

#### *V. Financial Assurance/Billing Policy Amendments*

EE Exemption from PFP Settlement .....	(ER21-943) .....	12
--	------------------	----

FAP Info Disclosure/KYC Requirements .....	(ER21-816) .....	15
--	------------------	----

#### ***VI. Schedule 20/21/22/23 Updates***

Schedule 20A NEP-Vitol Phase I/II HVDC-TF Service Agreement.....	(ER21-1180) .....	15
Schedule 20A-VP: Versant Power-Vitol Phase I/II HVDC-TF Service Agreement.....	(ER21-827) .....	15
Schedule 21-GMP Annual True Up Calculation Forecast Info Report.....	(ER12-2304) .....	16
Schedule 21-VP: 2019 Annual Update Settlement Agreement .....	(ER15-1434-004) .....	15
Schedule 21-VP: Bangor Hydro/Maine Public Service Merger-Related Costs Recovery .....	(ER15-1434-001 et al.) .....	16

#### ***VII. NEPOOL Agreement/Participants Agreement Amendments***

No Activity to Report

#### ***VIII. Regional Reports***

Capital Projects Report - 2020 Q4 .....	(ER21-1109) .....	17
IMM Quarterly Markets Reports – Fall 2020.....	(ZZ21-4).....	18
Interconnection Study Metrics Processing Time Exceedance Report Q4 2020.....	(ER19-1951) .....	17
Opinion 531-A Local Refund Report: FG&E .....	(EL11-66).....	16
Opinions 531-A/531-B Local Refund Reports .....	(EL11-66).....	17
Opinions 531-A/531-B Regional Refund Reports .....	(EL11-66).....	17
Transmission Projects Annual Informational Filing .....	(ER13-193) .....	18

#### ***IX. Membership Filings***

February 2021 Membership Filing.....	(ER21-1008) .....	18
Invenia Additional Conditions Informational Filing .....	(ER20-2001) .....	19
January 2021 Membership Filing.....	(ER21-761) .....	18
March 2021 Membership Filing.....	(ER21-1228) .....	18

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

Amended and Restated NERC Bylaws .....	(RR21-1) .....	22
CIP Standards Development: Informational Filings on Virtualization and Cloud Computing Services Projects .....	(RD20-2).....	20
Joint Staff White Papers on Notices of Penalty for Violations of CIP Standards .....	(AD19-18).....	19
NERC Annual Report on FFT & Compliance Exception Programs .....	(RC11-6-011) .....	19
NOI: Enhancements to CIP Standards.....	(RM20-12).....	20
NOI: Virtualization and Cloud Computing Services in BES Operations.....	(RM20-8).....	21
Order 873 - Retirement of Rel. Standard Reqs. (Standards Efficiency Review) .....	(RM19-17; RM19-16) .....	21
Revised Reliability Standard: CIP-002-6.....	(RM20-17).....	20
Revised Reliability Standards: CIP-013-2, CIP-005-7, CIP-010-4 .....	(RD21-2).....	20
Revised Reliability Standard: FAC-008-5.....	(RD21-4).....	20

#### ***XI. Misc. Regional Interest***

203 Application: Exelon Generation .....	(EC21-57) .....	22
D&E Agreement Cancellation: NSTAR / SEMASS .....	(ER21-676) .....	23
Interim Distribution Wheeling Agreement: Unitil / Briar Hydro .....	(ER21-759) .....	23
LGIA Cancellation: Mt. Tom .....	(ER21-845) .....	22
LGIA: CMP/ReEnergy Stratton .....	(ER21-769) .....	23
LGIA: NSTAR / MMWEC (Stony Brook) .....	(ER21-777) .....	23
Orders 864/864-A (Public Util. Trans. ADIT Rate Changes): New England Compliance Filings (various).....		24
SGIA Cancellation: CL&P/Covanta Wallingford.....	(ER21-867) .....	22



SGIA: CL&P / ECRRA.....	(ER21-651) .....	24
-------------------------	------------------	----

## ***XII. Misc: Administrative & Rulemaking Proceedings***

Carbon Pricing in RTO/ISO Markets.....	(AD20-14).....	26
Electrification and the Grid of the Future: Apr 29 Technical Conference .....	(AD21-12).....	25
FERC's ROE Policy for Natural Gas and Oil Pipelines .....	(PL19-4).....	34
FirstEnergy DOE Application for Section 202(c) Order .....		28
Grid Resilience in RTO/ISOs; DOE NOPR.....	(AD18-7).....	28
Hybrid Resources Technical Conference .....	(AD20-9).....	27
ISO/RTO Credit Principles and Practices.....	(AD21-6).....	26
NOI: Certification of New Interstate Natural Gas Facilities .....	(PL18-1).....	34
NOPR: Cybersecurity Incentives .....	(RM21-3).....	28
NOPR: Electric Transmission Incentives Policy .....	(RM20-10).....	29
NOPR: Managing Transmission Line Ratings .....	(RM20-16).....	28
NOPR: NAESB WEQ Standards v. 003.3 - Incorporation by Reference into FERC Regs .....	(RM05-5-029, -030).....	32
Office of Public Participation: Apr 16 Workshop .....	(AD21-9).....	25
Offshore Wind Integration in RTOs/ISOs Tech Conf (Oct 27, 2020) .....	(AD20-18).....	26
Order 860/860-A: Data Collection for Analytics & Surveillance and MBR Purposes .....	(RM16-17).....	31
Order 2222: DER Participation in RTO/ISOs.....	(RM18-9).....	30
Resource Adequacy - Modernizing Electricity Mkt Design (Mar 23 tech conf) .....	(AD21-10).....	25
Waiver of Tariff Requirements .....	(PL20-7).....	32

## ***XIII. Natural Gas Proceedings***

Enforcement Action: BP Initial Decision .....	(IN13-15).....	37
Enforcement Action: Freeport LNG .....	(IN21-7).....	37
Enforcement Action: Total Gas & Power North America, Inc.....	(IN12-17).....	37
Enforcement Action: Tres Palacios .....	(IN21-3).....	37
Iroquois ExC Project.....	(CP20-48).....	35
New England Pipeline Proceedings .....		35
Non-New England Pipeline Proceedings .....		36

## ***XIV. State Proceedings & Federal Legislative Proceedings***

New England States' Vision Statement / On-Line Technical Forums.....		39
--	--	----

## ***XV. Federal Courts***

2013/14 Winter Reliability Program Order on Compliance and Remand .....	20-1289..... (DC Cir.) .....	42
CASPR .....	20-1333 .... (DC Cir.) .....	41
CIP IROL Cost Recovery Rules .....	20-1389..... (DC Cir.) .....	41
Exelon PP-10 Complaint .....	(20-1509) .. (DC Cir.) .....	40
ISO-NE Implementation of Order 1000 Exemptions for Immed. Need Rel. Projects .....	20-1422..... (DC Cir.) .....	40
ISO-NE's Inventoried Energy Program (Chapter 2B) Proposal.....	19-1224..... (DC Cir.) .....	43
Mystic 8/9 Cost of Service Agreement .....	20-1343..... (DC Cir.) .....	41
Opinion 531-A Compliance Filing Undo .....	20-1329 .... (DC Cir.) .....	42
Opinion 569/569-A: FERC's Base ROE Methodology .....	16-1325..... (DC Cir.) .....	44
Order 872.....	(20-72788) (9th Cir.) .....	43
PennEast Project.....	18-1128..... (DC Cir.) .....	43