



**David T. Doot**  
Secretary

May 26, 2021

**VIA ELECTRONIC MAIL**

**TO: PARTICIPANTS COMMITTEE MEMBERS AND ALTERNATES**

**RE: Supplemental Notice of June 3, 2021 NEPOOL Participants Committee Teleconference Meeting**

Pursuant to Section 6.6 of the Second Restated New England Power Pool Agreement, supplemental notice is hereby given that a meeting of the Participants Committee will be held **via teleconference on Thursday, June 3, 2021, at 10:00 a.m.** for the purposes set forth on the attached agenda and posted with the meeting materials at [nepool.com/meetings/](https://nepool.com/meetings/). The dial-in number, to be used only by those who otherwise attend NEPOOL meetings and their approved guests, is **866-803-2146; Passcode: 7169224**. To join WebEx, click this [link](#) and enter the event password **nepool**.

For your information, the June 3 meeting will be recorded. NEPOOL meetings, while not public, are open to all NEPOOL Participants, their authorized representatives and, except as otherwise limited for discussions in executive session, consumer advocates that are not members, federal and state officials and guests whose attendance has been cleared with the Committee Chair. All those in attendance or participating in the meeting are required to identify themselves and their affiliation during the meeting. Official records and minutes of meetings are posted publicly. No statements made in NEPOOL meetings are to be quoted or published publicly.

Respectfully yours,

/s/  
David T. Doot, Secretary

## FINAL AGENDA

1. To approve the draft minutes of the May 6, 2021 Participants Committee meeting. The draft preliminary minutes of that meeting, marked to show changes from the draft circulated with the initial notice, are included with this supplemental notice and posted with the meeting materials.
2. To adopt and approve the actions recommended by the Technical Committees set forth on the Consent Agenda included with this supplemental notice and posted with the meeting materials.
3. To receive an ISO Chief Executive Officer report.
4. To receive an ISO Chief Operating Officer report. The June COO report will be circulated and posted in advance of the meeting.
5. To consider and take action, as appropriate, on a recommendation by the Membership Subcommittee to approve NEPGA as a Fuels Industry Participant and NEPOOL member. Background material and draft resolutions are included with this supplemental notice and posted with the meeting materials.
6. To receive a report on current contested matters before the FERC and the Federal Courts. The litigation report will be circulated and posted in advance of the meeting.
7. To receive reports from Committees, Subcommittees and other working groups:
  - Markets Committee
  - Reliability Committee
  - Others
  - Transmission Committee
  - Budget & Finance Subcommittee
  - Joint Nominating Committee
8. Administrative matters.
9. To transact such other business as may properly come before the meeting.

## CONSENT AGENDA

### *Reliability Committee (RC)*

From the previously-circulated notice of actions of the RC's May 18, 2021 meeting, dated May 18, 2021<sup>1</sup>.

#### **1. Changes to OP-19 Appendix J (NPCC Directory #7 Conforming Changes; Annual Review Updates)**

Support revisions to Appendix J (Contingency List and Criteria/Limits) to ISO New England Operating Procedure (OP) No. 19 (Transmission Operations), that include updates following an annual review of Appendix J and NPCC Directory #7 (Remedial Action Schemes, version 2) conforming changes, as recommended by the RC at its May 18, 2021 meeting, together with such further non-material changes as the Chair and Vice-Chair of the RC may approve.

The motion to recommend Participants Committee support was unanimously approved.

#### **2. Changes to OP-2 (Clarifications to Expected Communication, Tasks, and Responsibilities)**

Support revisions to OP No. 2 (Maintenance of Communications, Computers, Metering, and Computer Support Equipment) to clarify and use consistent language describing expected communication, tasks, and responsibilities for all entities effected by OP-2, as recommended by the RC at its May 18, 2021 meeting, together with such further non-material changes as the Chair and Vice-Chair of the RC may approve.

The motion to recommend Participants Committee support was unanimously approved.

### *Behind-the-Meter (BTM) Generation Proposal*

From the previously circulated notices of actions of (i) the Markets Committee's (MC) May 11, 2021 meeting, dated May 11, 2021,<sup>2</sup> and (ii) the Transmission Committee's (TC) April 27, 2021 meeting, dated April 27, 2021:<sup>3</sup>

#### **3. Changes to Tariff Section I.2.2 (BTM Generation Proposal Part I)**

Support revisions to Tariff Section I.2.2 (Definitions) that revise the definition of Regional Network Load by deleting a prohibition on excluding BTM load from the calculation of Regional Network Load, as recommended by the MC at its May 11, 2021 meeting, together with such further non-material changes as the Chair and Vice-Chair of the MC may approve.

The motion to recommend Participants Committee support was approved with a Vote of 94.43% in favor (Generation Sector - 11.13% in favor, 5.57% opposed, 3 abstentions; Transmission Sector - 16.7% in favor, 0% opposed; Supplier Sector - 16.7% in favor, 0% opposed, 10 abstentions; Publicly Owned Entity Sector - 16.7% in favor, 0% opposed; AR Sector - 16.5% in favor, 0% opposed, 4 abstentions; and End User Sector - 16.0% in favor, 0% opposed, 1 abstention).

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<sup>1</sup> RC Notices of Actions are posted on the ISO-NE website at: [https://www.iso-ne.com/committees/reliability/reliability-committee/?document-type=Committee Actions](https://www.iso-ne.com/committees/reliability/reliability-committee/?document-type=Committee%20Actions).

<sup>2</sup> MC Notices of Actions are posted on the ISO-NE website at: [https://www.iso-ne.com/committees/markets/markets-committee/?document-type=Committee Actions](https://www.iso-ne.com/committees/markets/markets-committee/?document-type=Committee%20Actions).

<sup>3</sup> TC Notices of Actions are posted on the ISO-NE website at: <https://www.iso-ne.com/committees/transmission/transmission-committee/?document-type=Committee%20Actions>

**4. Changes to Tariff Sections II.21.2 and I.2.2 (BTM Generation Proposal Part II)**

Support revisions to Tariff Sections II.21.2 (Determination of Network Customer's Monthly Regional Network Load) and I.2.2, to revise the calculation of Monthly Regional Network Load to address BTM generation and to revise the definition of Regional Network Load by deleting a prohibition on excluding BTM load from the calculation of Regional Network Load, as recommended by the TC at its April 27, 2021 meeting, together with such further non-material changes as the Chair and Vice-Chair of the TC may approve.

The motion to recommend Participants Committee support was approved with a 88.87% Vote in favor (Generation Sector - 5.57% in favor, 11.13% opposed, 1 abstention; Transmission Sector - 16.7% in favor, 0% opposed; Supplier Sector - 16.7% in favor, 0% opposed, 8 abstentions; Publicly Owned Entity Sector - 16.7% in favor, 0% opposed, 1 abstention; AR Sector - 16.5% in favor, 0% opposed, 4 abstentions; and End User Sector - 16.7% in favor, 0% opposed).

## **PRELIMINARY**

Pursuant to notice duly given, a meeting of the NEPOOL Participants Committee was held via teleconference beginning at 10:00 a.m. on Thursday, May 6, 2021. A quorum determined in accordance with the Second Restated NEPOOL Agreement was present and acting throughout the meeting. Attachment 1 identifies the members, alternates and temporary alternates who participated in the teleconference meeting.

Mr. David Cavanaugh, Chair, presided and Mr. David Doot, Secretary, recorded.

## **APPROVAL OF MARCH 24 AND APRIL 1, 2021 MEETING MINUTES**

Mr. Cavanaugh referred the Committee to the preliminary minutes of the March 24 and April 1, 2021 meetings, as circulated and posted in advance of the meeting. Following motion duly made and seconded, the preliminary minutes of those meetings were unanimously approved as circulated, with an abstention by Mr. Michael Kuser's alternate noted.

## **CONSENT AGENDA**

Mr. Cavanaugh referred the Committee to the Consent Agenda that was circulated and posted in advance of the meeting. Following motion duly made and seconded, the Consent Agenda was unanimously approved as circulated, with abstentions on behalf of Calpine, Jericho Power and Mr. Kuser recorded. The Calpine and Jericho Power representatives stated that they abstained because they did not agree with changes voted under Consent Agenda Item #1 (Adjusting Actions Taken During Operating Reserve Deficiencies and Minimum Generation Emergencies for CTS (Coordinated Transaction Scheduling) Transactions).

## ISO CEO REPORT

Mr. Gordon van Welie, ISO Chief Executive Officer (CEO), began by explaining that the ISO expected that a number of factors would require the ISO to seek a larger budget increase for the 2022 budget than the budget increases for the past five to six years. He reported that he expected that the current budget would be maintained throughout 2021, but that budget increases were needed for 2022 and beyond in order to allow the ISO to carry out its anticipated work plan. He identified the following areas that he said would require additional resources through increased head counts, consultant-based professional fees and increased capital budgets for upgraded information technology (IT) systems, including the base energy market system (EMS) and market platforms: (i) markets development; (ii) systems planning; (iii) IT; (iv) cybersecurity; and (v) modeling efforts. These additional resources would be reflected in the proposed [2022](#) budget which would be shared with stakeholders beginning in June.

In response to a question, he reported that hiring was planned both to fill current vacancies and to expand staff to support a greater workload. He noted that the challenges with hiring skilled workers had been amplified by the Biden Administration's initiatives, with salaries increasing in response to a supply/demand mismatch. He explained that the ISO had worked to find efficiencies within job functions, but the need, nonetheless, remained both to scale up and to fill open positions in order to appropriately plan for ~~the~~ upcoming work. He deferred responding to a question on whether the costs for the project to eliminate the minimum offer price rule in New England (MOPR) were to be included in 2021 or 2022 until the plan for such action was better defined. He did confirm, however, that the ISO planned to file in the first quarter of 2022 a proposal that would include the elimination of the MOPR.

## ISO COO REPORT

Dr. Chadalavada, ISO Chief Operating Officer (COO), referred the Committee to his May report, which had been circulated and posted in advance of the meeting. He noted that the data in the report was through April 28, 2021, unless otherwise noted. The report highlighted: (i) Energy Market value for April 2021 was \$229 million, down \$144 million from the updated March 2021 value of \$372 million and up \$69 million from April 2020; (ii) April 2021 average natural gas prices were 31% lower than March average prices; (iii) average Real-Time Hub Locational Marginal Prices (LMPs) for April (\$26.19/MWh) were 22% lower than March averages; (iv) average April 2021 natural gas prices and Real-Time Hub LMPs over the period were up 43% and 45%, respectively, from April 2020 average prices; (v) average Day-Ahead cleared physical energy during peak hours as percent of forecasted load was 99.8% during April (up from 98.9% in March), with the minimum value for the month (94.6%) on April 4; and (vi) Daily Net Commitment Period Compensation (NCPC) payments for April totaled \$2.6 million, which was up \$0.4 million from March 2021 and up \$0.5 million from April 2020. April NCPC payments, which were 1.1% of total Energy Market value, were comprised of: (a) \$2.6 million in first contingency payments (up \$0.5 million from March); (b) zero in second contingency and voltage payments, and (c) \$11,000 in distribution payments.

Regarding transmission outages, Dr. Chadalavada reminded the Committee of a planned outage from May 3 through May 29 on Line 373 (Deerfield-Scobie) for the replacement of certain structures, which could result in second contingency payments for the month.

Turning to system operations, Dr. Chadalavada noted a growing trend with midday loads being below overnight loads, which the ISO anticipated would happen in about 20 days during the next month. That trend was consistent with the growth of behind-the-meter (BTM) and

distributed resources and was driving the ISO's need for more granular weather data. To that end, the ISO was looking to expand, from eight to 22, the number of weather stations around New England. The ISO was also constructing a scope of work designed to increase the collection of BTM data and production forecasts from third-party vendors.

Dr. Chadalavada then reminded Participants of the October 6, 2021 public meeting to discuss the 2021 Regional System Plan. He noted the ISO's expectation of a response from the FERC regarding CONE, Net CONE and the Performance Payment Rate (PPR) by May 28<sup>9</sup>, and a FERC order on Offer Review Trigger Prices (ORTP) values by June 8. Additionally, he noted feedback from the Order 1000 lessons learned feedback solicitations would be discussed at the July Transmission Committee meeting.

Responding to members' questions and comments, Dr. Chadalavada agreed to investigate and report back on the plans and potential to gather better data concerning solar photovoltaic (PV) production directly from the electric distribution companies (EDCs) rather than indirectly from a third-party vendor. He agreed with the observation of a member that having a month with no second contingency payments may be unprecedented.

## ISO'S 2021 ANNUAL WORK PLAN UPDATES

Dr. Chadalavada then referred the Committee to the updated 2021 Annual Work Plan [\(Plan\)](#), which had been circulated and posted in advance of the meeting. He began summarizing the updates to the [Plan](#) by noting the additions to the [plan-Plan](#) since its presentation in October, including: (i) a project to address the elimination of MOPR; (ii) the 2050 Transmission Study request from the New England states; (iii) assessments of Resource Capacity Contributions to Resource Adequacy/Electric Load Carrying Capability (ELCC); (iv)



assessments related to operational impacts of extreme weather events; and (v) FERC Order 2222 compliance. He confirmed updates would be provided as work progresses.

He summarized the plans to work on the Future Grid Reliability Study Phase 1 and the Pathways to the Future Grid analysis, both of which the ISO planned to report on in the first quarter (Q1) of 2022.

He explained that work to address the potential elimination of MOPR was a top initiative for the ISO and that the ISO planned to ramp up efforts [on that initiative](#) in the second half of 2021. He reminded Committee members that the elimination of MOPR would be discussed at the upcoming [May 25](#) FERC Technical Conference [addressing resource adequacy in New England on May 25](#). He reported on the ISO's target to file a MOPR elimination proposal no later than Q1 2022 (in time for implementation for FCA17 if possible). Responding to posted comments and questions on the MOPR project, Dr. Chadalavada reinforced the ISO's commitment to work closely with NEPOOL stakeholders and state representatives to define New England's proposal. He acknowledged recently announced plans by NYISO and PJM for earlier filings, but explained that each region needed a plan that reflected its own priorities and timing. He highlighted the different juncture each region was at with respect to resource mix, regulatory and stakeholder processes, and the implications for change faced by each region.

In response to questions and comments, Dr. Chadalavada confirmed that the ISO was seeking a proposal that would eliminate MOPR while ensuring that the auction produces competitive prices that would both support new entry and protect against inefficient retirement.. He reported that the ISO had engaged Dr. David Patton, Potomac Economics, to propose a framework that would address concerns with MOPR while maintaining competitive pricing, an effort that was expected to take Dr. Patton approximately two to three months to complete.

He agreed, in response to another question, that the ELCC (or Resource Capacity Contributions to Resource Adequacy) methodology was a necessary foundation for markets going forward, but was not all-encompassing. That effort would take time to define and the market would require additional measures to ensure the desired outcome. Specific efforts would kick-off ~~in late June~~ with a [June 22](#) technical information session that would include discussions on possible approaches for scoping an assessment of the relevant issues in New England.

Continuing his review of the updated Annual Work Plan, Dr. Chadalavada noted the transmission planning for the Future Grid studies, including for both the Transmission Planning for the Clean-Energy Transition and the 2050 Transmission Study requested in the New England States' Energy Vision. To support this expanded planning effort, he identified the ISO's plans for developments of an Inverter-Based Resource Integration and Modeling Assessment and a refined Day-Ahead Market Simulator. Moving to resource capacity contributions to resource adequacy (which he explained has been referred to elsewhere as ELCC), he reported that the proposed scope of that component would be reviewed with stakeholders in the second quarter of 2021 and that market design modifications might not happen until 2022. He highlighted FERC Order 2222 as a new major project for 2021 that would allow more integrated participation by distributed energy resources (DERs) in wholesale markets.

Focusing next on efforts to better plan for the operational impacts of extreme weather and contingency events, he described the dual need to quantify such risks, and separately whether and how to protect against such risks. He confirmed, in response to questions received off-line, that the ISO did not intend to extend its inventoried energy program (IEP) beyond the scheduled FCA15 sunset.

He concluded [by](#) discussing ~~the~~ ISO plans on the next steps relative to the Energy Security Initiative (ESI). He explained that the ISO intended to work on this project in 2021, but other higher priority matters needed to be scoped, so the ISO planned to provide an update later in the year. He did expect that the ISO would have a recommendation for [an approach](#) ~~a solution~~ by the end of 2021 or early 2022. Members urged attention also to a construct for the compensation of Day-Ahead Reserves on a similar or even somewhat earlier, but separate, schedule from the broader energy security efforts.

## NON-COMMERCIAL CAPACITY FINANCIAL ASSURANCE CHANGES

Mr. Tom Kaslow, Budget & Finance Subcommittee (B&F) Chair, referred the Committee to the materials circulated and posted in advance of the meeting related to changes to the “NCC trading FA” component of the calculation of the Non-Commercial (NCC) financial assurance (FA) amount in the Financial Assurance Policy. He provided a brief history of the provisions being changed and an explanation of the refinements proposed. He summarized the process undertaken by B&F over a series of meetings to review the changes. He reported that, following a number of adjustments by the ISO in response to Participant feedback, there were no objections or concerns raised during B&F’s final discussion, on April 22, 2021, with the changes presented for consideration. Mr. Kaslow thanked the ISO for [its](#) ~~their~~ efforts and responsiveness to Participant feedback.

Without discussion, the following motion was then duly made, seconded and unanimously approved, with an abstention noted by Mr. Kuser’s alternate:

RESOLVED, that the Participants Committee supports the NCC Trading FA revisions to the ISO New England Financial Assurance Policy, as proposed by the ISO and as circulated to this Committee with the April 29, 2021 supplemental notice, together

with such non-substantive changes as may be approved by the Chair of the Budget and Finance Subcommittee.

## LITIGATION REPORT

Mr. Doot referred the Committee to the May 4 Litigation Report that had been circulated and posted in advance of the meeting. He highlighted activity in the following proceedings, encouraging those with questions to contact NEPOOL counsel: (i) the May 25 FERC Technical Conference on Resource Adequacy in New England (AD21-10); (ii) the June 1-2 FERC Technical Conference on climate change, extreme weather, and the implications for electric system reliability (AD21-13); and (iii) the FCM parameters proceedings addressing updated CONE, Net Cone and PPR values (ER21-787) and ORTPs (ER21-1637).

## COMMITTEE REPORTS

**Markets Committee (MC).** Mr. William Fowler, the MC Vice-Chair, reported that a one-day meeting ~~would~~ be held on May 11, rather than a two-day meeting.

**Transmission Committee (TC).** Mr. José Rotger, the TC Vice-Chair, reported that the TC was scheduled to meet on May 27. The agenda would include a review of the ISO's compliance efforts relative to FERC Order 2222.

**Reliability Committee (RC).** Mr. Robert Stein, the RC Vice-Chair, reported that the RC was scheduled to meet on May 18. Additionally the PAC would meet on May 19 with a report from the joint MC/RC on the future grid. On May 20, the Power Supply Planning Committee (PSPC) would meet for a preliminary look at the FCA16 capacity zones.

**Joint Nominating Committee (JNC).** Mr. Cavanaugh referred to and summarized the report concerning JNC matters that had been circulated and posted in advance of the meeting.

Looking forward, he reported that the JNC would be conducting second round interviews with five finalists on May 14 and 17. Following those interviews, the JNC planned to recommend a final slate and solicit feedback from stakeholders in May or early June.

## **ADMINISTRATIVE MATTERS**

Mr. Doot reminded members of the Committee's May 13 Future Grid Pathways working session and of its June 3 meeting. He noted that the Participants Committee Summer Meeting would be a single day meeting held on June 24, with Sector meetings with the Board to be held the following Friday and Monday.

There being no further business, the meeting adjourned at 12:23 p.m.

Respectfully submitted,

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David Doot, Secretary

**PARTICIPANTS COMMITTEE MEMBERS AND ALTERNATES  
PARTICIPATING IN MAY 6, 2021 TELECONFERENCE MEETING**

PARTICIPANT NAME	SECTOR/ GROUP	MEMBER NAME	ALTERNATE NAME	PROXY
Acadia Center	End User	Deborah Donovan		
Advanced Energy Economy	Fuels Industry Participant	Caitlin Marquis		
American Petroleum Institute	Fuels Industry Participant	Paul Powers		
AR Large Renewable Generation (RG) Group Member	AR-RG	Alex Worsley		
AR Small Load Response (LR) Group Member	AR-LR	Brad Swalwell		
AR Small RG Group Member	AR-RG	Erik Abend		
Ashburnham Municipal Light Plant	Publicly Owned Entity		Brian Thomson	
AVANGRID: CMP/UI	Transmission		Alan Trotta	
Belmont Municipal Light Department	Publicly Owned Entity		Dave Cavanaugh	
Block Island Utility District	Publicly Owned Entity	Dave Cavanaugh		
Borrego Solar Systems Inc.	AR-DG	Liz Delaney		
Boylston Municipal Light Department	Publicly Owned Entity		Brian Thomson	
BP Energy Company	Supplier			José Rotger
Braintree Electric Light Department	Publicly Owned Entity			Dave Cavanaugh
Brookfield Renewable Trading and Marketing	Supplier	Aleks Mitreski		
Calpine Energy Services, LP	Supplier	Brett Kruse		Bill Fowler
Castleton Commodities Merchant Trading	Supplier			Bob Stein
Central Rivers Power	AR-RG		Dan Allegretti	
Chester Municipal Light Department	Publicly Owned Entity		Dave Cavanaugh	
Chicopee Municipal Lighting Plant	Publicly Owned Entity		Brian Thomson	
CLEAResult Consulting, Inc.	AR-DG	Tamera Oldfield		
Clearway Power Marketing LLC	Supplier			Pete Fuller
Concord Municipal Light Plant	Publicly Owned Entity		Dave Cavanaugh	
Connecticut Municipal Electric Energy Coop.	Publicly Owned Entity	Brian Forshaw		
Conservation Law Foundation (CLF)	End User	Phelps Turner		
Consolidated Edison Energy, Inc.	Supplier	Norman Mah		
CPV Towantic, LLC	Generation	Joel Gordon		
Cross-Sound Cable Company (CSC)	Supplier		José Rotger	
Danvers Electric Division	Publicly Owned Entity		Dave Cavanaugh	
DTE Energy Trading, Inc.	Supplier			José Rotger
Dynegy Marketing and Trade, LLC	Supplier	Andy Weinstein		Bill Fowler
Emera Energy Services	Supplier			Bill Fowler
Enel X North America Inc.	AR-LR	Michael Macrae		
ENGIE Energy Marketing NA, Inc.	AR-RG	Sarah Bresolin		
Environmental Defense Fund	End User	Jolette Westbrook		
Eversource Energy	Transmission		Dave Burnham	
Exelon Generation Company	Supplier	Steve Kirk	Bill Fowler	
Excelerate Energy LP	Fuels Industry Participant	Gary Ritter		
FirstLight Power Management, LLC	Generation	Tom Kaslow		
Galt Power, Inc.	Supplier	José Rotger		
Generation Group Member	Generation		Abby Krich	
Georgetown Municipal Light Department	Publicly Owned Entity		Dave Cavanaugh	
Great River Hydro	AR-RG			Bill Fowler
Groton Electric Light Department	Publicly Owned Entity		Brian Thomson	
Groveland Electric Light Department	Publicly Owned Entity		Dave Cavanaugh	
H.Q. Energy Services (U.S.) Inc. (HQUS)	Supplier	Louis Guilbault	Bob Stein	
High Liner Foods (USA) Incorporated	End User		William P. Short III	
Hingham Municipal Lighting Plant	Publicly Owned Entity	John Coyle	Dave Cavanaugh	
Holden Municipal Light Department	Publicly Owned Entity		Brian Thomson	
Holyoke Gas & Electric Department	Publicly Owned Entity		Brian Thomson	
Hull Municipal Lighting Plant	Publicly Owned Entity		Brian Thomson	
Industrial Energy Consumer Group	End User	Alan Topalian		

**PARTICIPANTS COMMITTEE MEMBERS AND ALTERNATES  
PARTICIPATING IN MAY 6, 2021 TELECONFERENCE MEETING**

PARTICIPANT NAME	SECTOR/ GROUP	MEMBER NAME	ALTERNATE NAME	PROXY
Ipswich Municipal Light Department	Publicly Owned Entity		Brian Thomson	
Jericho Power LLC (Jericho)	AR-RG	Mark Spencer	Nancy Chafetz	
Littleton (MA) Electric Light and Water Department	Publicly Owned Entity		Dave Cavanaugh	
Littleton (NH) Water & Light Department	Publicly Owned Entity		Craig Kieny	
Long Island Power Authority (LIPA)	Supplier		Bill Killgoar	
Maine Power LLC	Supplier	Jeff Jones		
Maine Public Advocate's Office	End User			Erin Camp
Maine Skiing, Inc.	End User	Alan Topalian		
Mansfield Municipal Electric Department	Publicly Owned Entity		Brian Thomson	
Maple Energy LLC	AR-LR		Luke Fishback	Doug Hurley
Marble River, LLC	Supplier	John Brodbeck		
Marblehead Municipal Light Department	Publicly Owned Entity		Brian Thomson	
Mass. Attorney General's Office (MA AG)	End User	Tina Belew	Ben Griffiths	
Mass. Bay Transportation Authority	Publicly Owned Entity		Dave Cavanaugh	
Mass. Municipal Wholesale Electric Company	Publicly Owned Entity	Brian Thomson		
Mercuria Energy America, LLC	Supplier			José Rotger
Merrimac Municipal Light Department	Publicly Owned Entity		Dave Cavanaugh	
Michael Kuser	End User		Jason York	
Middleborough Gas & Electric Department	Publicly Owned Entity		Dave Cavanaugh	
Middleton Municipal Electric Department	Publicly Owned Entity		Dave Cavanaugh	
National Grid	Transmission		Tim Martin	
Natural Resources Defense Council	End User	Bruce Ho		
Nautilus Power, LLC	Generation		Bill Fowler	
New Hampshire Electric Cooperative	Publicly Owned Entity	Steve Kaminski		Brian. Forshaw; Dave Cavanaugh; Brian Thomson
New Hampshire Office of Consumer Advocate (NHOCA)	End User		Erin Camp	
NextEra Energy Resources, LLC	Generation	Michelle Gardner		
North Attleborough Electric Department	Publicly Owned Entity		Dave Cavanaugh	
Norwood Municipal Light Department	Publicly Owned Entity		Dave Cavanaugh	
NRG Power Marketing LLC	Generation		Pete Fuller	
Pascoag Utility District	Publicly Owned Entity		Dave Cavanaugh	
Paxton Municipal Light Department	Publicly Owned Entity		Brian Thomson	
Peabody Municipal Light Department	Publicly Owned Entity		Brian Thomson	
PowerOptions, Inc.	End User			Erin Camp
Princeton Municipal Light Department	Publicly Owned Entity		Brian Thomson	
PSEG Energy Resources & Trade LLC	Supplier		Eric Stallings	
Reading Municipal Light Department	Publicly Owned Entity		Dave Cavanaugh	
Rodan Energy Solutions (USA) Inc.	Provisional	Aaron Breidenbaugh		
Rowley Municipal Lighting Plant	Publicly Owned Entity		Dave Cavanaugh	
Russell Municipal Light Dept.	Publicly Owned Entity		Brian Thomson	
Shrewsbury Electric & Cable Operations	Publicly Owned Entity		Brian Thomson	
South Hadley Electric Light Department	Publicly Owned Entity		Brian Thomson	
Sterling Municipal Electric Light Department	Publicly Owned Entity		Brian Thomson	
Stowe Electric Department	Publicly Owned Entity		Dave Cavanaugh	
Sunrun Inc.	AR-DG			Pete Fuller
Taunton Municipal Lighting Plant	Publicly Owned Entity		Dave Cavanaugh	
Templeton Municipal Lighting Plant	Publicly Owned Entity		Brian Thomson	
The Energy Consortium	End User		Mary Smith	
Vermont Electric Cooperative	Publicly Owned Entity	Craig Kieny		
Vermont Electric Power Company (VELCO)	Transmission	Frank Ettori		
Vermont Energy Investment Corp (VEIC)	AR-LR		Doug Hurley	
Vermont Public Power Supply Authority	Publicly Owned Entity			Brian Forshaw

**PARTICIPANTS COMMITTEE MEMBERS AND ALTERNATES  
PARTICIPATING IN MAY 6, 2021 TELECONFERENCE MEETING**

PARTICIPANT NAME	SECTOR/ GROUP	MEMBER NAME	ALTERNATE NAME	PROXY
Versant Power	Transmission	Lisa Martin		
Village of Hyde Park (VT) Electric Department	Publicly Owned Entity		Dave Cavanaugh	
Voltus, Inc.	AR-LR	Nicole Irwin		
Wakefield Municipal Gas & Light Department	Publicly Owned Entity		Brian Thomson	
Wallingford DPU Electric Division	Publicly Owned Entity		Dave Cavanaugh	
Wellesley Municipal Light Plant	Publicly Owned Entity		Dave Cavanaugh	
West Boylston Municipal Lighting Plant	Publicly Owned Entity		Brian Thomson	
Westfield Gas & Electric Department	Publicly Owned Entity		Dave Cavanaugh	
Wheelabrator North Andover Inc.	AR-RG		Bill Fowler	



## Summary of ISO New England Board and Committee Meetings

### June 3, 2021 Participants Committee Meeting

Since the last update, the Markets Committee met on May 19, and the Audit and Finance Committee, Nominating and Governance Committee, and the Board of Directors met on May 20. All meetings were held virtually.

**The Markets Committee** reviewed highlights of the Internal Market Monitor's draft annual markets report for 2020, and discussed the recommendations that will be contained in the report. The Committee was also provided with a market monitoring review of winter 2020 – 2021. The Committee also discussed topics for the upcoming FERC technical conference on ISO-NE capacity markets, and the ISO's plans to address the Minimum Offer Price Rule.

**The Audit and Finance Committee** reviewed the Company's financial performance against the 2020 budget, and approved the first quarter's unaudited financial statements after management confirmed that all relevant disclosures were included in the financial statements. Next, the Committee discussed the preliminary 2022 operating and capital budgets and the need for increases to address cyber security, increased market development and legal activity, transmission planning, and related capital projects. The Committee considered director liability issues related to the events in Texas, and reviewed the structure of the Company's compliance and risk management programs, including the Company's physical security and business continuity plans. Next, the Committee discussed the annual vendor report, which showed the top fifteen vendors and a comparison to the previous period. Finally, the Committee reviewed a draft of the Company's 2020 tax return on Form 990.

**The Nominating and Governance Committee** discussed assignments to Board committees and succession planning for board leadership positions. The Committee also discussed the governance component of the states' vision document, and considered possible topics for discussion at the sector meetings with NEPOOL in June. In executive session, the Committee reviewed the Board and committees' self-evaluation responses.

**The Board of Directors** met, and Commissioner Alison Clements of the Federal Energy Regulatory Commission joined the meeting for the first two hours. The Board and Commissioner Clements discussed the Company's priorities, including energy security, addressing the conflicts between the markets and state policy, and public policy transmission planning. Next, the Board and Commissioner Clements received a presentation on emergency preparedness and communications. After Commissioner Clements left the meeting, the Board met separately to prepare for meetings at the upcoming Board ISO/RTO Council Board conference and received reports from the standing committees.



# NEPOOL Participants Committee Report

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*June 2021*

Vamsi Chadalavada

EXECUTIVE VICE PRESIDENT AND CHIEF OPERATING OFFICER



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Compensation (NCPC) Operating Costs		
– Regional System Plan (RSP)	Page	88
– Operable Capacity Analysis – Summer 2021 Analysis	Page	112
– Operable Capacity Analysis – Appendix	Page	119





# Regular Operations Report - Highlights

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# Highlights

- Day-Ahead (DA), Real-Time (RT) Prices and Transactions
  - Update: April 2021 Energy Market value totaled \$246M
  - May 2021 Energy market value over the period was \$194M, down \$53M from April 2021 and up \$48M from May 2020
  - May 2021 natural gas prices over the period were 0.6% lower than April 2021 average values
    - Average RT Hub Locational Marginal Prices (\$23.32/MWh) over the period were 10% lower than April averages
      - DA Hub: \$24.96/MWh
    - Average May 2021 natural gas prices and RT Hub LMPs over the period were up 69% and 30%, respectively, from May 2020 averages
  - Average DA cleared physical energy during the peak hours as percent of forecasted load was 99.8% during May, down from 99.9% during April\*
    - The minimum value for the month was 94.8% on Tuesday, May 25<sup>th</sup>

Data through May 25<sup>th</sup>.

\*DA Cleared Physical Energy is the sum of Generation and Net Imports cleared in the DA Energy Market

Underlying natural gas data furnished by:



# Highlights, cont.

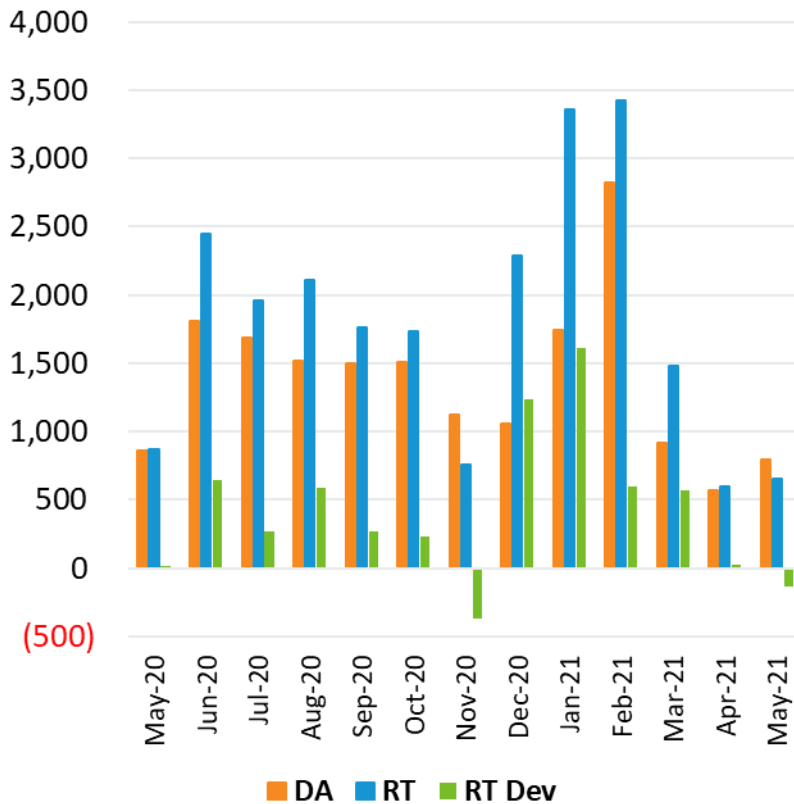
- Daily Net Commitment Period Compensation (NCPC)
  - May 2021 NCPC payments over the period totaled \$1M, down \$1.7M from April 2021 and down \$1.4M from May 2020
    - First Contingency payments totaled \$0.8M, down \$1.9M from April
      - \$0.8M paid to internal resources, down \$1.8M from April
        - » \$334K charged to DALO, \$290K to RT Deviations, \$170K to RTLO\*
      - \$12K paid to resources at external locations, down \$65K from April
        - » \$~4K charged to DALO at external locations, \$~9K to RT Deviations
    - Second Contingency payments totaled \$0.2M, up \$182K from April
    - Voltage and Distribution payments were both zero
  - NCPC payments over the period as percent of Energy Market value were 0.5%

\* NCPC types reflected in the First Contingency Amount: Dispatch Lost Opportunity Cost (DLOC) - \$119K; Rapid Response Pricing (RRP) Opportunity Cost - \$50K; Posturing - \$0K; Generator Performance Auditing (GPA) - \$0K

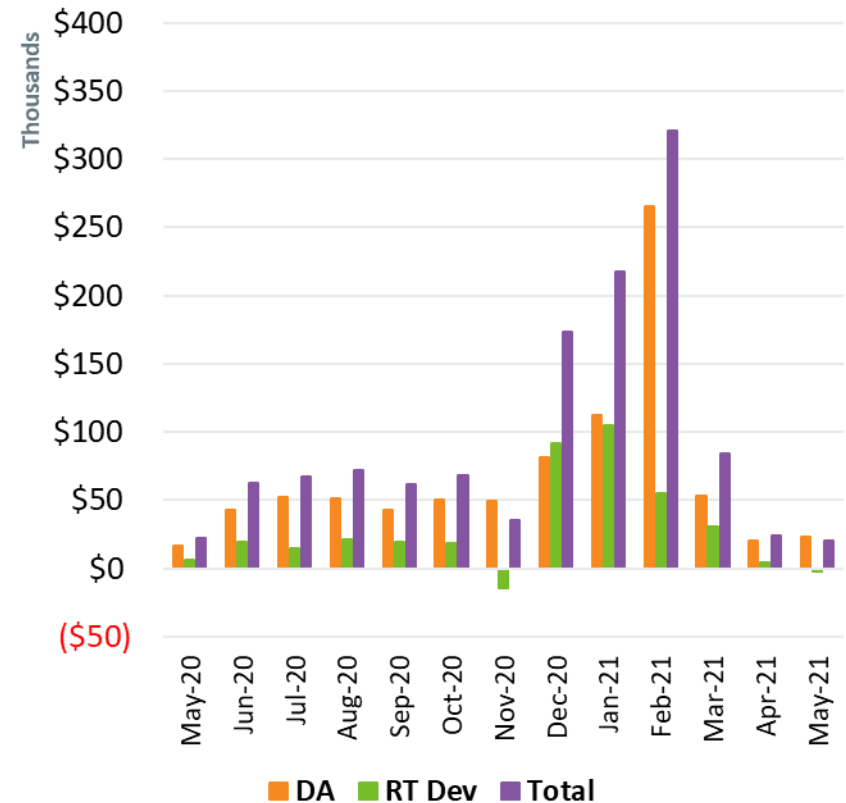


# Price Responsive Demand (PRD) Energy Market Activity by Month

## DA, RT, and RT Dev MWh



## Market Value



Note: DA and RT (deviation) MWh are settlement obligations and reflect appropriate gross-ups for distribution losses.



# Highlights

- At the May 20 Power Supply Planning Committee (PSPC) meeting, the ISO confirmed that Forward Capacity Auction #16 (FCA 16) will model the same zones as FCA 15
  - Export-constrained zones: Northern New England and Maine nested inside Northern New England
  - Import-constrained zones: Southeast New England
- Inter-Area Planning Stakeholder Advisory Committee (IPSAC) meeting is scheduled for June 4
- Transmission Planning for the Clean Energy Transition Study
  - Preliminary discussions of high-level results are expected to begin at the June 16 PAC meeting, with further discussion of results continuing throughout Q3
- Regional System Plan (RSP) Public Meeting will be held virtually on October 6





# Forward Capacity Market (FCM) Highlights

- CCP 12 (2021-2022)
  - Third and final annual reconfiguration auction (ARA3) was held on March 1-3, and results were posted on March 29
- CCP 13 (2022-2023)
  - Second annual reconfiguration auction (ARA2) will be held on August 2-4, and results will be posted no later than September 1
- CCP 14 (2023-2024)
  - First annual reconfiguration auction (ARA1) will be held on June 1-3, and results will be posted no later than July 1
- CCP 15 (2024-2025)
  - Auction results were filed with FERC on February 26, and the filing is pending at FERC

CCP – Capacity Commitment Period



# FCM Highlights, cont.

- CCP 16 (2025-2026)
  - At the May 20 PSPC meeting, ISO confirmed FCA 16 will model the same zones as FCA 15
    - Export-constrained zones: Northern New England and Maine nested inside Northern New England
    - Import-constrained zones: Southeast New England
  - Existing capacity values were posted on March 5
  - Retirement and permanent delist bids summary was posted on March 17
  - Show of Interest window closed on April 23
  - ISO has submitted filings addressing the Net CONE deficiency letter and proposing offer-review trigger price (ORTP) values to FERC
    - ISO received an order from FERC on the Net CONE filing on May 28 and expects an order on the ORTP values filing on or before June 8
  - ICR and Related Values development continues

CONE – Cost of New Entry

ISO-NE PUBLIC

# Load Forecast

- Efforts continue to enhance load forecast models and tools to improve day-ahead and long-term load forecast performance
- Continuing to evaluate the impacts of COVID-19 to the load forecast
- On April 30, as part of the 2021 CELT report, the final 10-year forecast was published



# Competitive Solution Process: Order 1000/Boston 2028 Request for Proposal Lessons Learned

- The ISO began one-on-one discussions with each QTPS that participated in the Boston 2028 RFP where QTPS specific questions regarding their proposals and/or the process can be discussed
- Stakeholder feedback was discussed at the 12/16/20 PAC meeting, and initial ISO responses were discussed at the 2/17/21 PAC meeting
- At the 4/14/21 PAC meeting, the ISO provided its plans for the remaining open items
- On 5/3/21, the ISO issued a memo to the PAC summarizing next steps in the process
- The ISO anticipates discussing associated Tariff changes at the July TC meeting
- 25 companies have achieved Qualified Transmission Project Sponsor (QTPS) status

# Highlights

- The lowest 50/50 and 90/10 Summer Operable Capacity Margins are projected for week beginning September 11, 2021.



# SYSTEM OPERATIONS



# System Operations

<u>Weather Patterns</u>	Boston	Temperature: Above Normal (4.9°F) Max: 92°F, Min: 44°F Precipitation: 1.89" – Below Normal Normal: 2.80"	Hartford	Temperature: Above Normal (1.6°F) Max: 90°F, Min: 38°F Precipitation: 2.90" - Below Normal Normal: 3.26"
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<u>Peak Load:</u>	18,398 MW	May 26, 2021	19:00 (ending)
-------------------	-----------	--------------	----------------

## Emergency Procedure Events (OP-4, M/LCC 2, Minimum Generation Emergency)

Procedure	Declared	Cancelled	Note
None for May 2021			



# System Operations

## NPCC Simultaneous Activation of Reserve Events

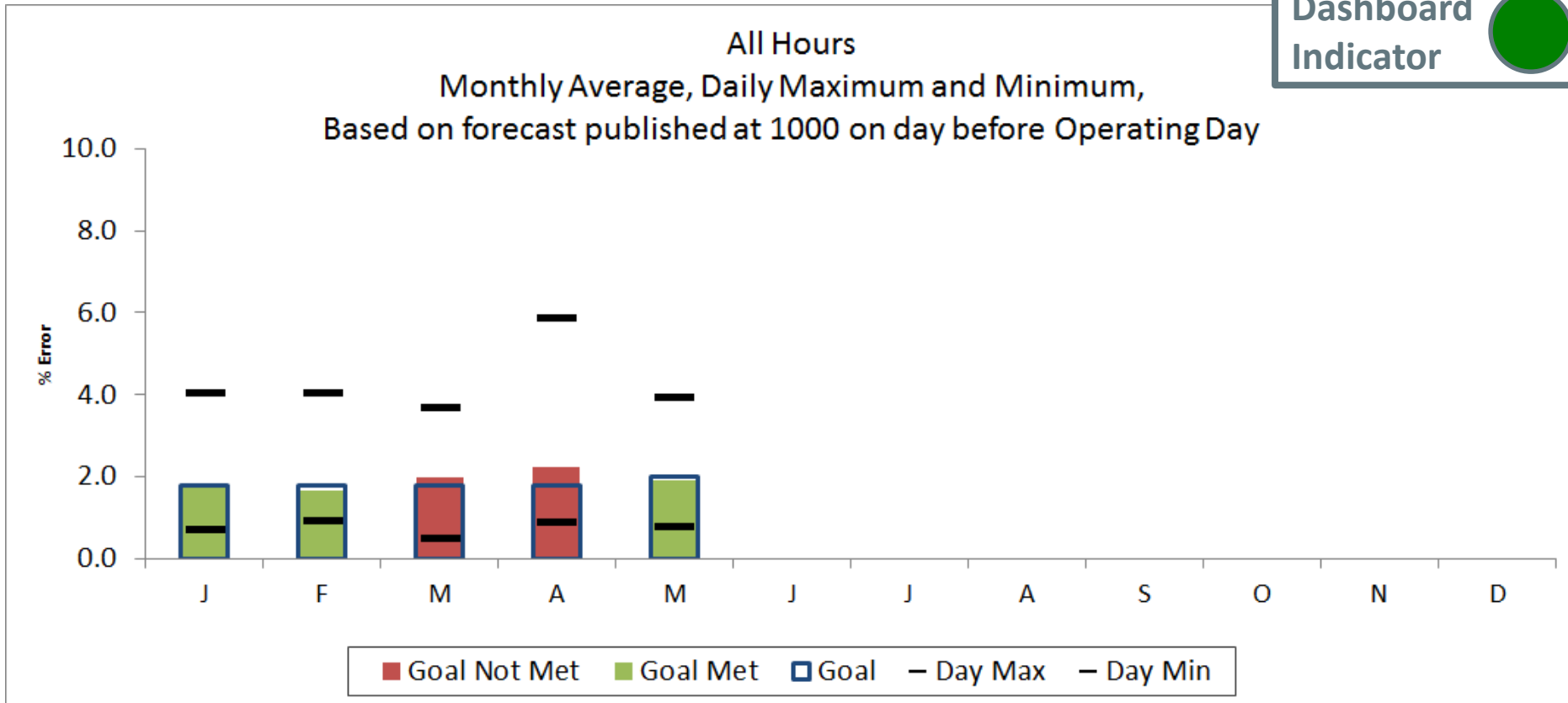
Date	Area	MW Lost
5/3	IESO	945
5/15	IESO	945
5/19	IESO	750
5/26	PJM	1630





# 2021 System Operations - Load Forecast Accuracy

Dashboard  
Indicator



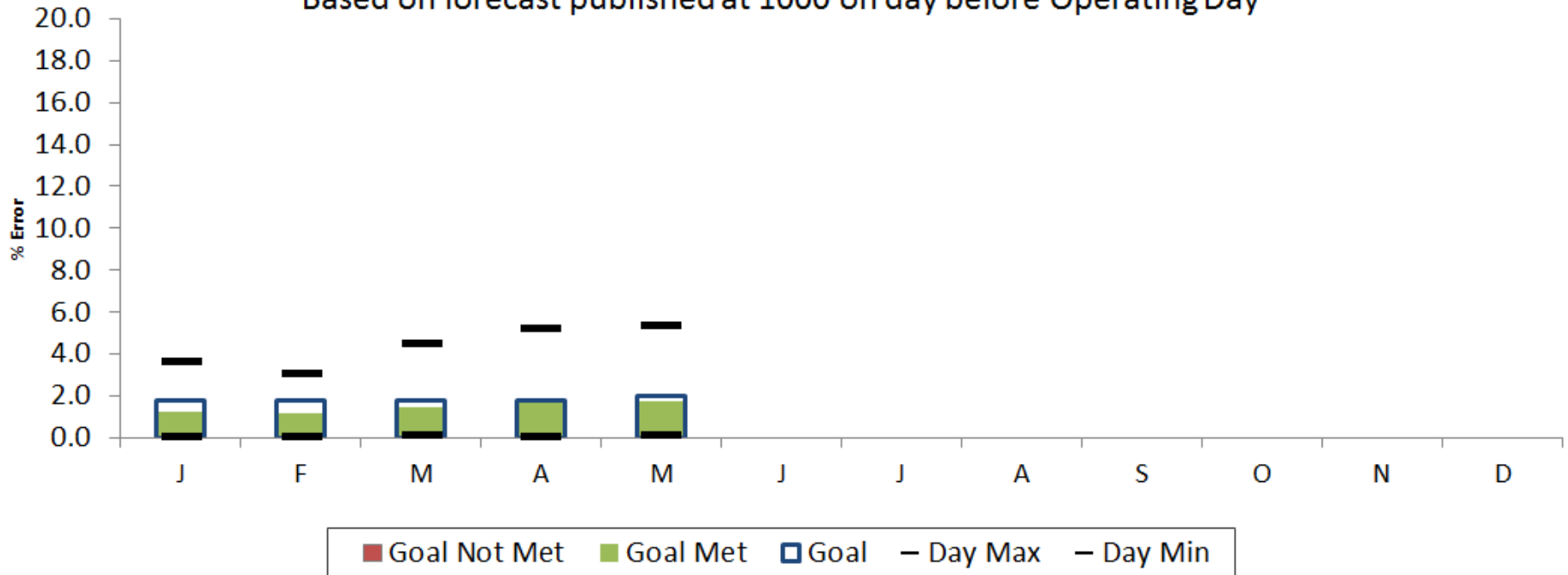
Month	J	F	M	A	M	J	J	A	S	O	N	D	
Day Max	4.04	4.03	3.67	5.85	3.92								5.85
Day Min	0.70	0.92	0.49	0.88	0.77								0.49
MAPE	1.72	1.66	1.97	2.24	1.93								1.91
Goal	1.80	1.80	1.80	1.80	2.00								

# 2021 System Operations - Load Forecast Accuracy cont.

Dashboard  
Indicator



Peak Hours  
Monthly Average, Daily Maximum and Minimum,  
Based on forecast published at 1000 on day before Operating Day

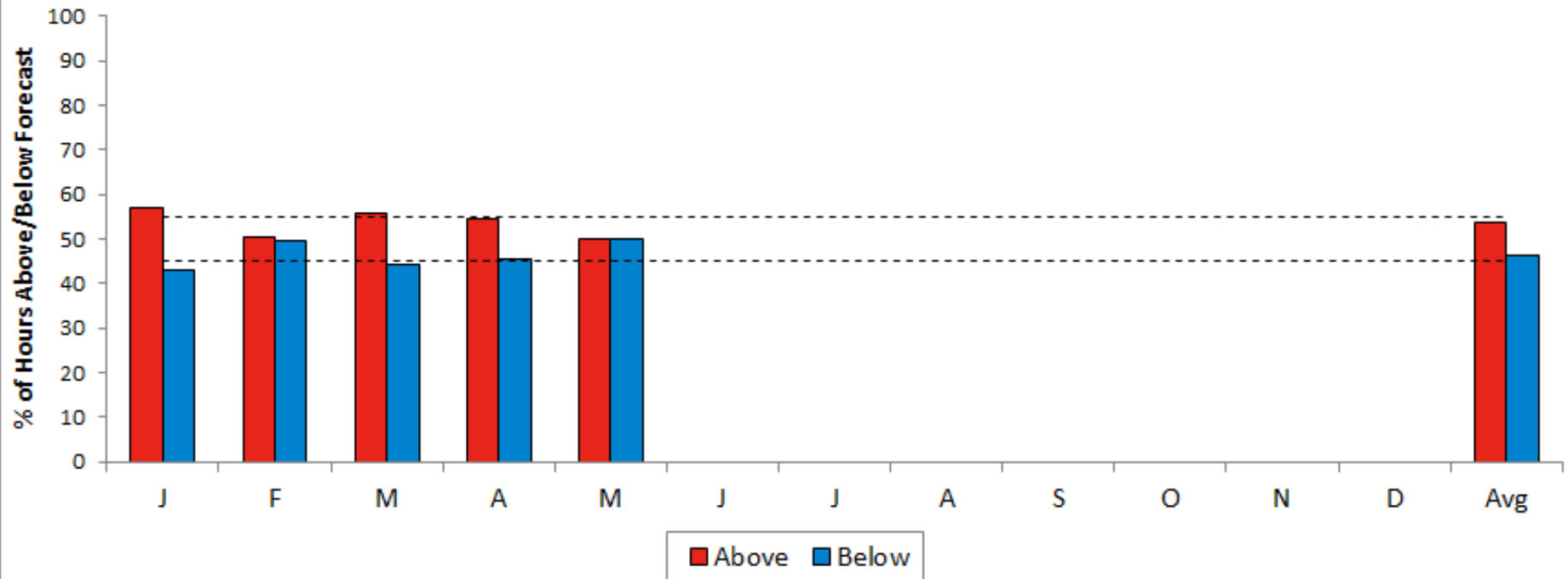


Month	J	F	M	A	M	J	J	A	S	O	N	D	
Day Max	3.61	3.03	4.47	5.19	5.31								5.31
Day Min	0.02	0.06	0.08	0.03	0.14								0.02
MAPE	1.26	1.18	1.48	1.66	1.79								1.48
Goal	1.80	1.80	1.80	1.80	2.00								

# 2021 System Operations - Load Forecast Accuracy cont.

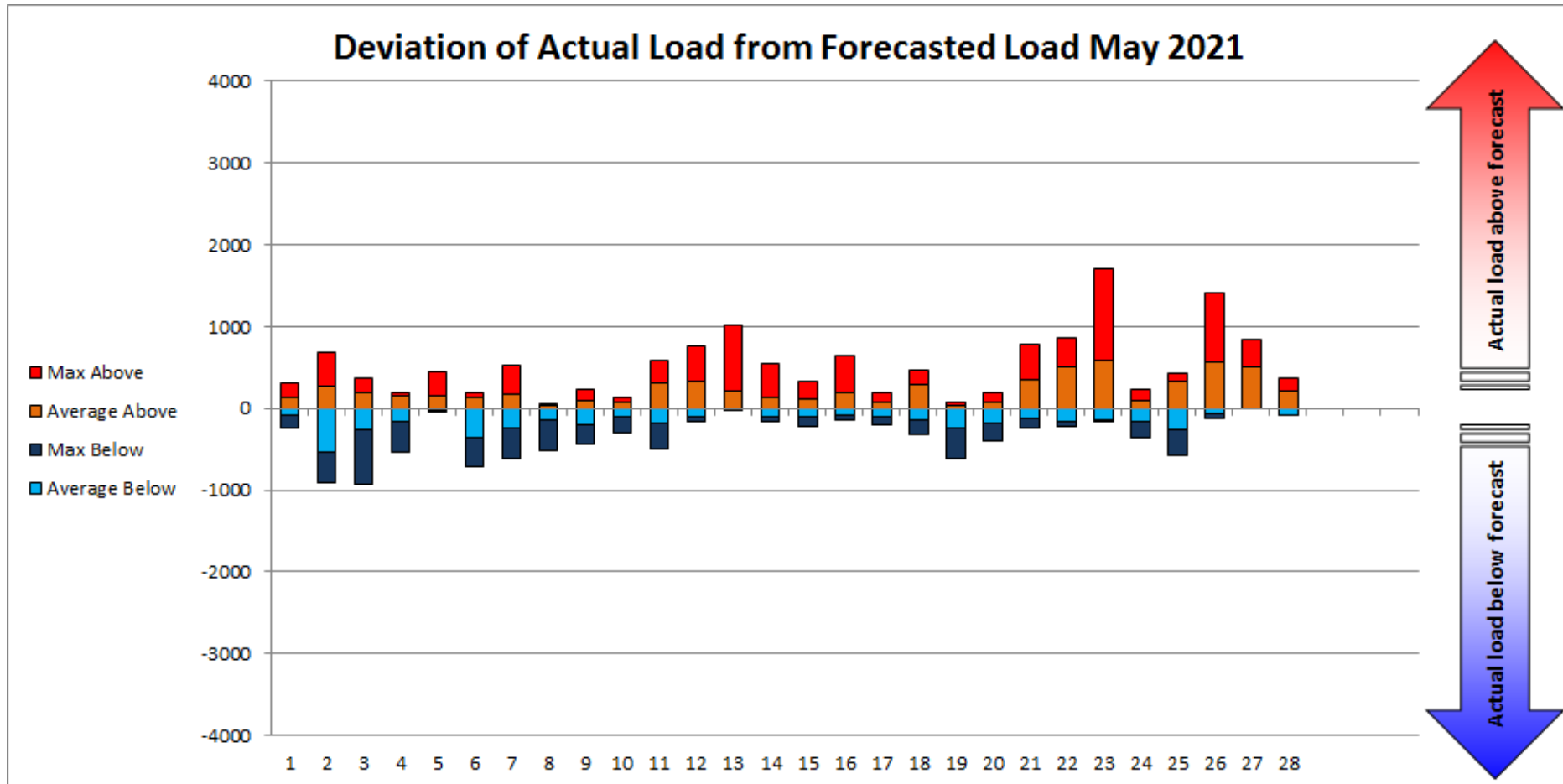
Percent of Hours Actual Load  
Above vs. Below Forecast  
Based on LF published by 1000, day before Operating Day

Target = 50%  
Plus/Minus = 5%



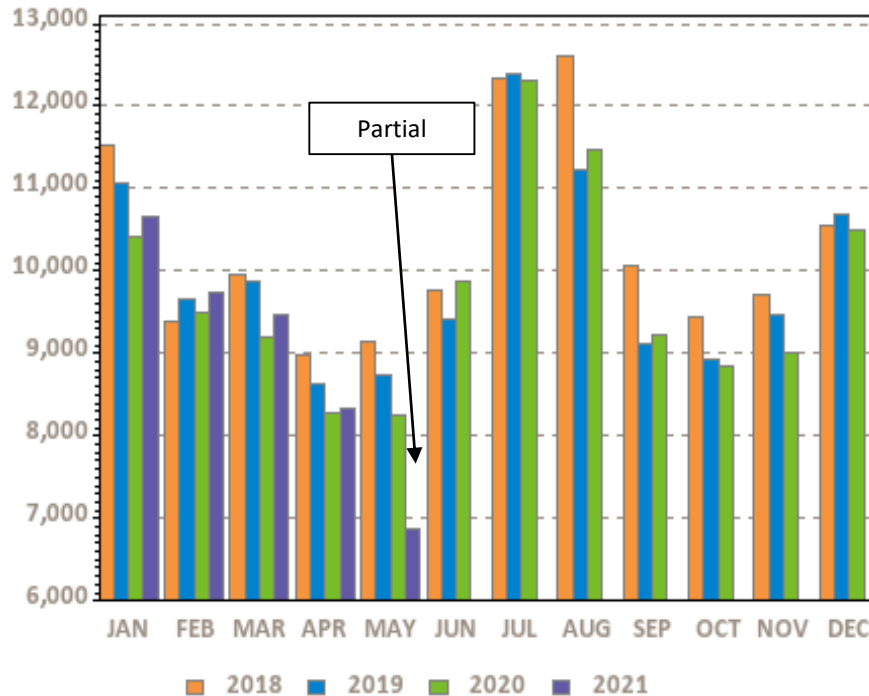
	J	F	M	A	M	J	J	A	S	O	N	D	Avg
Above %	57.1	50.4	55.6	54.4	50.2								54
Below %	42.9	49.6	44.4	45.6	49.8								46
Avg Above	209.5	166.7	185.4	206.1	201.5								210
Avg Below	-147.6	-216.4	-188.0	-167.9	-141.1								-216
Avg All	60	-25	30	40	50								32

# 2021 System Operations - Load Forecast Accuracy cont.



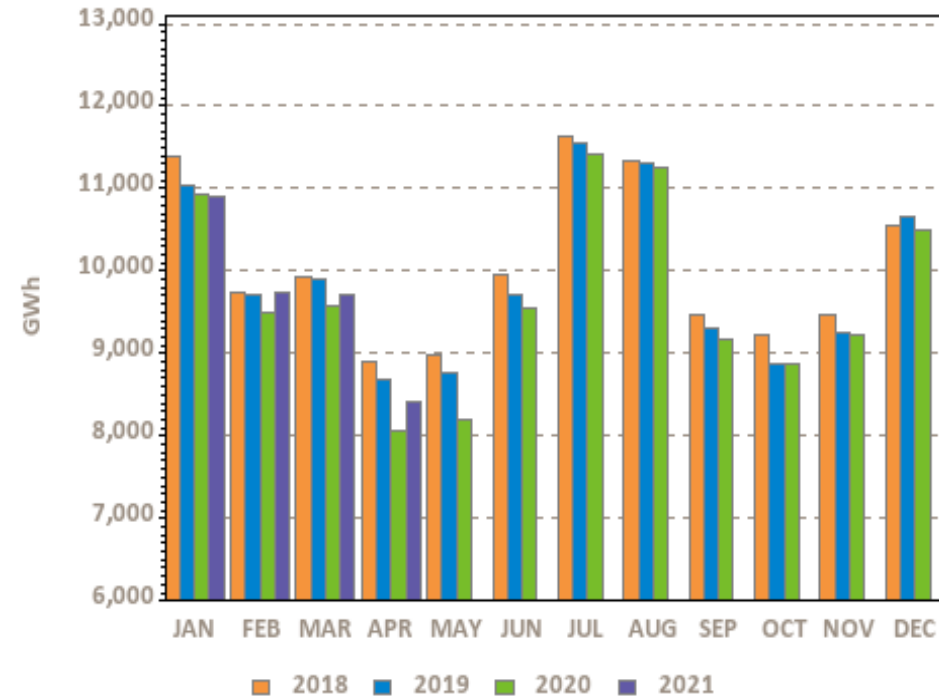
# Monthly Recorded Net Energy for Load (NEL) and Weather Normalized NEL

Net Energy for Load (NEL)



Ann Tot (TWh): 123.5 119.2 116.9 45.0

Weather Normalized NEL



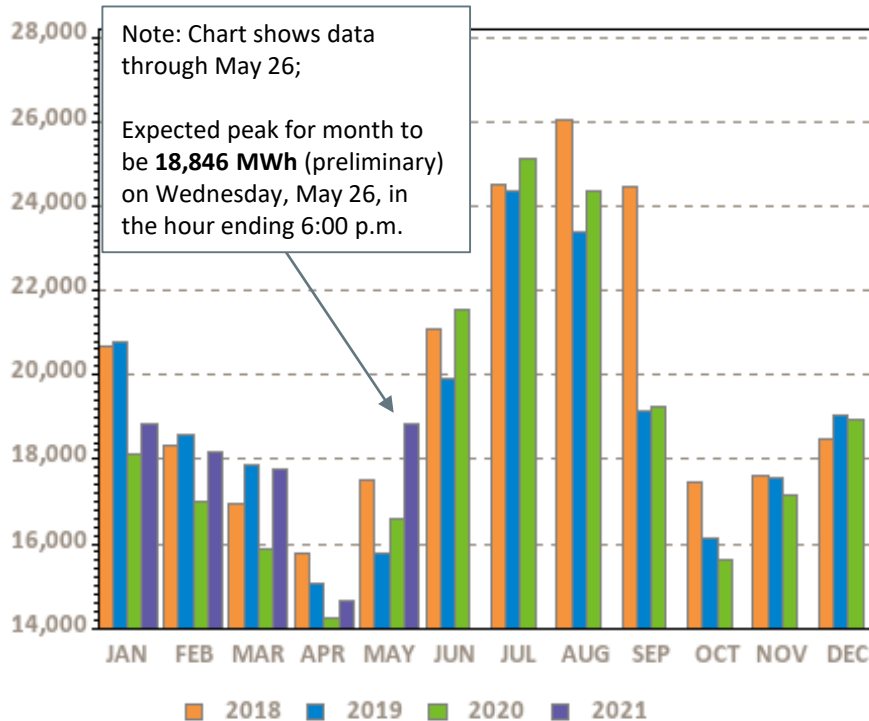
Ann Tot (TWh): 120.6 118.8 116.3 38.8

NEPOOL NEL is the total net revenue quality metered energy required to serve load and is analogous to 'RT system load.' NEL is calculated as: Generation – pumping load + net interchange where imports are positively signed. Current month's data may be preliminary. Weather normalized NEL may be reported on a one-month lag.



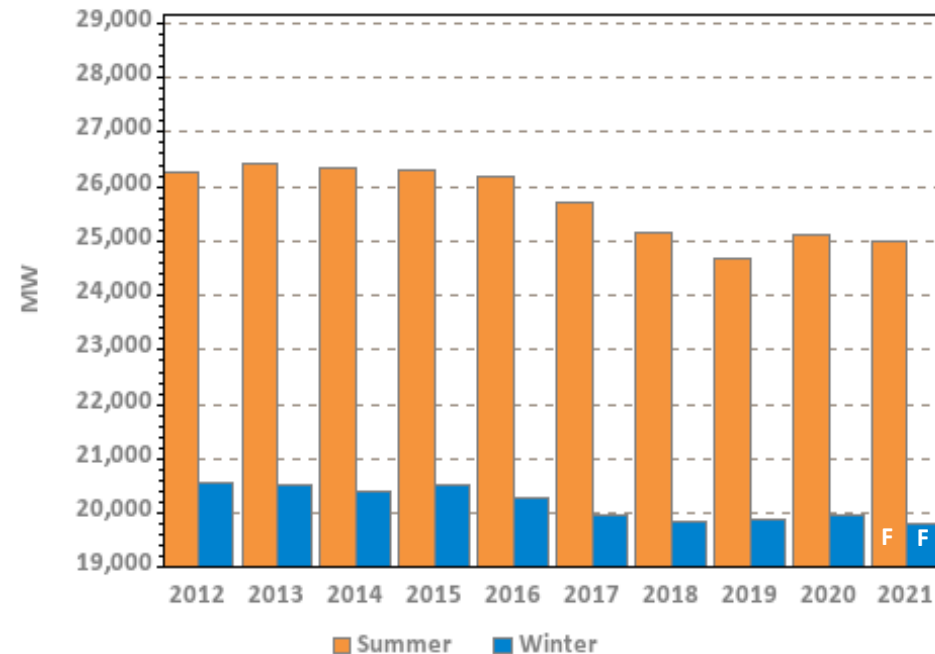
# Monthly Peak Loads and Weather Normalized Seasonal Peak History

System Peak Load



Revenue quality metered value

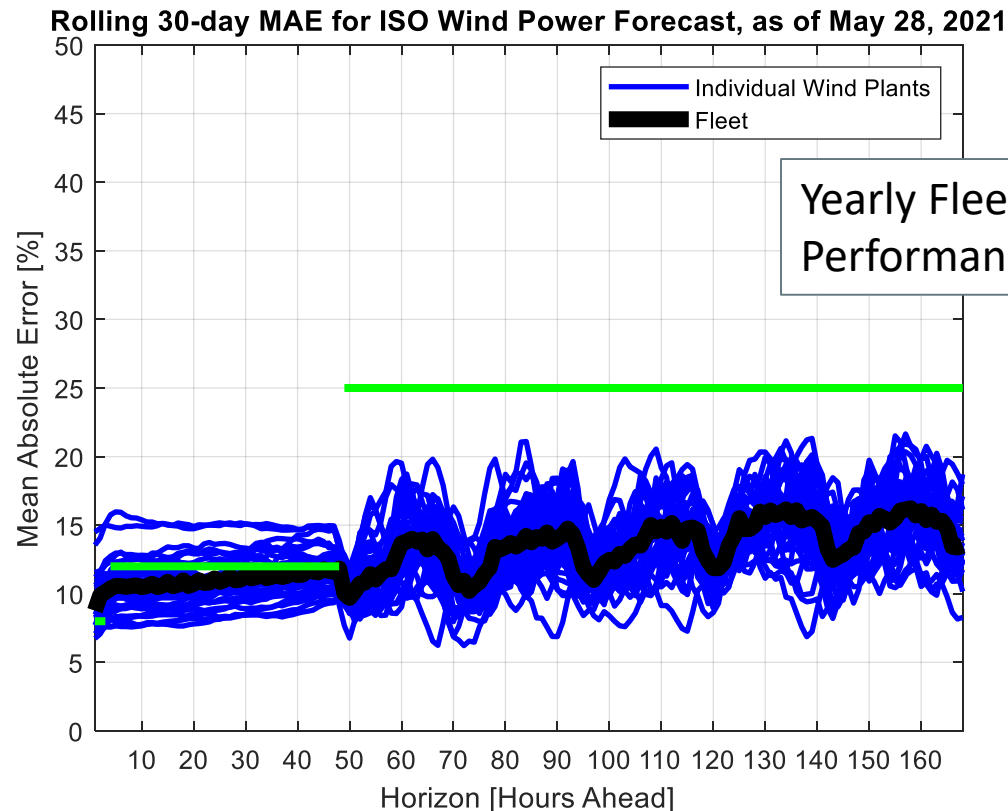
Weather Normalized Seasonal Peaks



Winter beginning in year displayed

F – designates forecasted values, which are updated in April/May of the following year; represents “net forecast” (i.e., the gross forecast net of passive demand response and behind-the-meter solar demand)

# Wind Power Forecast Error Statistics: Medium and Long Term Forecasts MAE

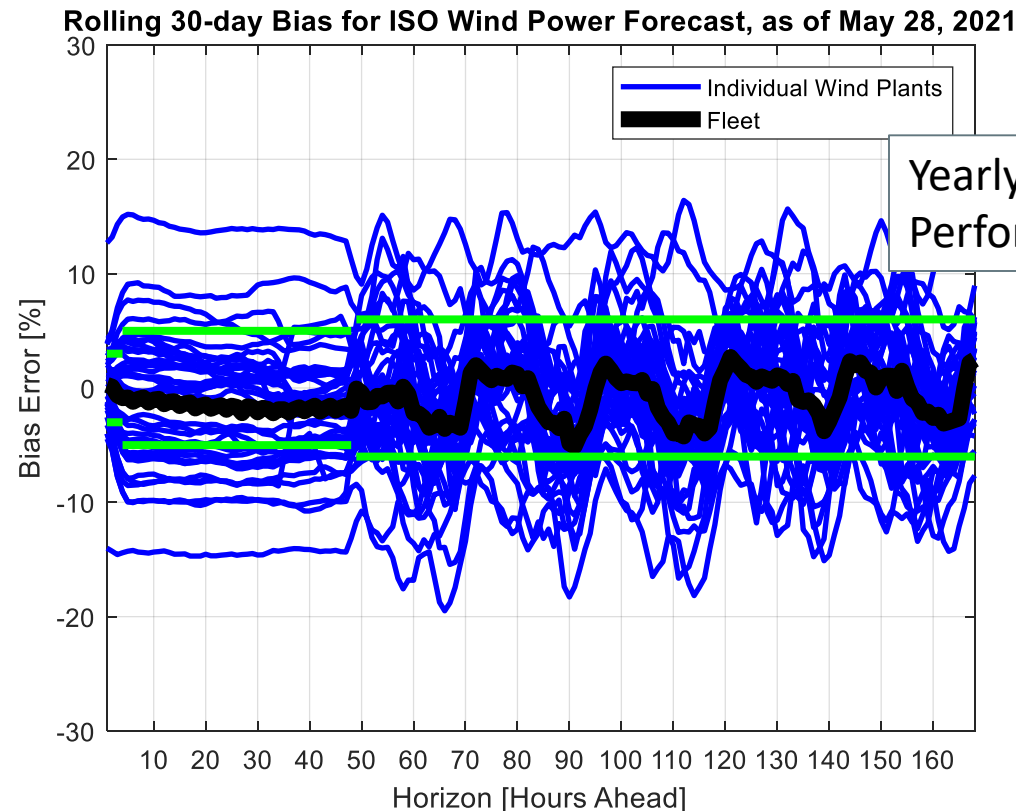


Dashboard Indicator



Ideally, MAE and Bias would be both equal to zero. As is typical, MAE increases with the forecast horizon. MAE and Bias for the fleet of wind power resources are less due to offsetting errors. Across all time frames, the ISO-NE/DNV-GL forecast is very good compared to industry standards, and monthly MAE is within the yearly performance targets.

# Wind Power Forecast Error Statistics: Medium and Long Term Forecasts Bias

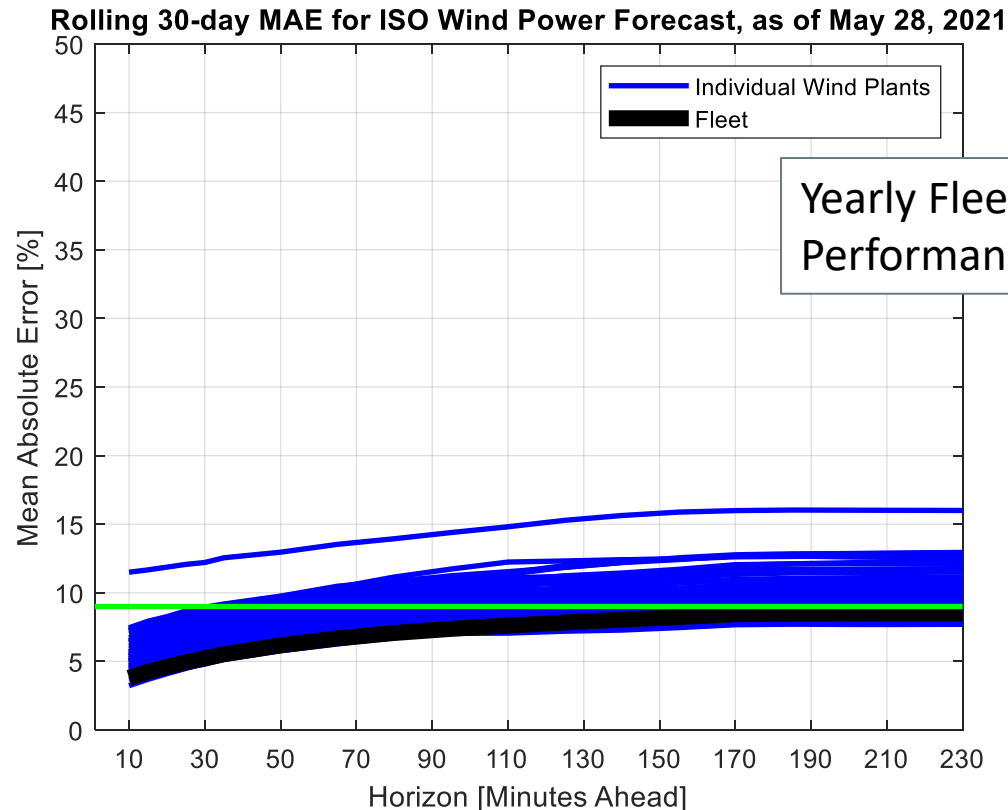


Dashboard Indicator ●

Ideally, MAE and Bias would be both equal to zero. Positive bias means less windpower was actually available compared to forecast. Negative bias means more windpower was actually available compared to forecast. Across all time frames, the ISO-NE/DNV-GL forecast compares well with industry standards, and monthly Bias is within yearly performance targets.

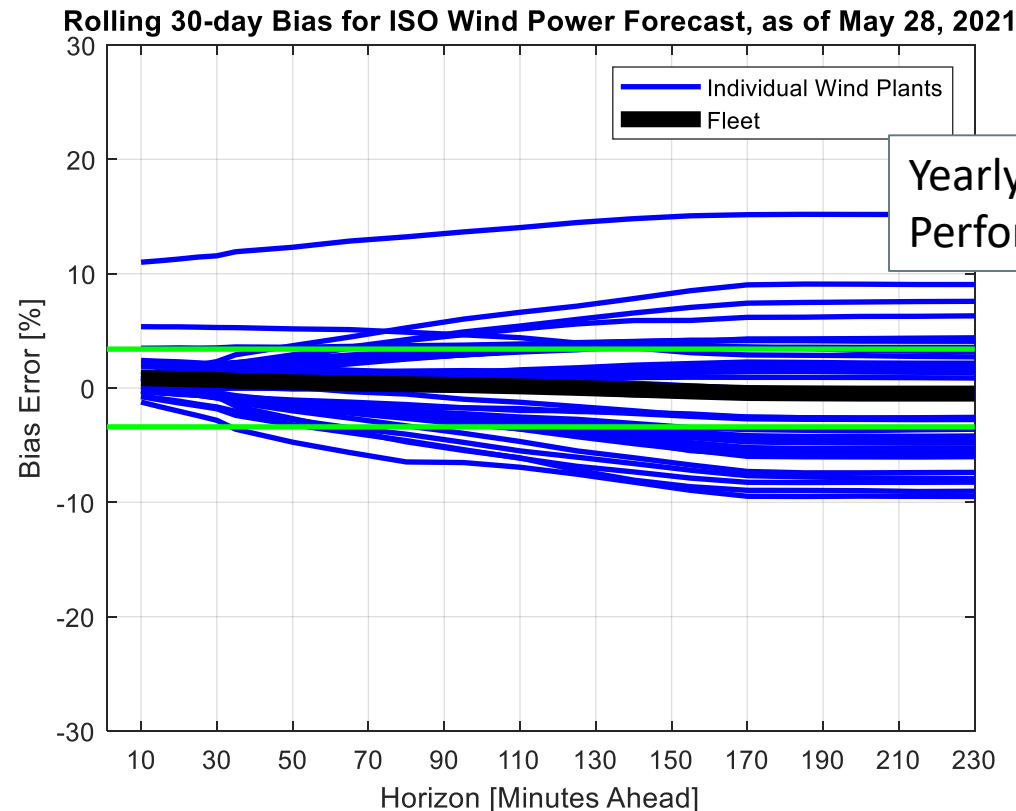


# Wind Power Forecast Error Statistics: Short Term Forecast MAE



Ideally, MAE and Bias would be both equal to zero. As is typical, MAE increases with the forecast horizon. MAE and Bias for the fleet of wind power resources are less due to offsetting errors. Across all time frames, the ISO-NE/DNV-GL forecast is very good compared to industry standards, and monthly MAE is within the yearly performance targets.

# Wind Power Forecast Error Statistics: Short Term Forecast Bias



Dashboard Indicator ●

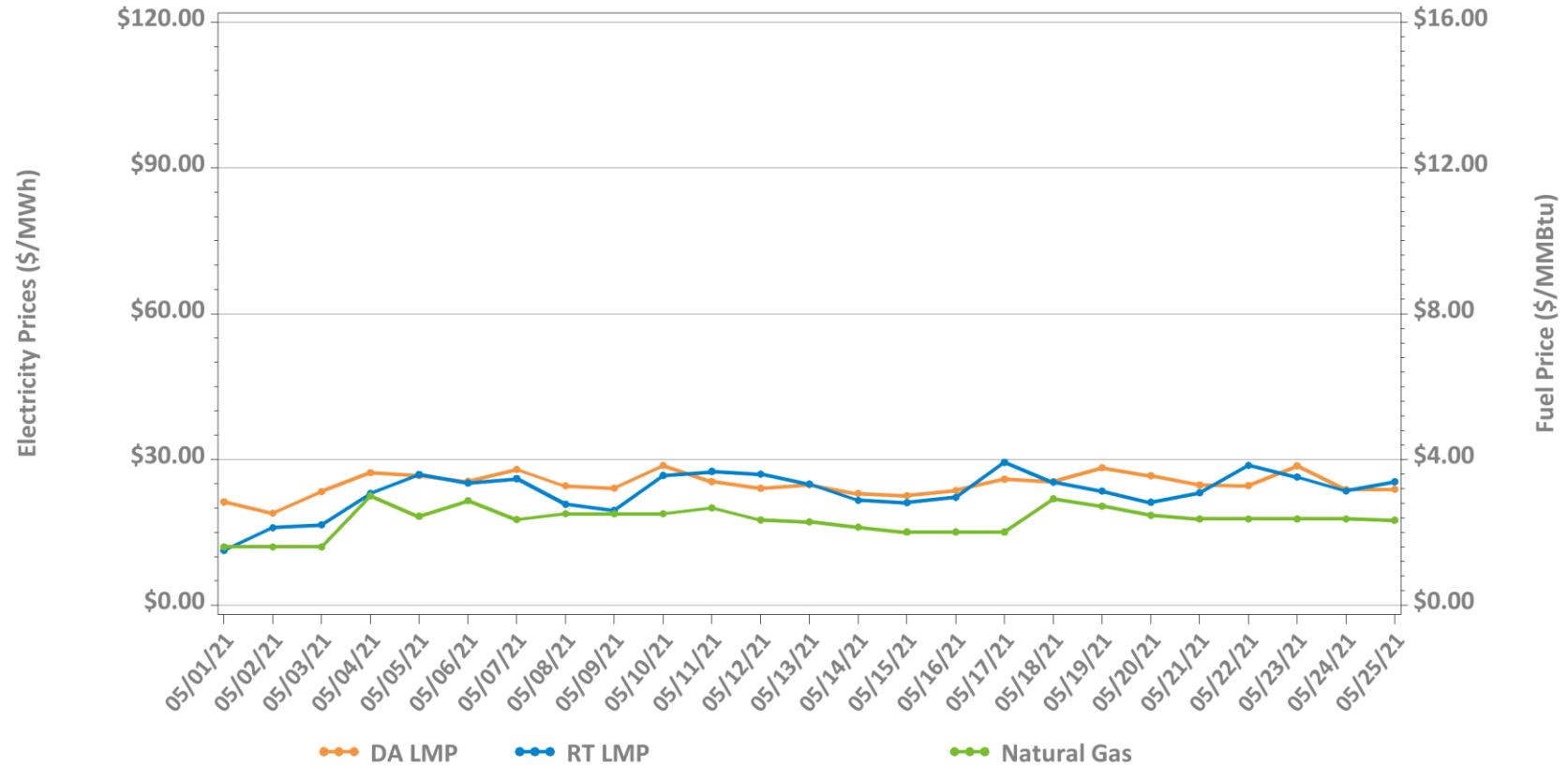
Yearly Fleet  
Performance targets

Ideally, MAE and Bias would be both equal to zero. Positive bias means less windpower was actually available compared to forecast. Negative bias means more windpower was actually available compared to forecast. Across all time frames, the ISO-NE/DNV-GL forecast compares well with industry standards, and monthly Bias is within yearly performance.

# MARKET OPERATIONS



# Daily Average DA and RT ISO-NE Hub Prices and Input Fuel Prices: May 1-25, 2021

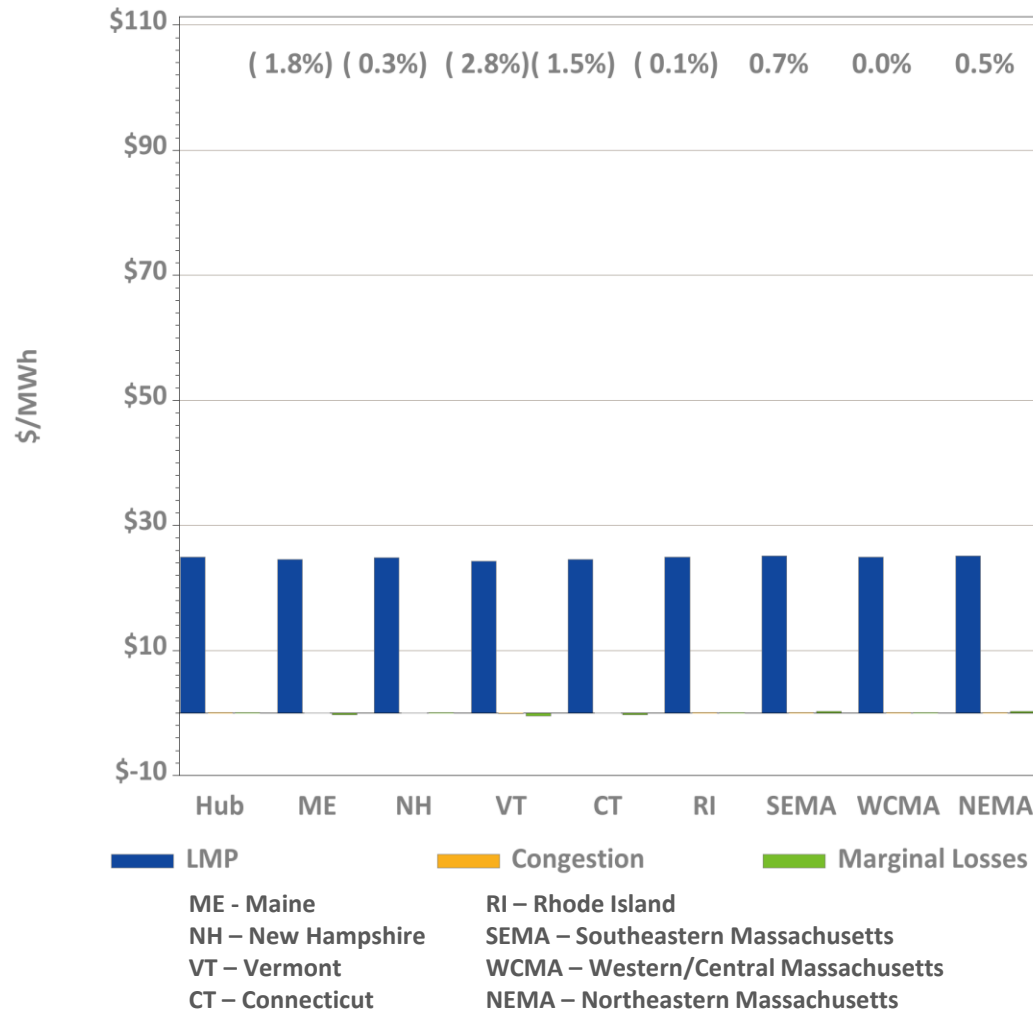


Underlying natural gas data furnished by:

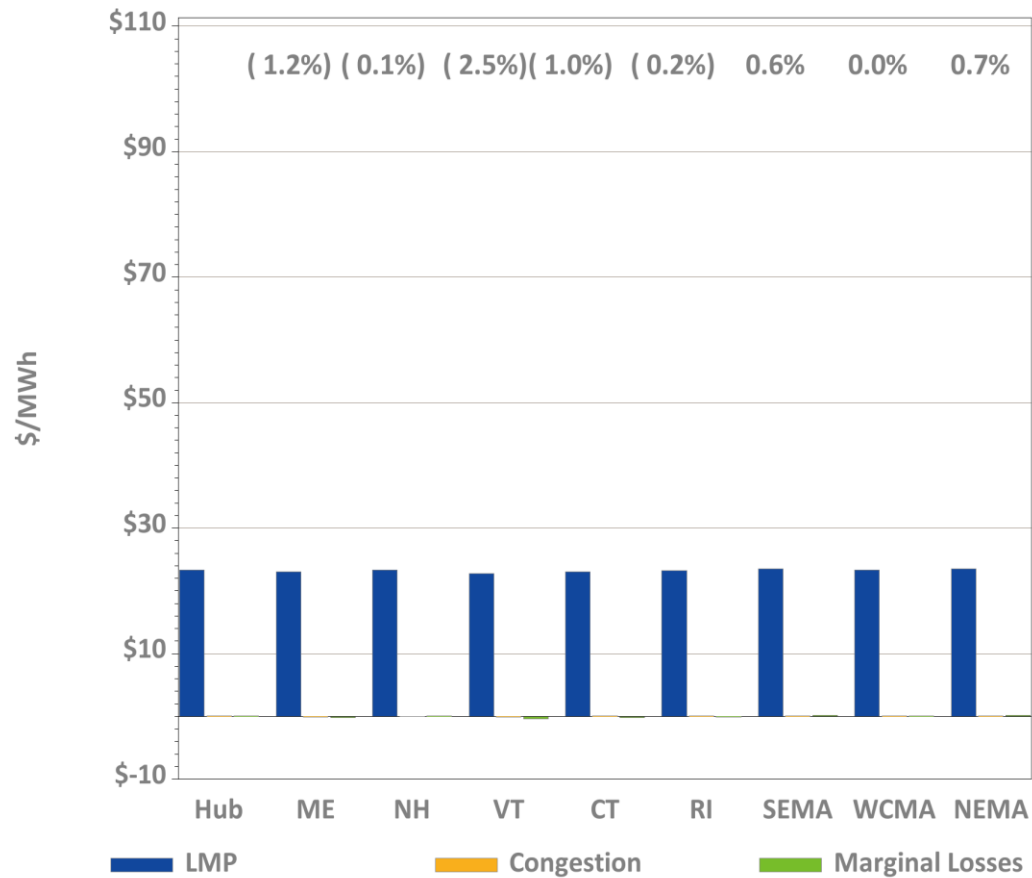


Average price difference over this period (DA-RT): \$1.64  
Average price difference over this period ABS(DA-RT): \$2.80  
Average percentage difference over this period ABS(DA-RT)/RT Average LMP: 12%  
Gas price is average of Massachusetts delivery points

# DA LMPs Average by Zone & Hub, May 2021



# RT LMPs Average by Zone & Hub, May 2021



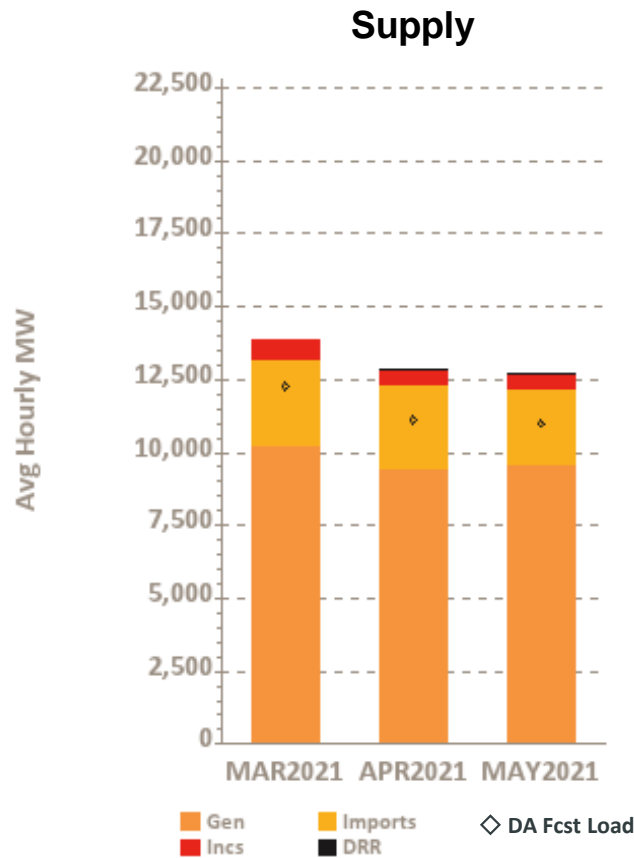
# Definitions

Day-Ahead Concept	Definition
Day-Ahead Load Obligation ( <b>DALO</b> )	The sum of day-ahead cleared load (including asset load, pump load, exports, and virtual purchases and excluding modeled transmission losses)
Day-Ahead Cleared Physical Energy	The sum of day-ahead cleared generation and cleared net imports

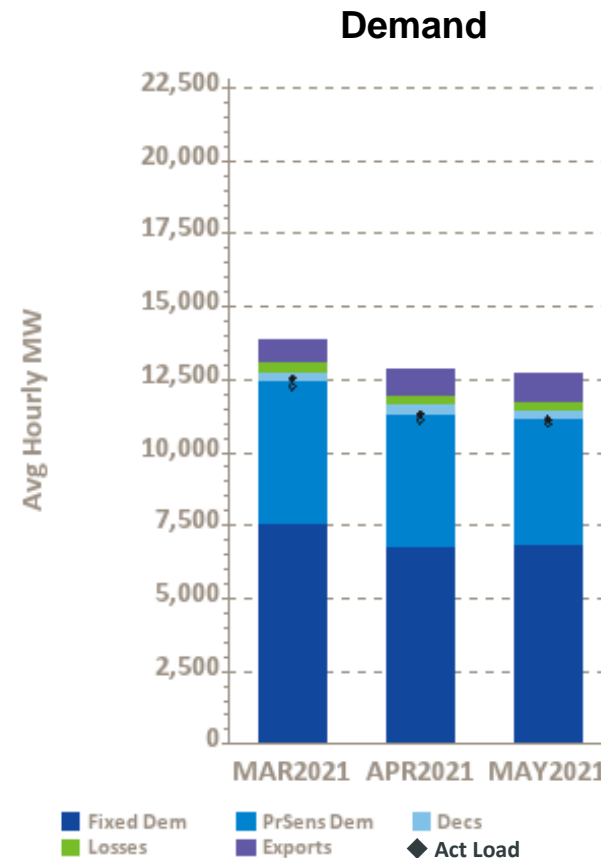


# Components of Cleared DA Supply and Demand

## – Last Three Months



Gen – Generation  
 Incs – Increment Offers  
 DA Fcst Load – Day-Ahead Forecast Load  
 DRR – Demand Response Resource

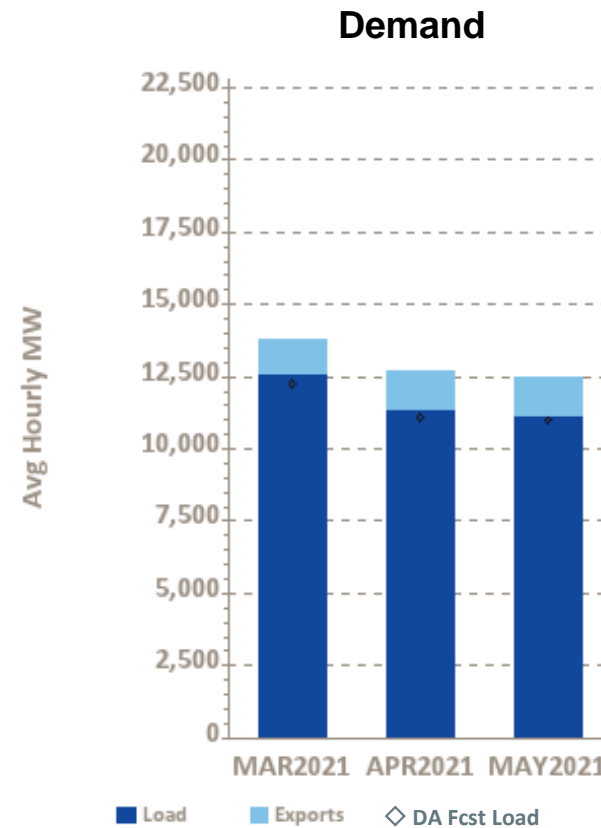
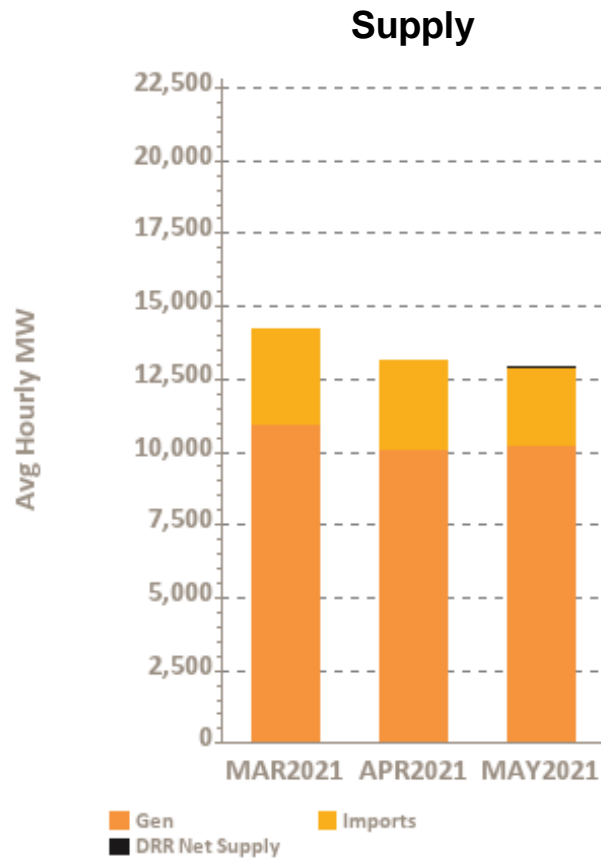


Fixed Dem – Fixed Demand  
 PrSens Dem – Price Sensitive Demand  
 Decs – Decrement Bids  
 Act Load – Actual Load

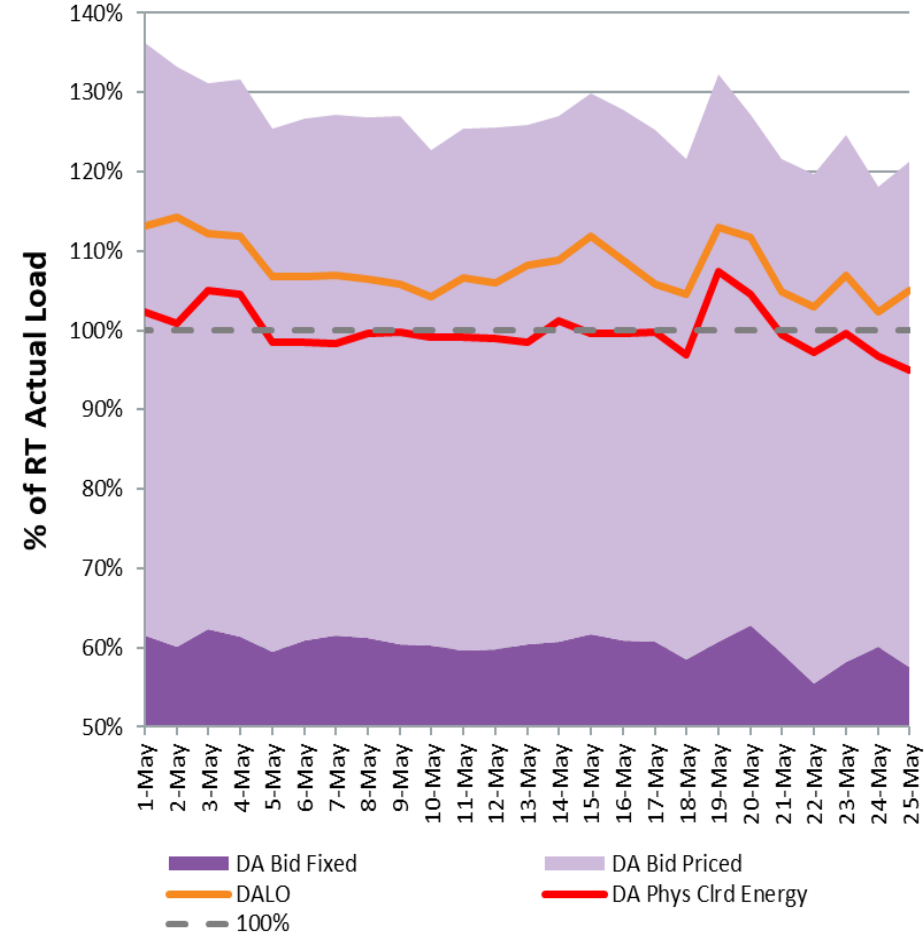
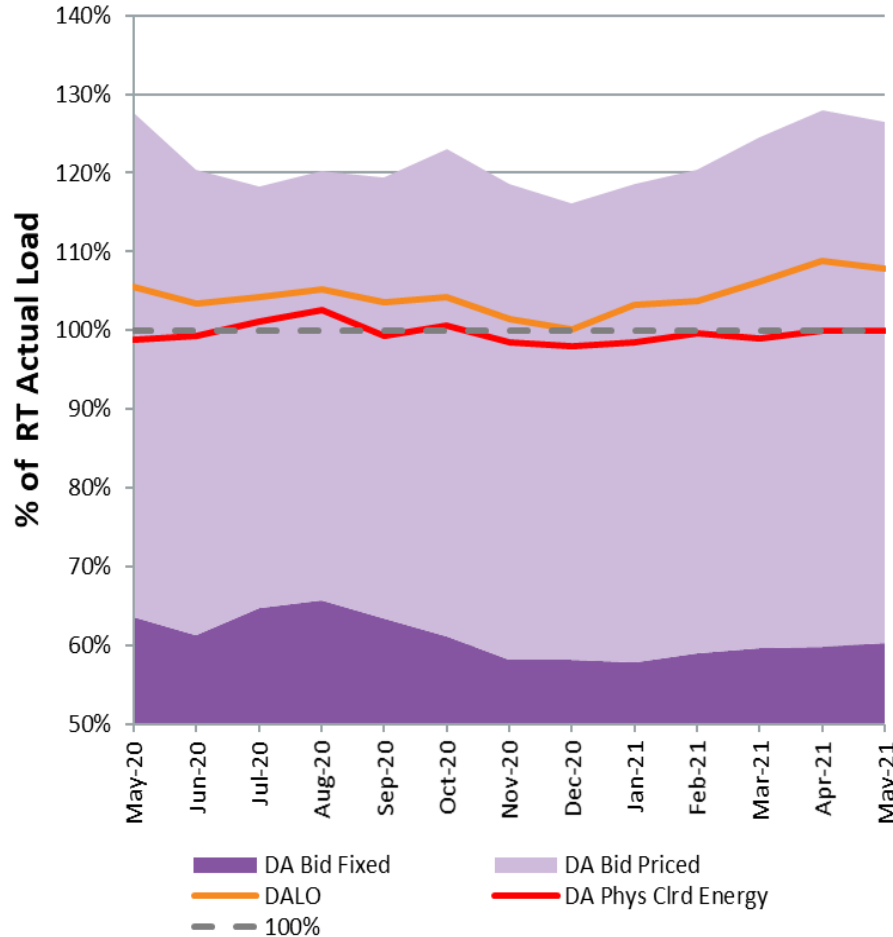




# Components of RT Supply and Demand – Last Three Months



# DAM Volumes as % of RT Actual Load (Forecasted Peak Hour)

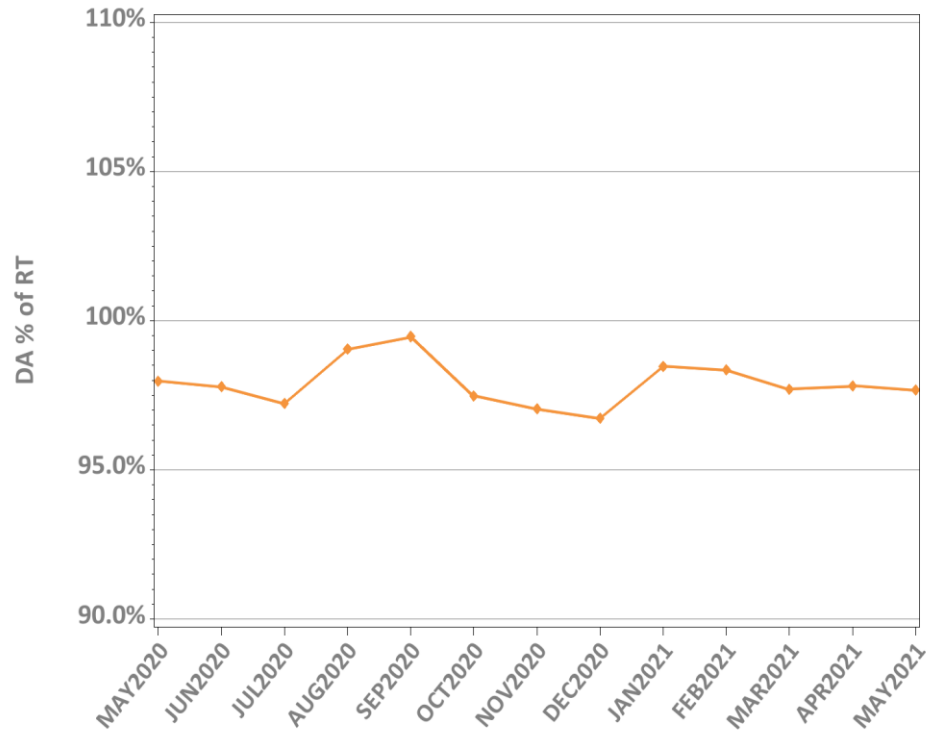


Note: Forecasted peak hour for each day is reflected in the above values. Shown for each day (chart on right) and then averaged for each month (chart on left). 'DA Bid' categories reflect load assets only (Virtual and export bids not reflected.)



# DA vs. RT Load Obligation: May, This Year vs. Last Year

Monthly, Last 13 Months



Daily, This Year vs. Last Year

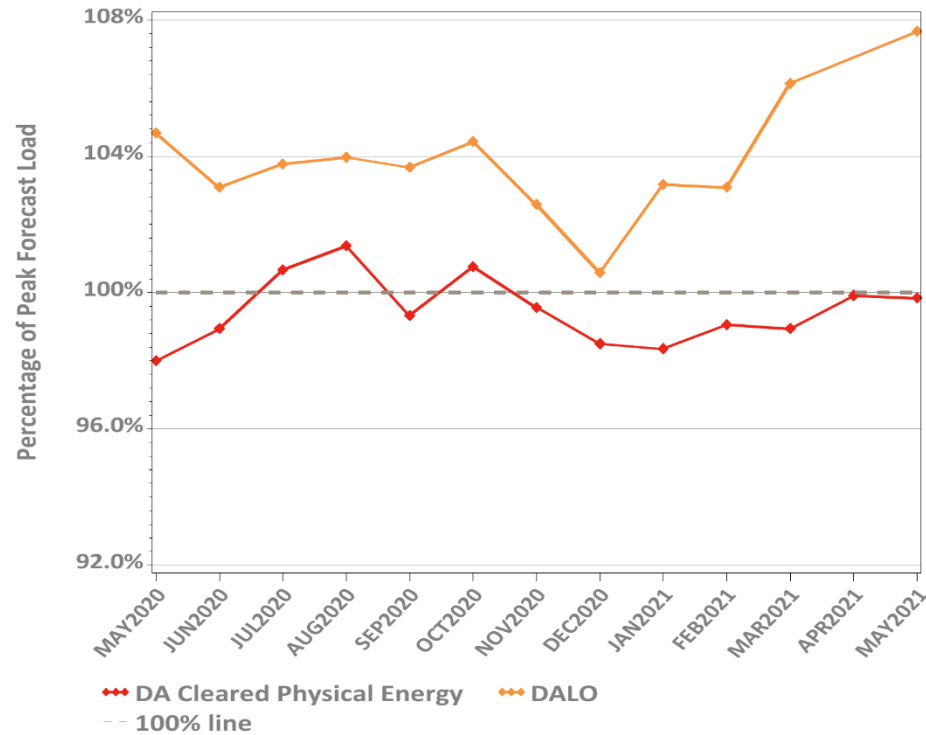


\*Hourly average values

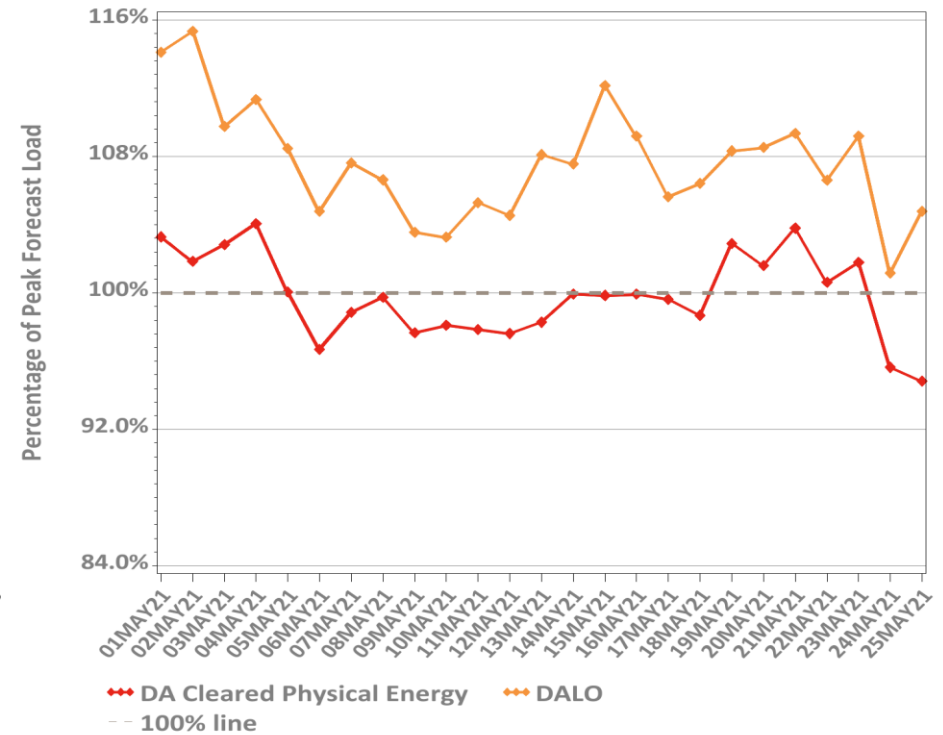


# DA Volumes as % of Forecast in Peak Hour

Monthly, Last 13 Months

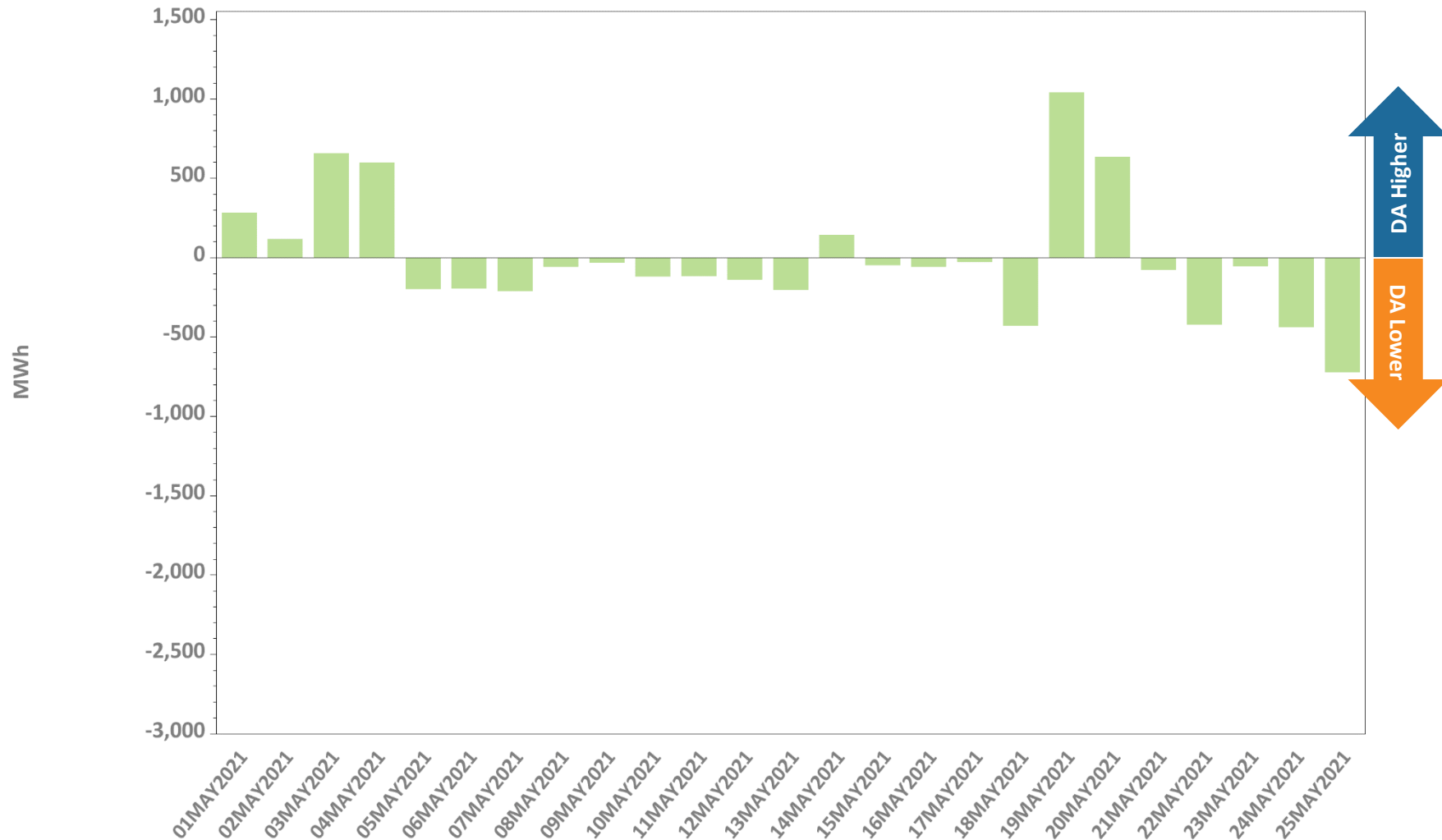


Daily: This Month



Note: There were **no** instances of system-level manual supplemental commitments for capacity required during the Reserve Adequacy Assessment (RAA) during May.

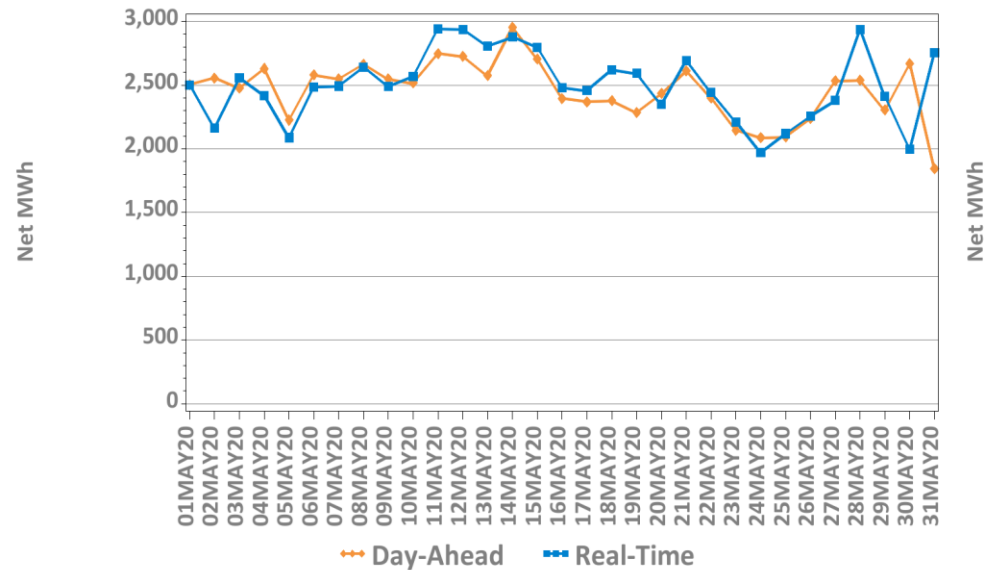
# DA Cleared Physical Energy Difference from RT System Load at Peak Hour\*



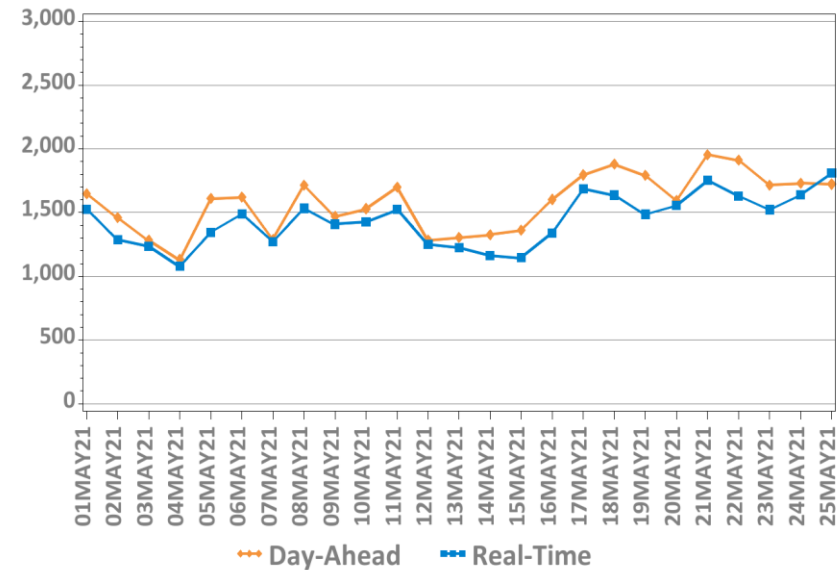
\*Negative values indicate DA Cleared Physical Energy value below its RT counterpart. Forecast peak hour reflected.

# DA vs. RT Net Interchange May 2020 vs. May 2021

Hourly Average by Day, Last Year

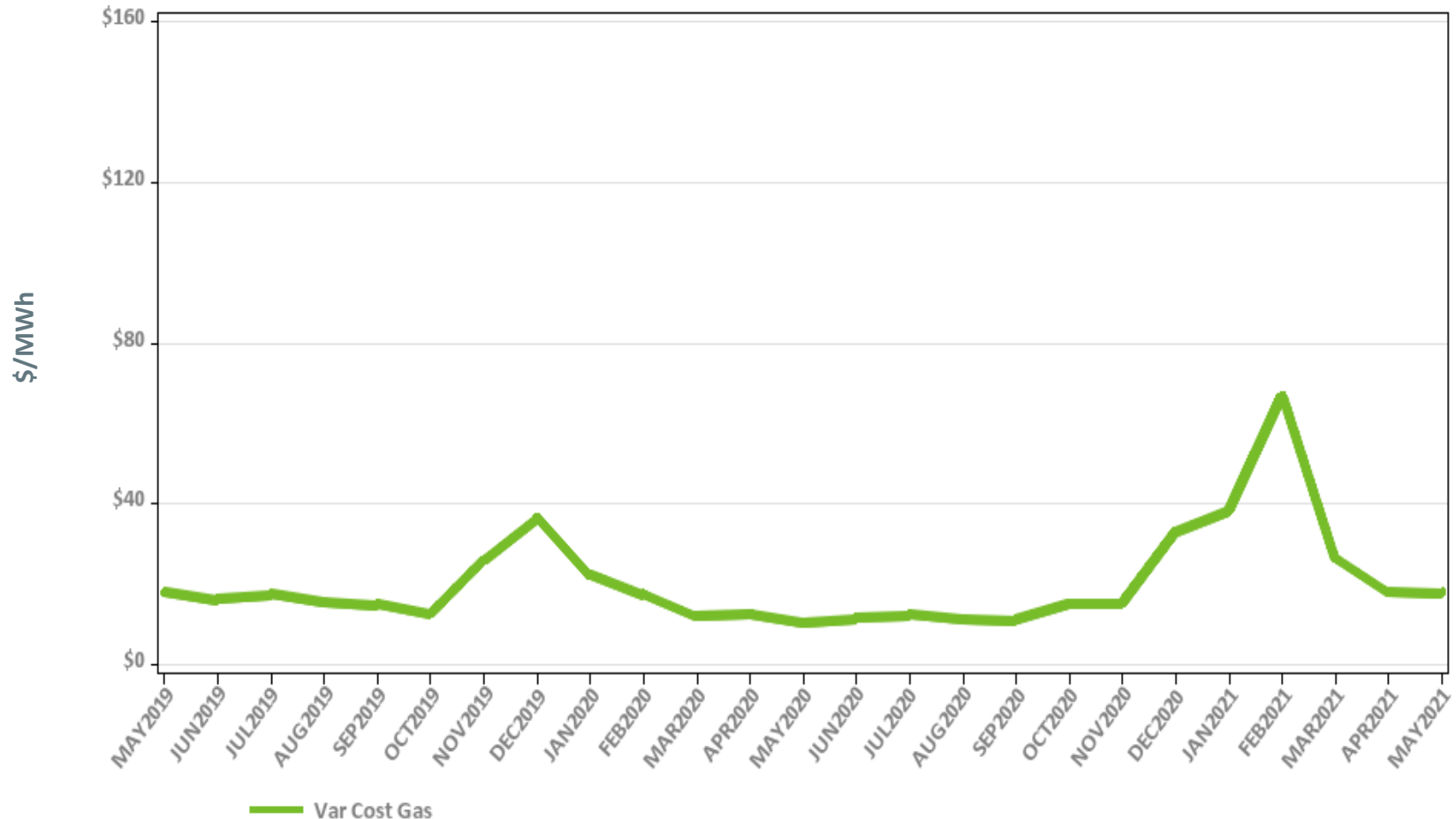


Hourly Average by Day, This Year



Net Interchange is the sum of daily imports minus the sum of daily exports  
Positive values are net imports

# Variable Production Cost of Natural Gas: Monthly

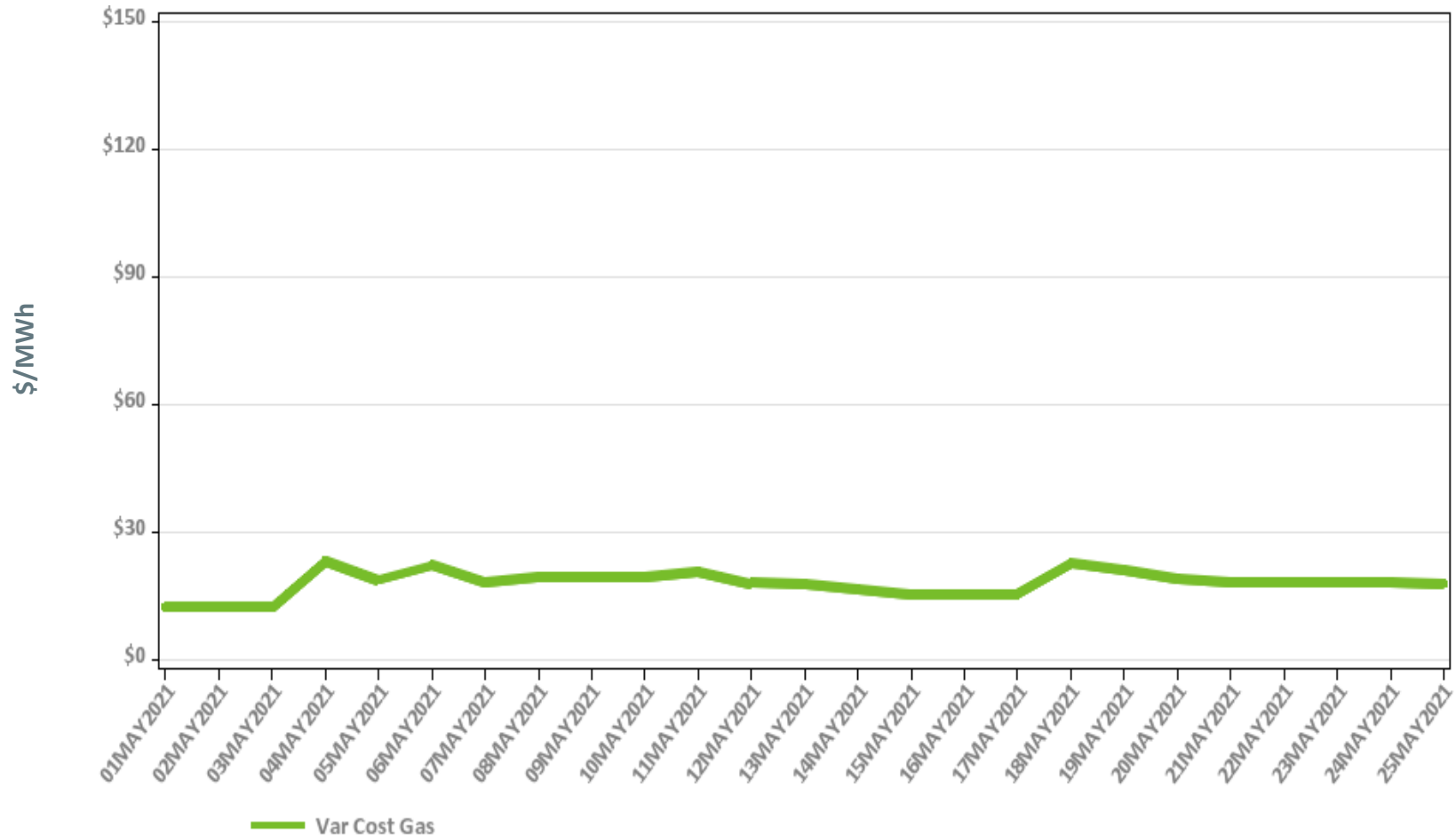


Note: Assumes proxy heat rate of 7,800,000 Btu/MWh for natural gas units.

Underlying natural gas data furnished by:



# Variable Production Cost of Natural Gas: Daily



**Note:** Assumes proxy heat rate of 7,800,000 Btu/MWh for natural gas units.

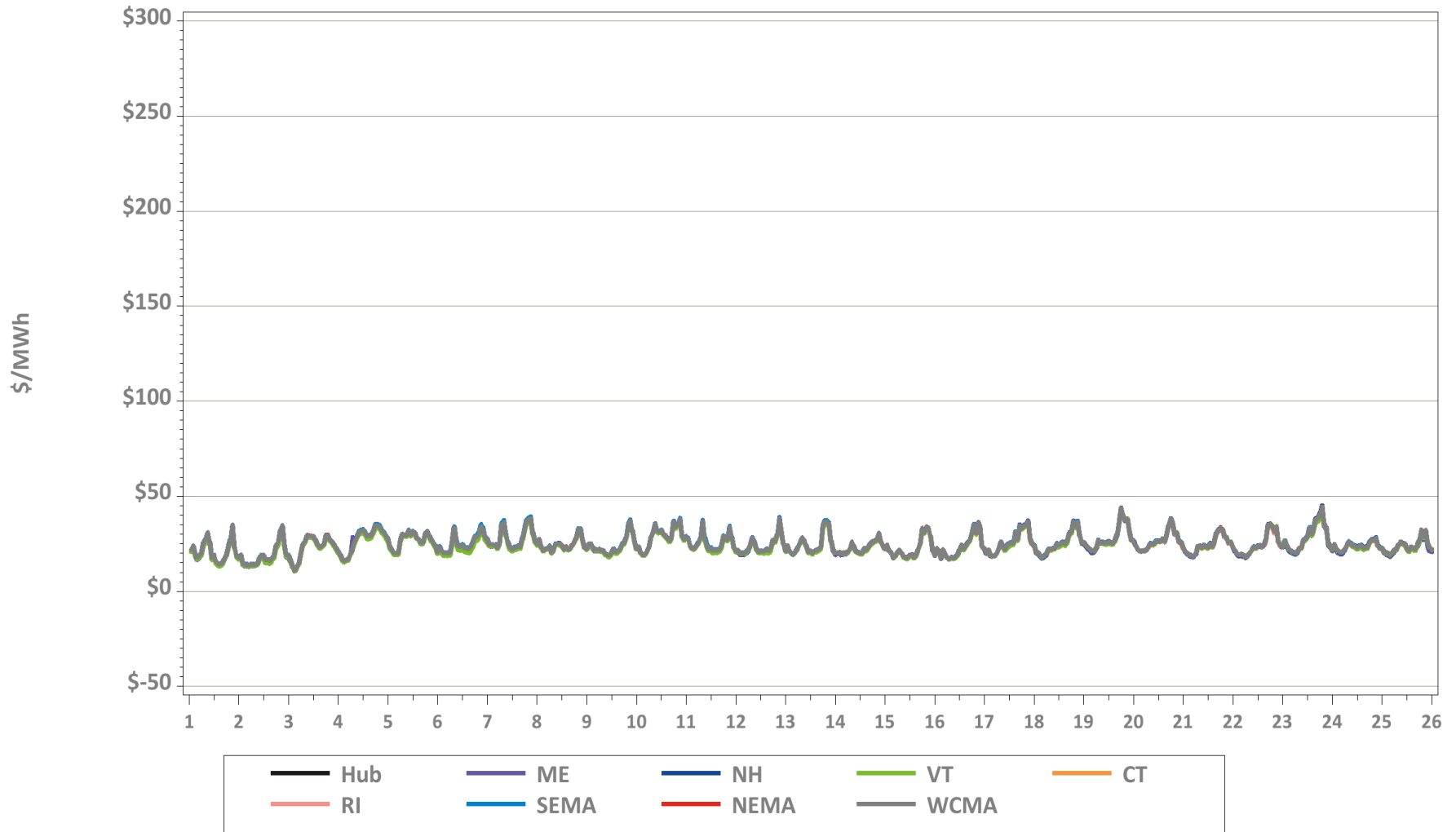
Underlying natural gas data furnished by:





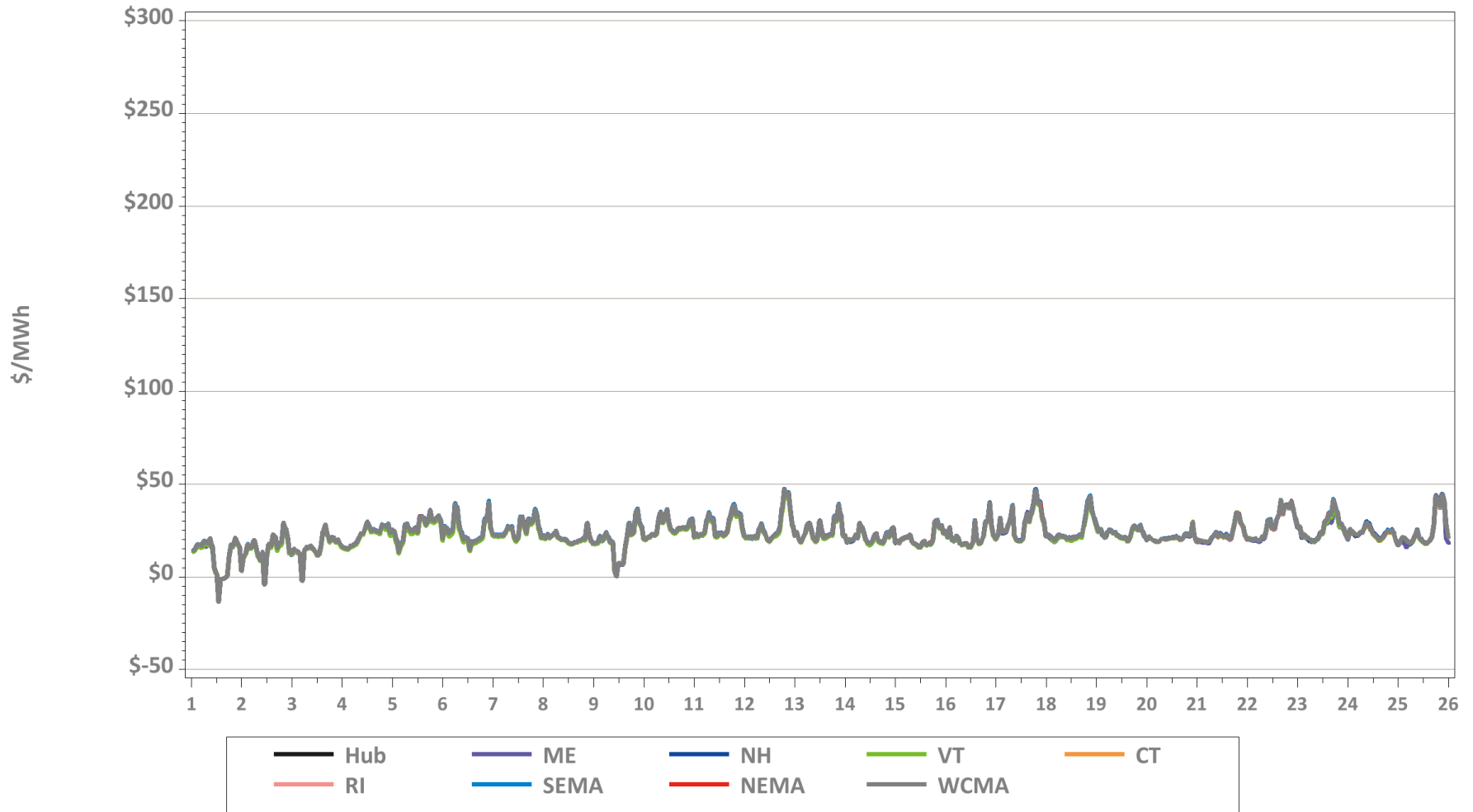
# Hourly DA LMPs, May 1-25, 2021

Hourly Day-Ahead LMPs

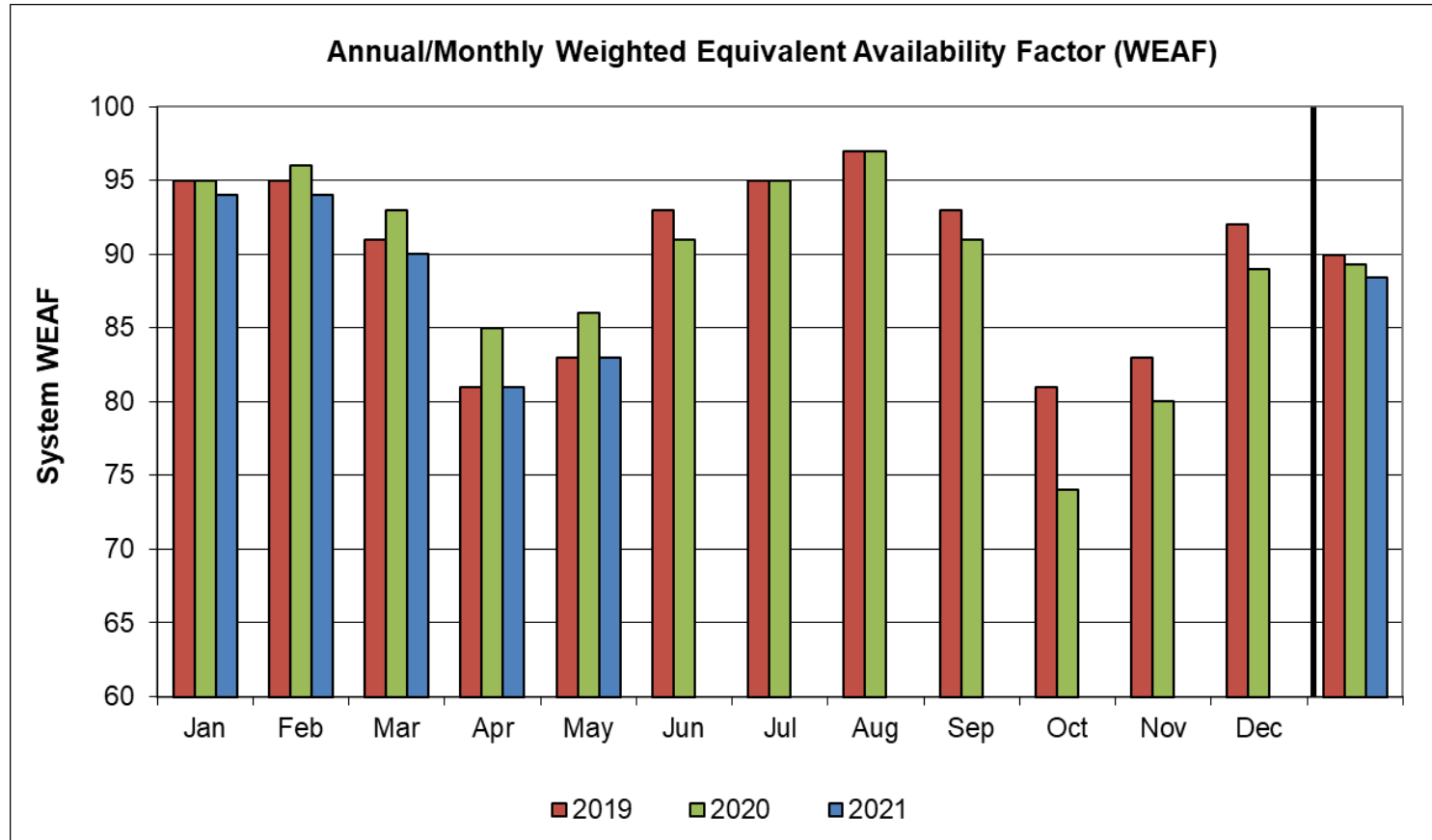


# Hourly RT LMPs, May 1-25, 2021

Hourly Real-Time LMPs



# System Unit Availability



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
2021	94	94	90	81	83								88
2020	95	96	93	85	86	91	95	97	91	74	80	89	89
2019	95	95	91	81	83	93	95	97	93	81	83	92	90

Data as of 5/24/2021

# BACK-UP DETAIL



# DEMAND RESPONSE



# Capacity Supply Obligation (CSO) MW by Demand Resource Type for June 2021

Load Zone	ADCR*	On Peak	Seasonal Peak	Total
ME	84.7	202.5	0.0	287.2
NH	40.8	147.6	0.0	188.4
VT	42.5	125.6	0.0	168.1
CT	125.1	131.3	614.8	871.2
RI	39.2	323.1	0.0	362.3
SEMA	44.6	505.9	0.0	550.5
WCMA	85.5	542.8	39.6	667.9
NEMA	59.6	858.9	0.0	918.5
<b>Total</b>	<b>522.2</b>	<b>2,837.6</b>	<b>654.4</b>	<b>4,014.1</b>

\* Active Demand Capacity Resources

NOTE: CSO values include T&D loss factor (8%).

# NEW GENERATION



# New Generation Update

## *Based on Queue as of 5/28/21*

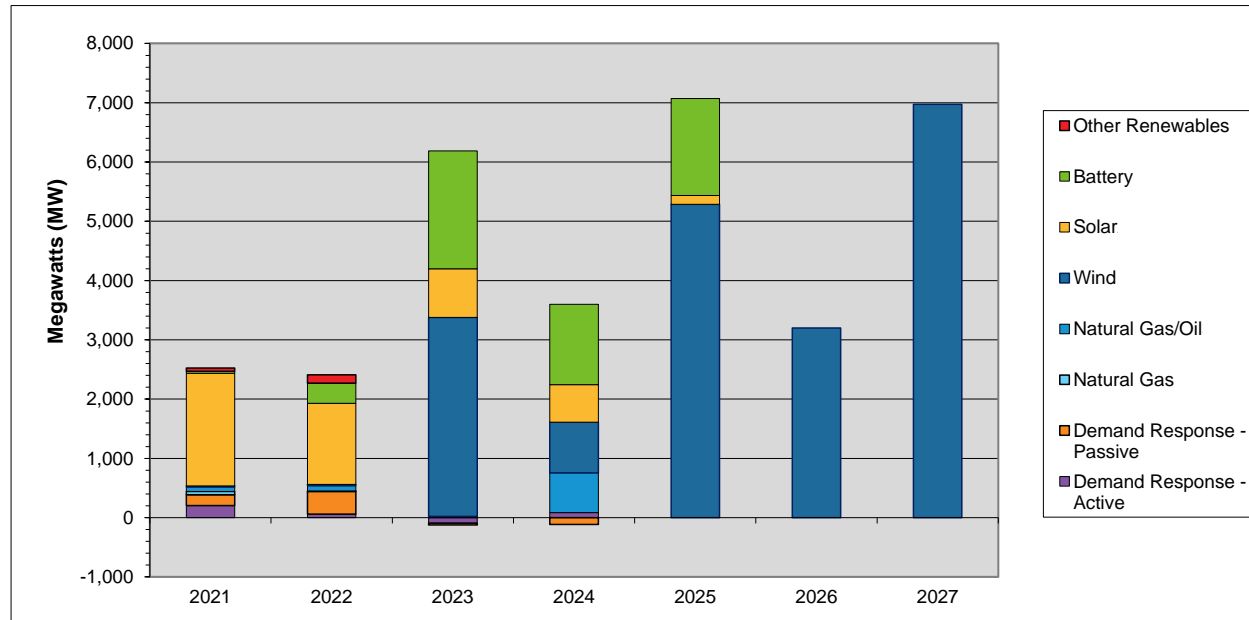
- Four new projects totaling 209 MW applied for interconnection study since the last update
  - They consist of one battery and solar co-location project, two solar projects and one natural gas project with in-service dates ranging from 2022 to 2025
- No projects went commercial and two projects were withdrawn
- In total, 290 generation projects are currently being tracked by the ISO, totaling approximately 31,047 MW





# Actual and Projected Annual Capacity Additions

## By Supply Fuel Type and Demand Resource Type



	2021	2022	2023	2024	2025	2026	2027	Total MW	% of Total <sup>1</sup>
Other Renewables	56	142	0	0	0	0	0	198	0.6
Battery	34	340	1,988	1,354	1,633	0	0	5,349	16.9
Solar <sup>2</sup>	1,899	1,366	820	636	150	0	0	4,871	15.4
Wind	19	20	3,355	852	5,287	3,200	6,972	19,705	62.1
Natural Gas/Oil <sup>3</sup>	76	89	23	672	0	0	0	860	2.7
Natural Gas	53	11	0	0	0	0	0	64	0.2
Demand Response - Passive	184	380	-28	-114	0	0	0	422	1.3
Demand Response - Active	204	62	-94	86	0	0	0	258	0.8
Totals	2,525	2,410	6,064	3,486	7,070	3,200	6,972	31,727	100.0

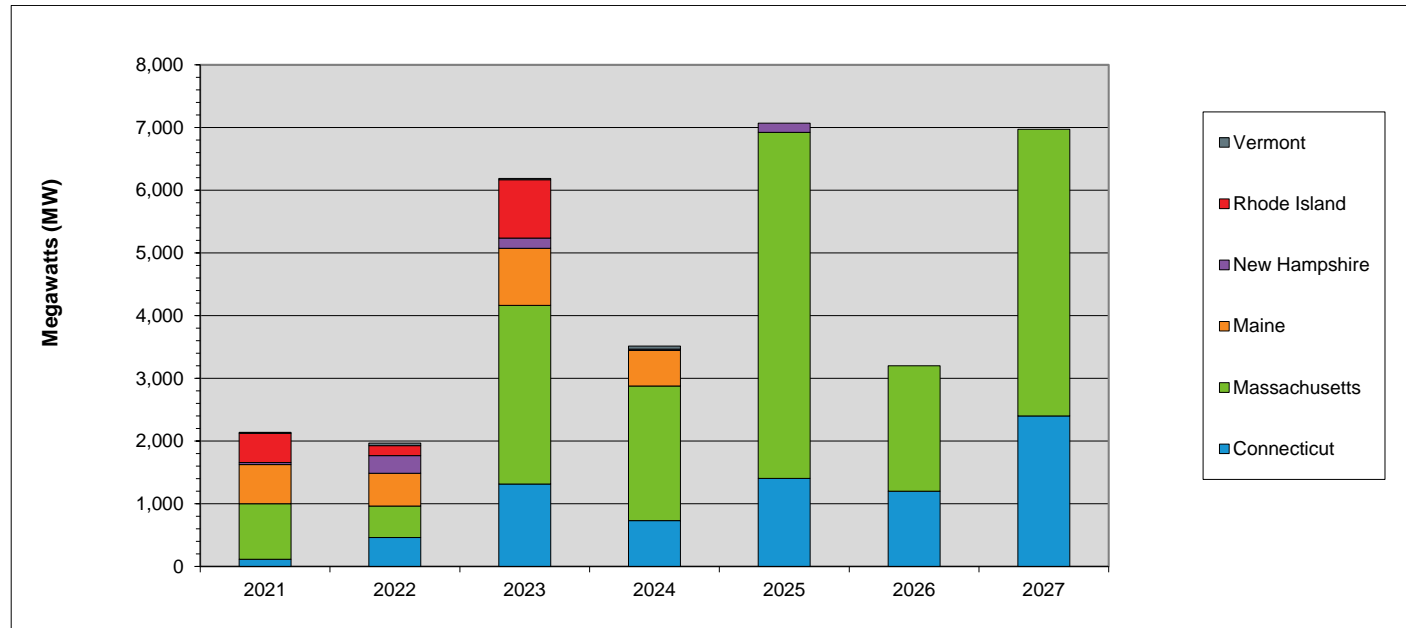
<sup>1</sup> Sum may not equal 100% due to rounding

<sup>2</sup> This category includes both solar-only, and co-located solar and battery projects

<sup>3</sup> The projects in this category are dual fuel, with either gas or oil as the primary fuel

- DR reflects changes from the initial FCM Capacity Supply Obligations in 2010-11

# Actual and Projected Annual Generator Capacity Additions By State



	2021	2022	2023	2024	2025	2026	2027	Total MW	% of Total <sup>1</sup>
Vermont	15	40	20	50	0	0	0	125	0.4
Rhode Island	466	160	931	0	0	0	0	1,557	5.0
New Hampshire	30	281	164	20	150	0	0	645	2.1
Maine	625	523	907	567	0	0	0	2,622	8.4
Massachusetts	888	505	2,852	2,145	5,515	2,000	4,572	18,477	59.5
Connecticut	113	459	1,312	732	1,405	1,200	2,400	7,621	24.5
Totals	2,137	1,968	6,186	3,514	7,070	3,200	6,972	31,047	100.0

<sup>1</sup> Sum may not equal 100% due to rounding

# New Generation Projection

## *By Fuel Type*

Unit Type	Total		Green		Yellow	
	No. of Projects	Capacity (MW)	No. of Projects	Capacity (MW)	No. of Projects	Capacity (MW)
Biomass/Wood Waste	1	8	1	8	0	0
Battery Storage	33	5,349	0	0	33	5,349
Fuel Cell	4	54	1	10	3	44
Hydro	3	99	2	71	1	28
Natural Gas	6	64	0	0	6	64
Natural Gas/Oil	7	860	1	14	6	846
Nuclear	1	37	0	0	1	37
Solar	207	4,871	21	343	186	4,528
Wind	27	19,705	1	15	26	19,690
Total	289	31,047	27	461	262	30,586

- Projects in the Natural Gas/Oil category may have either gas or oil as the primary fuel
- Green denotes projects with a high probability of going into service
- Yellow denotes projects with a lower probability of going into service or new applications

# New Generation Projection

## *By Operating Type*

Operating Type	Total		Green		Yellow	
	No. of Projects	Capacity (MW)	No. of Projects	Capacity (MW)	No. of Projects	Capacity (MW)
Baseload	8	132	3	23	5	109
Intermediate	9	822	1	14	8	808
Peaker	245	10,388	22	409	223	9,979
Wind Turbine	27	19,705	1	15	26	19,690
Total	289	31,047	27	461	262	30,586

- Green denotes projects with a high probability of going into service
- Yellow denotes projects with a lower probability of going into service or new applications

# New Generation Projection

## *By Operating Type and Fuel Type*

Unit Type	Total		Baseload		Intermediate		Peaker		Wind Turbine	
	No. of Projects	Capacity (MW)	No. of Projects	Capacity (MW)	No. of Projects	Capacity (MW)	No. of Projects	Capacity (MW)	No. of Projects	Capacity (MW)
Biomass/Wood Waste	1	8	1	8	0	0	0	0	0	0
Battery Storage	33	5,349	0	0	0	0	33	5,349	0	0
Fuel Cell	4	54	4	54	0	0	0	0	0	0
Hydro	3	99	2	33	0	0	1	66	0	0
Natural Gas	6	64	0	0	4	47	2	17	0	0
Natural Gas/Oil	7	860	0	0	5	775	2	85	0	0
Nuclear	1	37	1	37	0	0	0	0	0	0
Solar	207	4,871	0	0	0	0	207	4,871	0	0
Wind	27	19,705	0	0	0	0	0	0	27	19,705
Total	289	31,047	8	132	9	822	245	10,388	27	19,705

- Projects in the Natural Gas/Oil category may have either gas or oil as the primary fuel

# FORWARD CAPACITY MARKET



# Capacity Supply Obligation (CSO) FCA 12

Resource Type	Resource Type	FCA	ARA 1		ARA 2		ARA 3	
		CSO	CSO	Change	CSO	Change	CSO	Change
		MW	MW	MW	MW	MW	MW	MW
Demand	Active Demand	624.445	659.137	34.692	603.776	-55.361	587.270	-16.506
	Passive Demand	2,975.36	3,045.073	69.713	3,123.232	78.159	3,322.722	199.490
Demand Total		3,599.81	3,704.21	104.4	3,727.008	22.798	3,909.992	182.984
Generator	Non-Intermittent	29,130.75	29,244.404	113.654	28,620.245	-624.159	28,941.276	321.031
	Intermittent	880.317	806.609	-73.708	660.932	-145.677	663.179	2.247
Generator Total		30,011.07	30,051.013	39.943	29,281.177	-769.836	29,604.455	323.278
Import Total		1,217	1,305.487	88.487	1,307.587	2.10	1207.78	-99.807
Grand Total*		34,827.88	35,060.710	232.83	34,315.772	-744.94	34,722.227	406.455
Net ICR (NICR)		33,725	33,550	-175	32,230	-1,320	32,925	695

\* Grand Total reflects both CSO Grand Total and the net total of the Change Column

Note: A resource's CSO may change for a variety of reasons outside ISO-NE administered trading windows. Reasons for CSO changes beyond bilaterals and reconfiguration auction may include terminations or recent declaration of commercial operation. Details of the changes that occurred due to non-annual event purposes are contained in the 2015-2020 CCP Monthly Capacity Supply Obligation Changes report on the ISO New England website.

ARA – Annual Reconfiguration Auction

FCA – Forward Capacity Auction

ICR – Installed Capacity Requirement

# Capacity Supply Obligation FCA 13

Resource Type	Resource Type	FCA	ARA 1		ARA 2		ARA 3	
		CSO	CSO	Change	CSO	Change	CSO	Change
		MW	MW	MW	MW	MW	MW	MW
Demand	Active Demand	685.554	683.116	-2.438				
	Passive Demand	3,354.69	3,407.507	52.817				
Demand Total		4,040.244	4,090.623	50.38				
Generator	Non-Intermittent	28,586.498	27,868.341	-718.157				
	Intermittent	1,024.792	901.672	-123.12				
Generator Total		2,9611.29	28,770.013	-841.28				
Import Total		1,187.69	1,292.41	104.72				
Grand Total*		34,839.224	34,153.046	-686.18				
Net ICR (NICR)		33,750	32,465	-1,285				

\* Grand Total reflects both CSO Grand Total and the net total of the Change Column

Note: A resource's CSO may change for a variety of reasons outside ISO-NE administered trading windows. Reasons for CSO changes beyond bilaterals and reconfiguration auction may include terminations or recent declaration of commercial operation. Details of the changes that occurred due to non-annual event purposes are contained in the 2015-2020 CCP Monthly Capacity Supply Obligation Changes report on the ISO New England website.



# Capacity Supply Obligation FCA 14

Resource Type	Resource Type	FCA	ARA 1		ARA 2		ARA 3	
		CSO	CSO	Change	CSO	Change	CSO	Change
		MW	MW	MW	MW	MW	MW	MW
Demand	Active Demand	592.043						
	Passive Demand	3,327.071						
Demand Total		3,919.114						
Generator	Non-Intermittent	27,816.902						
	Intermittent	1,160.916						
Generator Total		28,977.818						
Import Total		1,058.72						
Grand Total*		33,955.652						
Net ICR (NICR)		32,490						

\* Grand Total reflects both CSO Grand Total and the net total of the Change Column

Note: A resource's CSO may change for a variety of reasons outside ISO-NE administered trading windows. Reasons for CSO changes beyond bilaterals and reconfiguration auction may include terminations or recent declaration of commercial operation. Details of the changes that occurred due to non-annual event purposes are contained in the 2015-2020 CCP Monthly Capacity Supply Obligation Changes report on the ISO New England website.

# Capacity Supply Obligation FCA 15

Resource Type	Resource Type	FCA	ARA 1		ARA 2		ARA 3	
		CSO	CSO	Change	CSO	Change	CSO	Change
		MW	MW	MW	MW	MW	MW	MW
Demand	Active Demand	677.673						
	Passive Demand	3,212.865						
Demand Total		3,890.538						
Generator	Non-Intermittent	28,154.203						
	Intermittent	1,089.265						
Generator Total		29,243.468						
Import Total		1,487.059						
Grand Total*		34,621.065						
Net ICR (NICR)		33,270						

\* Grand Total reflects both CSO Grand Total and the net total of the Change Column

Note: A resource's CSO may change for a variety of reasons outside ISO-NE administered trading windows. Reasons for CSO changes beyond bilaterals and reconfiguration auction may include terminations or recent declaration of commercial operation. Details of the changes that occurred due to non-annual event purposes are contained in the 2015-2020 CCP Monthly Capacity Supply Obligation Changes report on the ISO New England website.

# Active/Passive Demand Response

## *CSO Totals by Commitment Period*

Commitment Period	Active/Passive	Existing	New	Grand Total
2019-20	Active	357.221	20.304	377.525
	Passive	2,018.20	350.43	2,368.63
	<b>Grand Total</b>	<b>2,375.422</b>	<b>370.734</b>	<b>2,746.156</b>
2020-21	Active	334.634	85.294	419.928
	Passive	2,236.73	554.292	2,791.02
	<b>Grand Total</b>	<b>2,571.361</b>	<b>639.586</b>	<b>3,210.947</b>
2021-22	Active	480.941	143.504	624.445
	Passive	2,604.79	370.568	2,975.36
	<b>Grand Total</b>	<b>3,085.734</b>	<b>514.072</b>	<b>3,599.806</b>
2022-23	Active	598.376	87.178	685.554
	Passive	2,788.33	566.363	3,354.69
	<b>Grand Total</b>	<b>3,386.703</b>	<b>653.541</b>	<b>4,040.244</b>
2023-24	Active	560.55	31.493	592.043
	Passive	3,035.51	291.565	3,327.07
	<b>Grand Total</b>	<b>3,596.056</b>	<b>323.058</b>	<b>3,919.114</b>
2024-25	Active	674.153	3.520	677.673
	Passive	3,046.064	166.801	3,212.865
	<b>Grand Total</b>	<b>3,720.217</b>	<b>170.321</b>	<b>3,890.538</b>

# RELIABILITY COSTS – NET COMMITMENT PERIOD COMPENSATION (NCPC) OPERATING COSTS



# What are Daily NCPC Payments?

- Payments made to resources whose commitment and dispatch by ISO-NE resulted in a shortfall between the resource's offered value in the Energy and Regulation Markets and the revenue earned from output during the day
- Typically, this is the result of some out-of-merit operation of resources occurring in order to protect the overall resource adequacy and transmission security of specific locations or of the entire control area
- NCPC payments are intended to make a resource that follows the ISO's operating instructions "no worse off" financially than the best alternative generation schedule



# Definitions

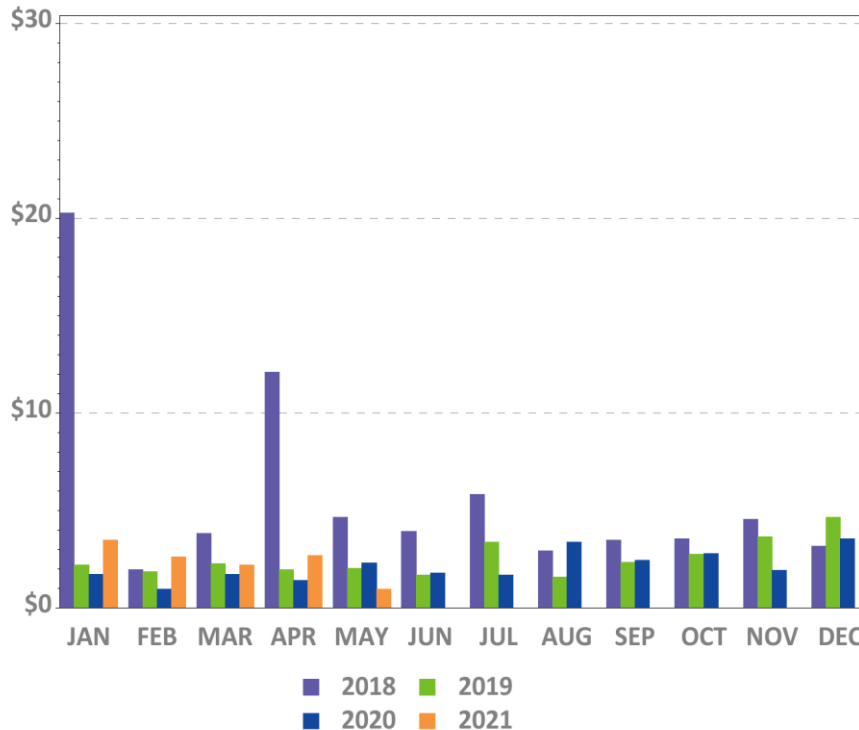
1 <sup>st</sup> Contingency NCPC Payments	Reliability costs paid to eligible resources that are providing first contingency (1stC) protection (including low voltage, system operating reserve, and load serving) either system-wide or locally
2 <sup>nd</sup> Contingency NCPC Payments	Reliability costs paid to resources providing capacity in constrained areas to respond to a local second contingency. They are committed based on 2 <sup>nd</sup> Contingency (2ndC) protocols, and are also known as Local Second Contingency Protection Resources (LSCPR)
Voltage NCPC Payments	Reliability costs paid to resources operated by ISO-NE to provide voltage support or control in specific locations
Distribution NCPC Payments	Reliability costs paid to units dispatched at the request of local transmission providers for purpose of managing constraints on the low voltage (distribution) system. These requirements are not modeled in the DA Market software
OATT	Open Access Transmission Tariff

# Charge Allocation Key

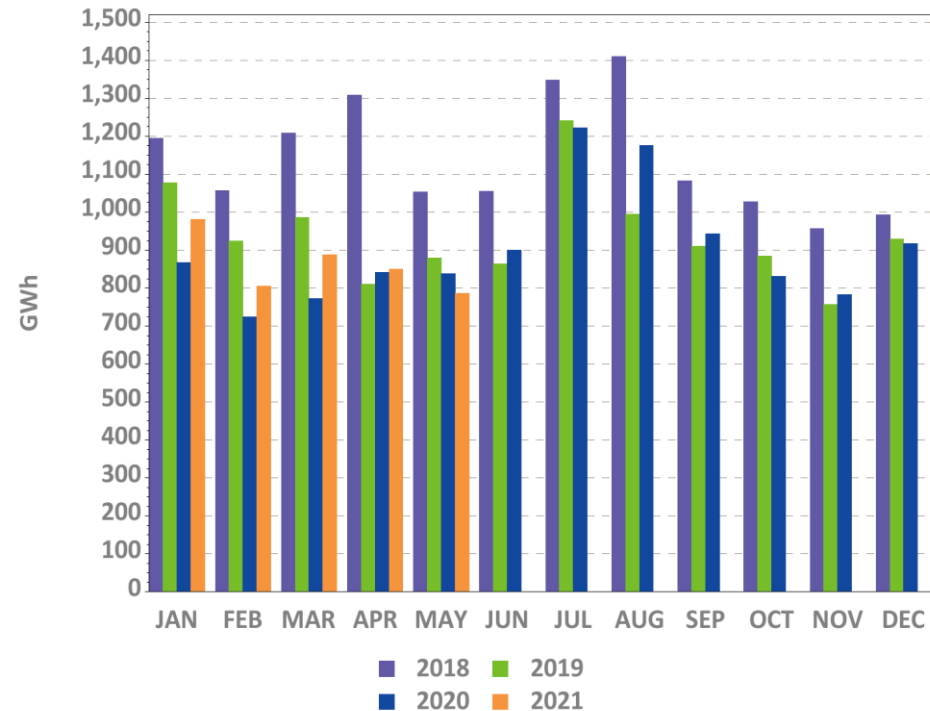
Allocation Category	Market / OATT	Allocation
System 1 <sup>st</sup> Contingency	Market	DA 1 <sup>st</sup> C (excluding at external nodes) is allocated to system DALO. RT 1 <sup>st</sup> C (at all locations) is allocated to System 'Daily Deviations'. Daily Deviations = sum of(generator deviations, load deviations, generation obligation deviations at external nodes, increment offer deviations)
External DA 1 <sup>st</sup> Contingency	Market	DA 1 <sup>st</sup> C at external nodes (from imports, exports, Incs and Decs) are allocated to activity at the specific external node or interface involved
Zonal 2 <sup>nd</sup> Contingency	Market	DA and RT 2 <sup>nd</sup> C NCPC are allocated to load obligation in the Reliability Region (zone) served
System Low Voltage	OATT	(Low) Voltage Support NCPC is allocated to system Regional Network Load and Open Access Same-Time Information Service (OASIS) reservations
Zonal High Voltage	OATT	High Voltage Control NCPC is allocated to zonal Regional Network Load
Distribution - PTO	OATT	Distribution NCPC is allocated to the specific Participant Transmission Owner (PTO) requesting the service
System – Other	Market	Includes GPA, Economic Generator/DARD Posturing, Dispatch Lost Opportunity Cost (DLOC), and Rapid Response Pricing (RRP) Opportunity Cost NCPC (allocated to RTLO); and Min Generation Emergency NCPC (allocated to RTGO).

# Year-Over-Year Total NCPC Dollars and Energy

NCPC Dollars



NCPC Energy\*



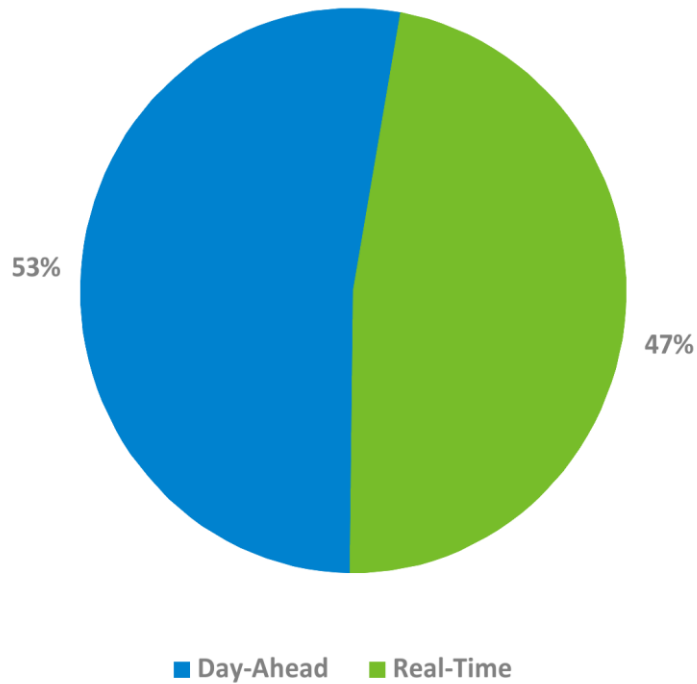
\* NCPC Energy GWh reflect the DA and/or RT economic minimum loadings of all units receiving DA or RT NCPC credits (except for DLOC, RRP, or posturing NCPC), assessed during hours in which they are NCPC-eligible. Scheduled MW for external transactions receiving NCPC are also reflected. All NCPC components (1<sup>st</sup> Contingency, 2<sup>nd</sup> Contingency, Voltage, and RT Distribution) are reflected.



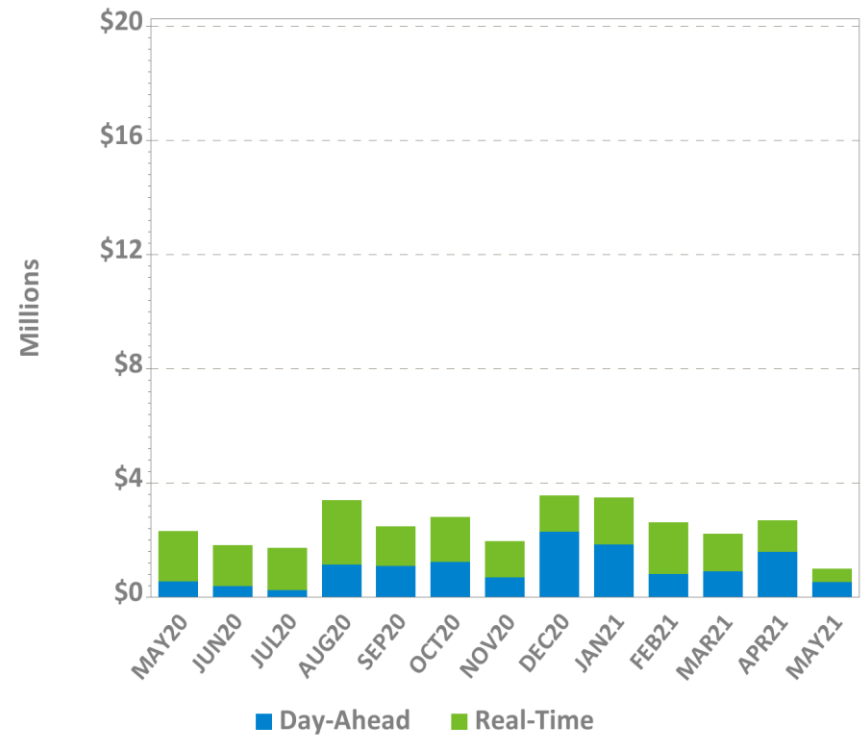


# DA and RT NCPC Charges

May-21 Total = \$0.99 M

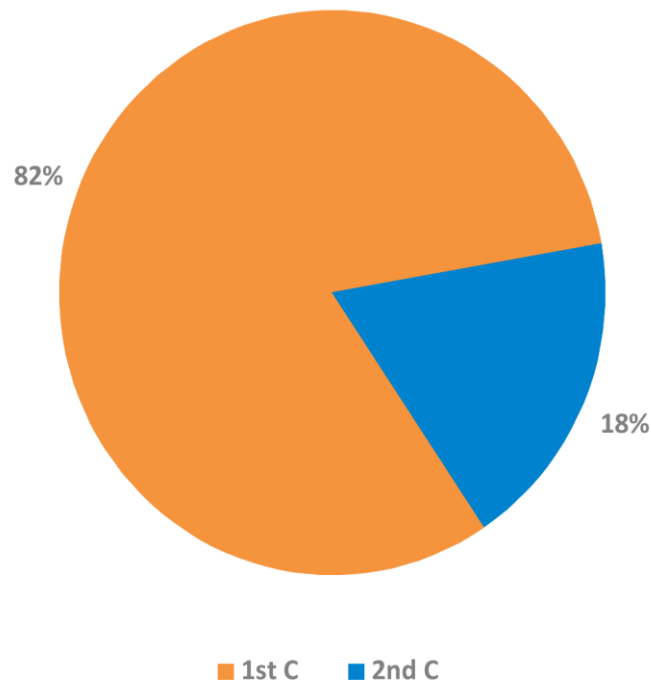


Last 13 Months



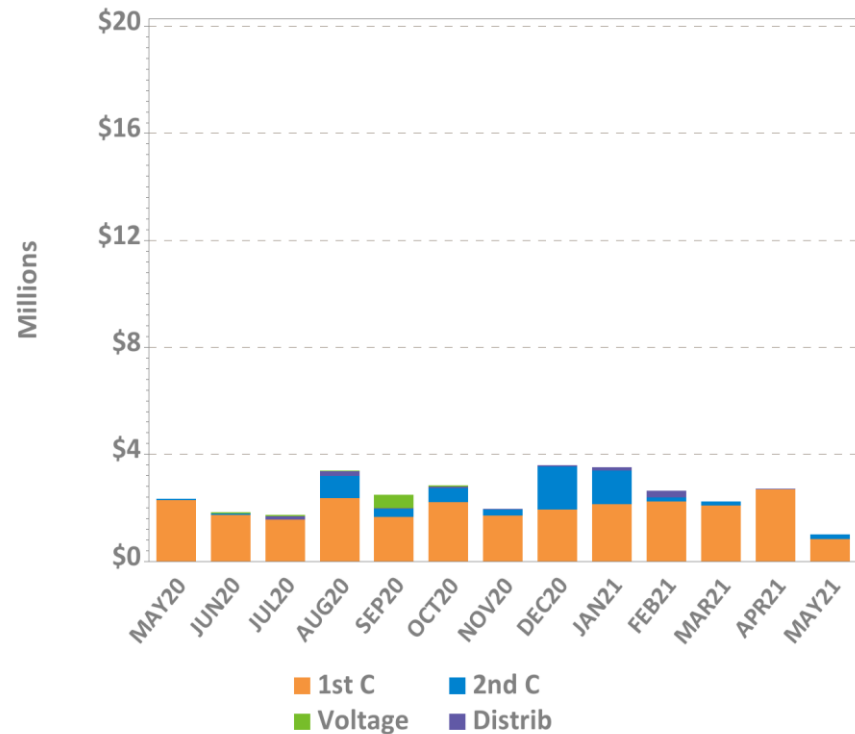
# NCPC Charges by Type

May-21 Total = \$0.99 M

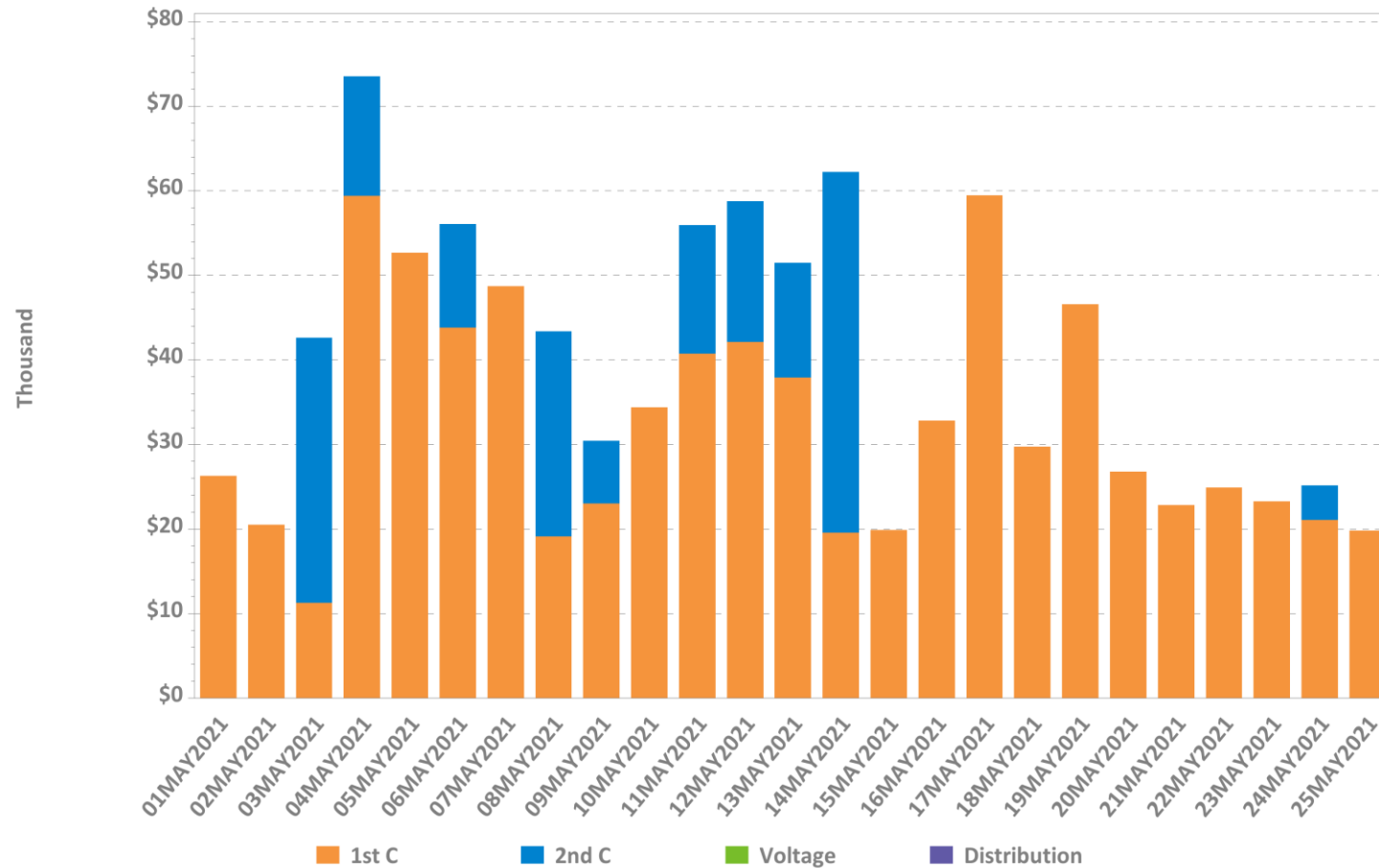


1<sup>st</sup> C – First Contingency  
2<sup>nd</sup> C – Second Contingency  
Distrib – Distribution  
Voltage – Voltage

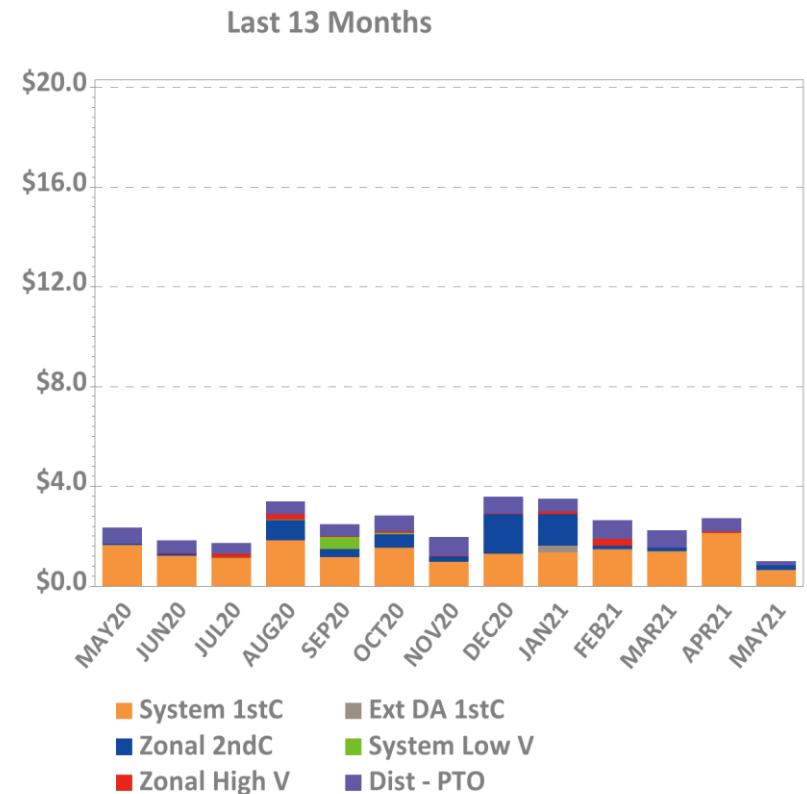
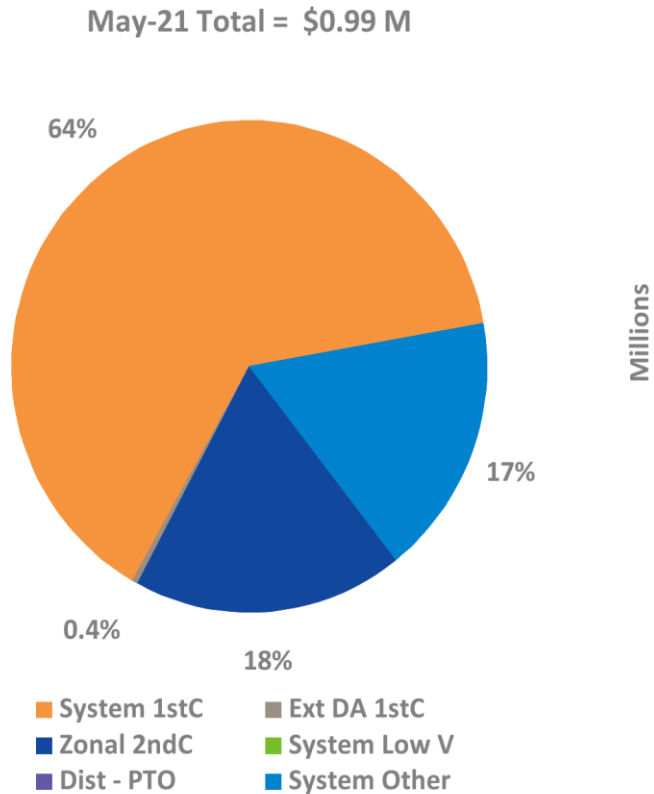
Last 13 Months



# Daily NCPC Charges by Type

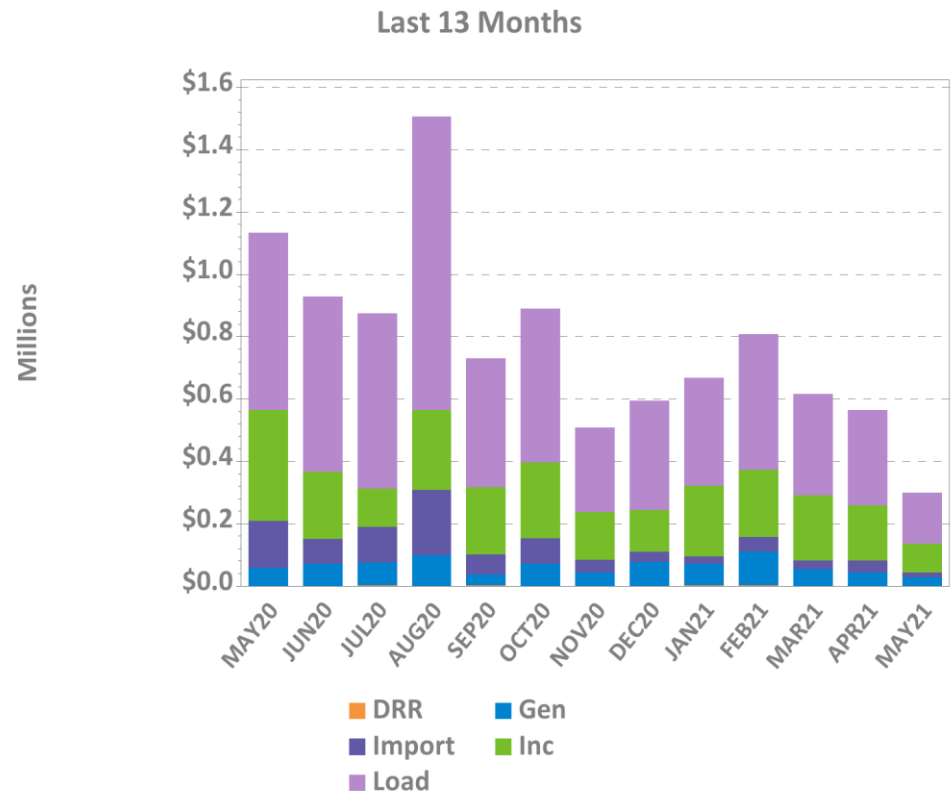
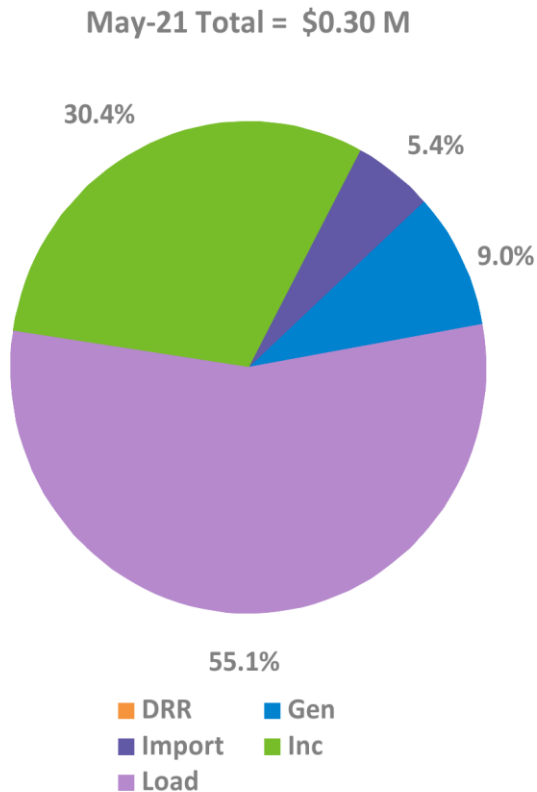


# NCPC Charges by Allocation



Note: 'System Other' includes, as applicable: Resource Economic Posturing, GPA, Min Gen Emergency, Dispatch Lost Opportunity Cost (DLOC), and Rapid Response Pricing (RRP) Opportunity Cost credits.

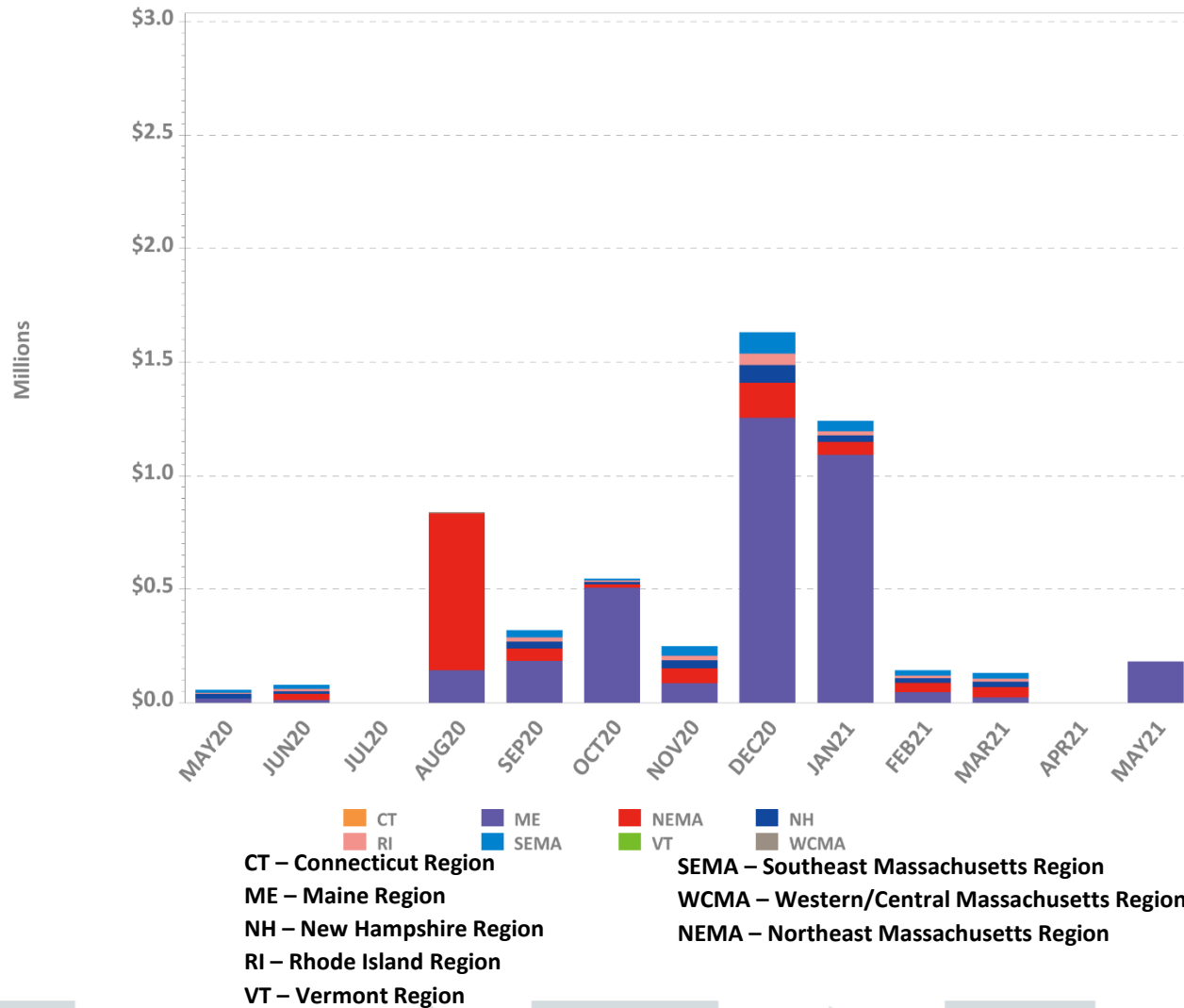
# RT First Contingency Charges by Deviation Type



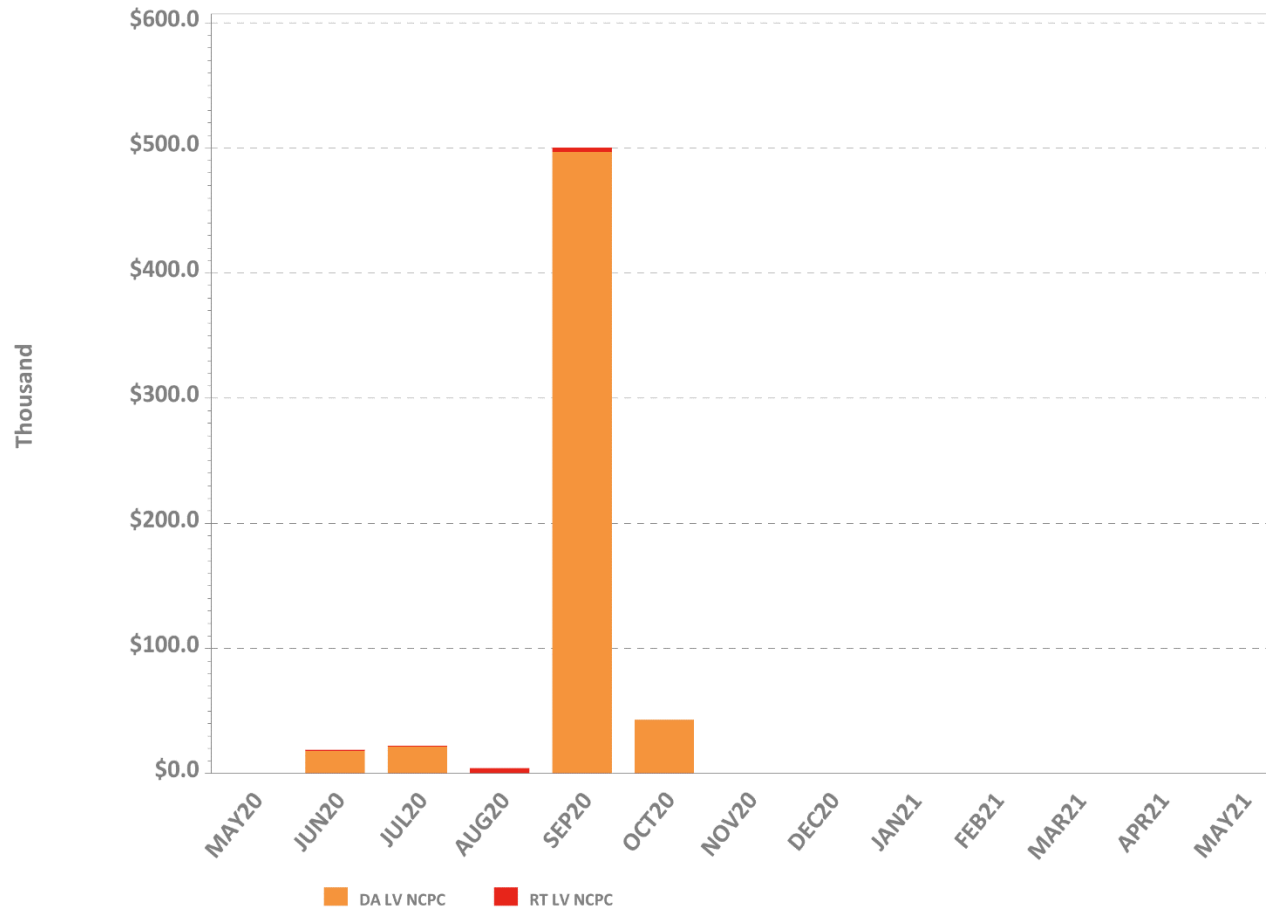
DRR – Demand Response Resource deviations  
Gen – Generator deviations  
Inc – Increment Offer deviations  
Import – Import deviations  
Load – Load obligation deviations



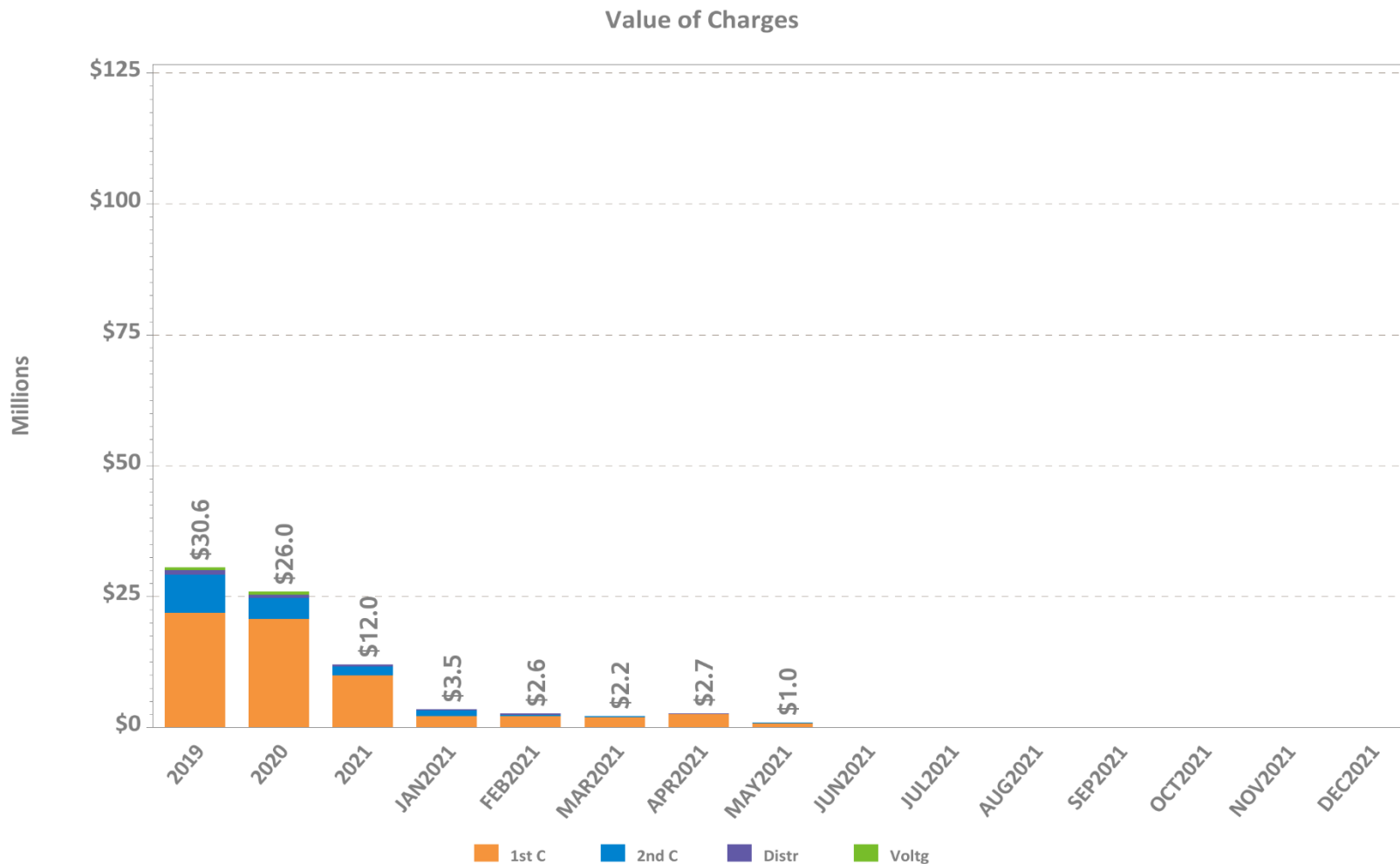
# LSCPR Charges by Reliability Region



# NCPC Charges for Voltage Support and High Voltage Control

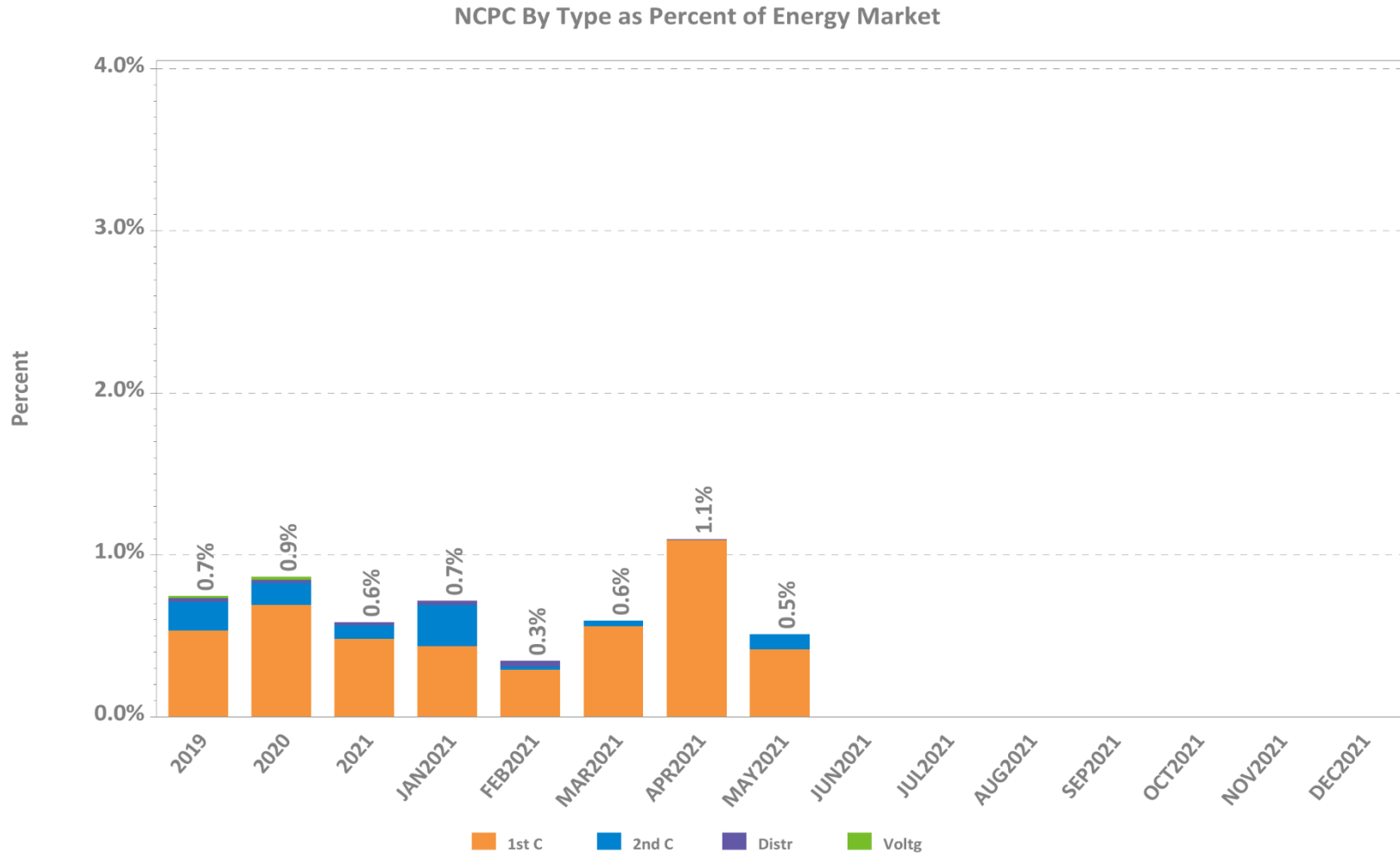


# NCPC Charges by Type

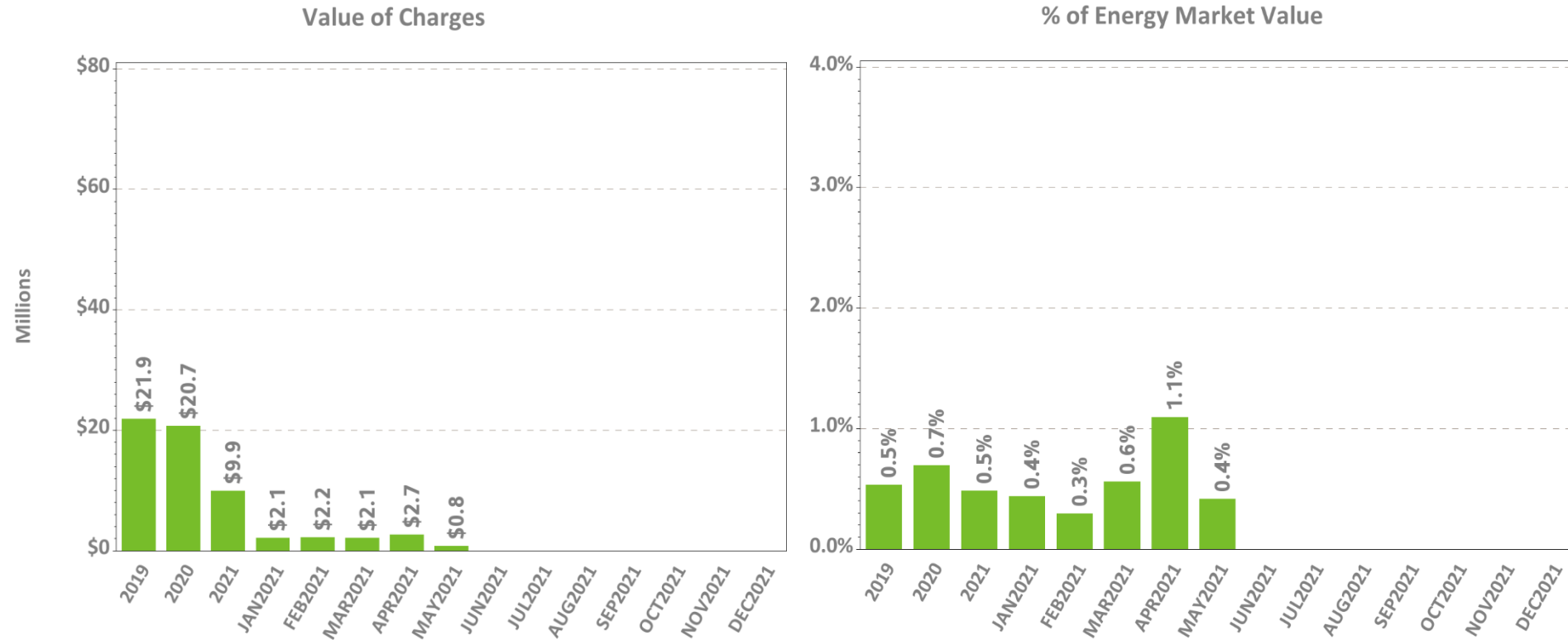




# NCPC Charges as Percent of Energy Market



# First Contingency NCPC Charges

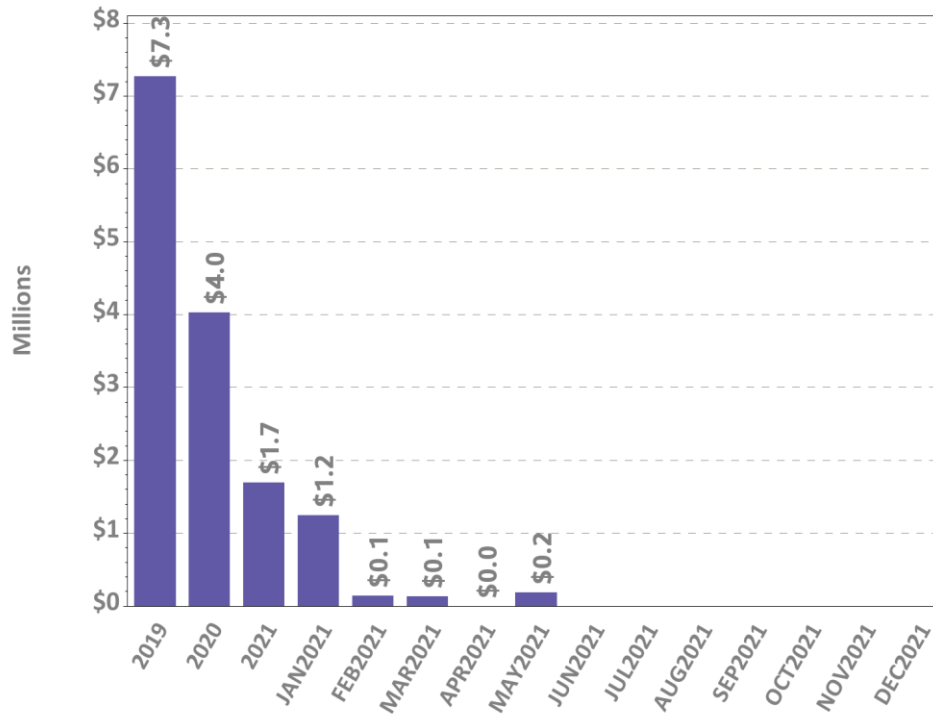


**Note:** Energy Market value is the hourly locational product of load obligation and price in the DA Market plus the hourly locational product of price and RT Load Obligation Deviation in the RT Market

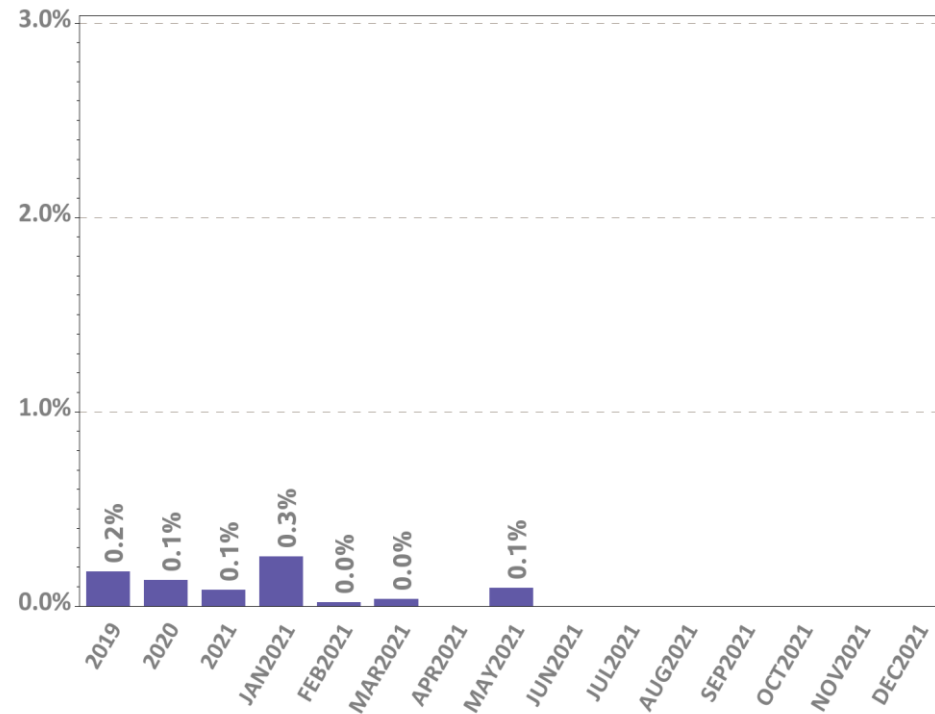


# Second Contingency NCPC Charges

Value of Charges



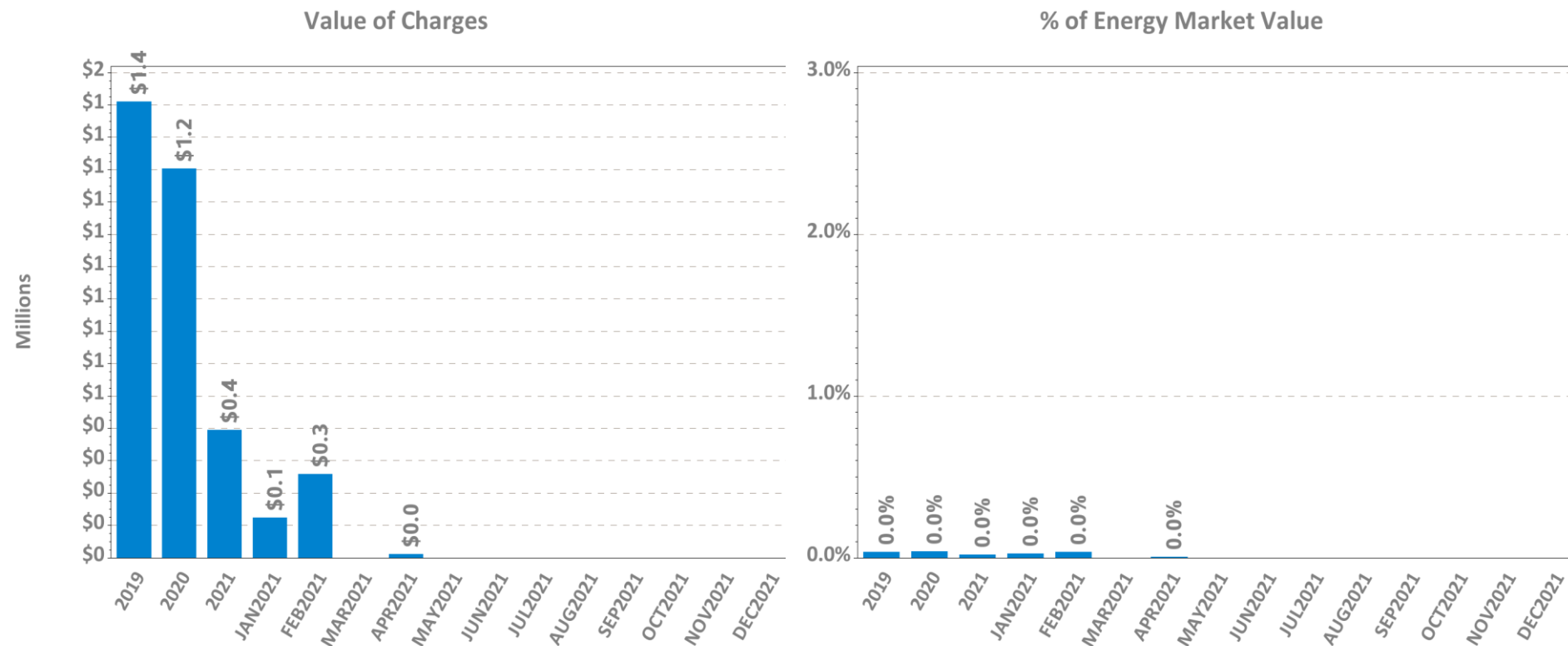
% of Energy Market Value



**Note:** Energy Market value is the hourly locational product of load obligation and price in the DA Market plus the hourly locational product of price and RT Load Obligation Deviation in the RT Market



# Voltage and Distribution NCPC Charges



Note: Energy Market value is the hourly locational product of load obligation and price in the DA Market plus the hourly locational product of price and RT Load Obligation Deviation in the RT Market



# DA vs. RT Pricing

## The following slides outline:

- This month vs. prior year's average LMPs and fuel costs
- Reserve Market results
- DA cleared load vs. RT load
- Zonal and total incs and decs
- Self-schedules
- DA vs. RT net interchange



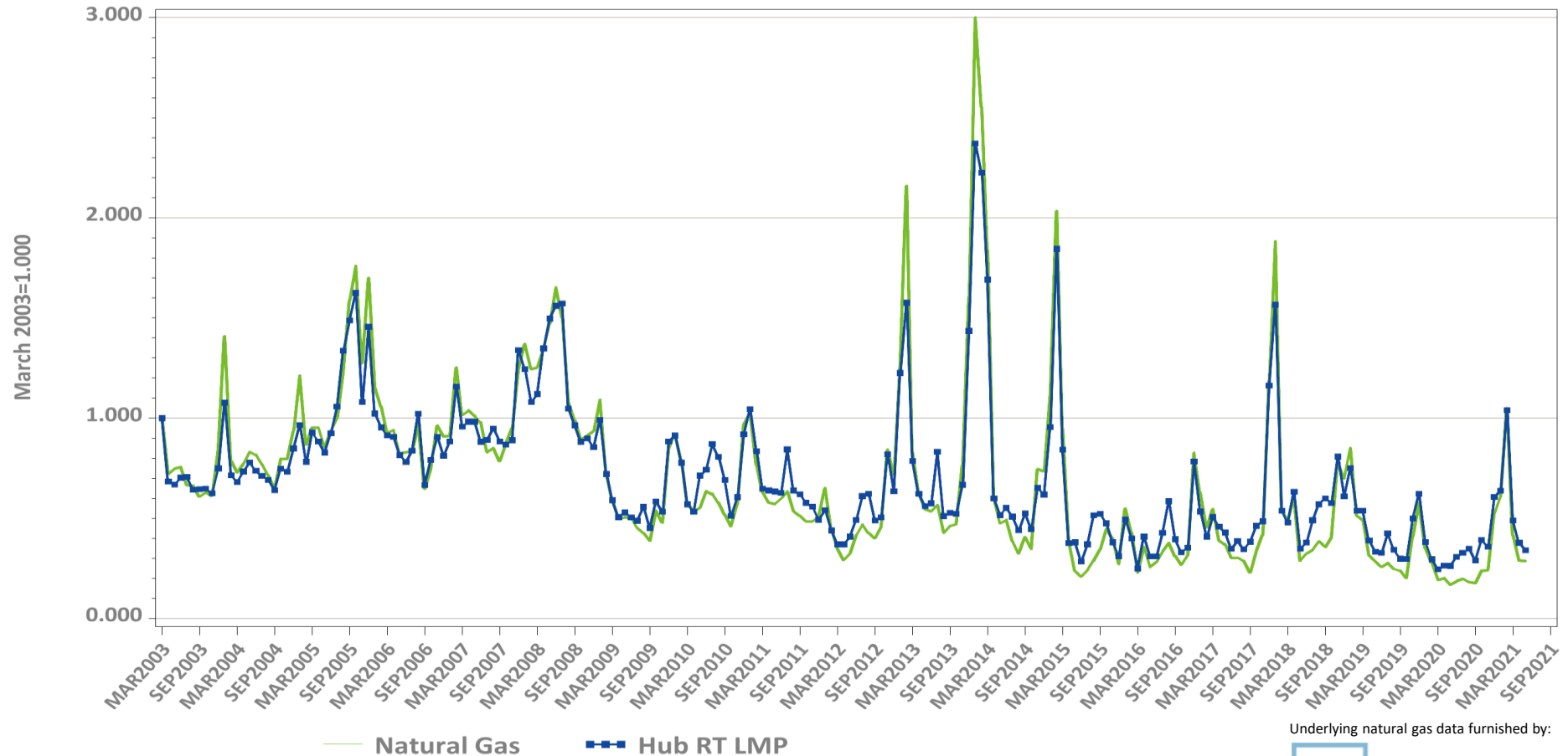
# DA vs. RT LMPs (\$/MWh)

Arithmetic Average

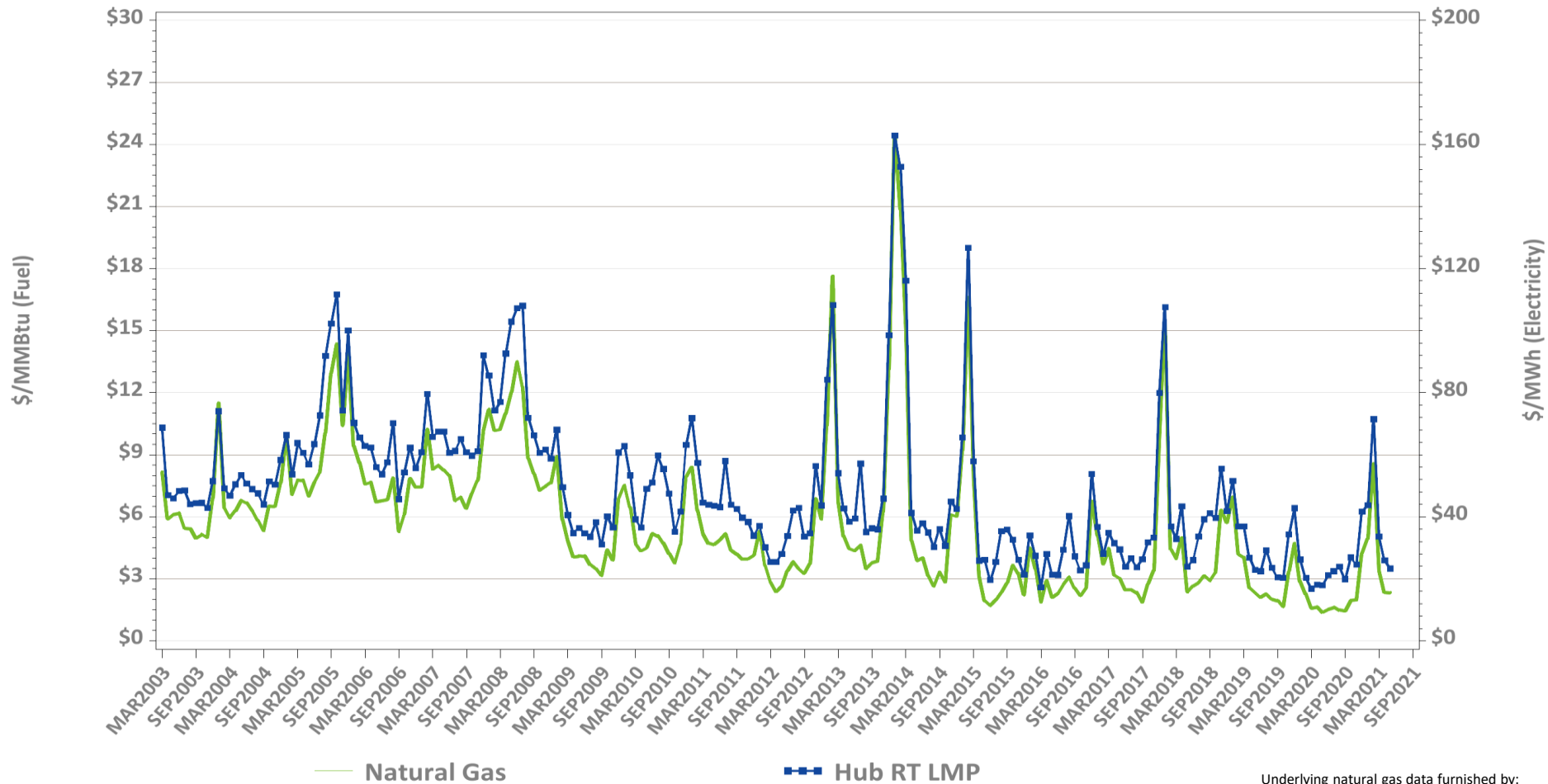
Year 2019	NEMA	CT	ME	NH	VT	RI	SEMA	WCMA	Hub
Day-Ahead	\$31.54	\$30.72	\$30.76	\$31.20	\$30.67	\$31.19	\$31.51	\$31.24	\$31.22
Real-Time	\$30.92	\$30.26	\$30.12	\$30.70	\$30.05	\$30.61	\$30.80	\$30.68	\$30.67
RT Delta %	-2.0%	-1.5%	-2.1%	-1.6%	-2.0%	-1.9%	-2.2%	-1.8%	-1.8%
Year 2020	NEMA	CT	ME	NH	VT	RI	SEMA	WCMA	Hub
Day-Ahead	\$23.62	\$22.59	\$23.27	\$23.50	\$22.76	\$23.27	\$23.57	\$23.30	\$23.32
Real-Time	\$23.62	\$22.91	\$23.23	\$23.54	\$22.90	\$23.29	\$23.56	\$23.37	\$23.38
RT Delta %	0.0%	1.4%	-0.2%	0.2%	0.6%	0.1%	-0.1%	0.3%	0.3%

May-20	NEMA	CT	ME	NH	VT	RI	SEMA	WCMA	Hub
Day-Ahead	\$16.54	\$16.20	\$15.65	\$16.28	\$15.93	\$16.44	\$16.66	\$16.46	\$16.48
Real-Time	\$18.07	\$17.72	\$16.93	\$17.83	\$17.40	\$17.89	\$18.12	\$17.95	\$17.97
RT Delta %	9.3%	9.4%	8.2%	9.6%	9.2%	8.8%	8.8%	9.0%	9.0%
May-21	NEMA	CT	ME	NH	VT	RI	SEMA	WCMA	Hub
Day-Ahead	\$25.10	\$24.57	\$24.52	\$24.88	\$24.27	\$24.94	\$25.13	\$24.96	\$24.96
Real-Time	\$23.48	\$23.09	\$23.03	\$23.30	\$22.74	\$23.26	\$23.47	\$23.33	\$23.32
RT Delta %	-6.5%	-6.1%	-6.1%	-6.3%	-6.3%	-6.7%	-6.6%	-6.5%	-6.6%
Annual Diff.	NEMA	CT	ME	NH	VT	RI	SEMA	WCMA	Hub
Yr over Yr DA	51.8%	51.7%	56.7%	52.9%	52.3%	51.7%	50.8%	51.6%	51.4%
Yr over Yr RT	29.9%	30.3%	36.0%	30.7%	30.7%	30.0%	29.6%	30.0%	29.8%

# Monthly Average Fuel Price and RT Hub LMP Indexes



# Monthly Average Fuel Price and RT Hub LMP



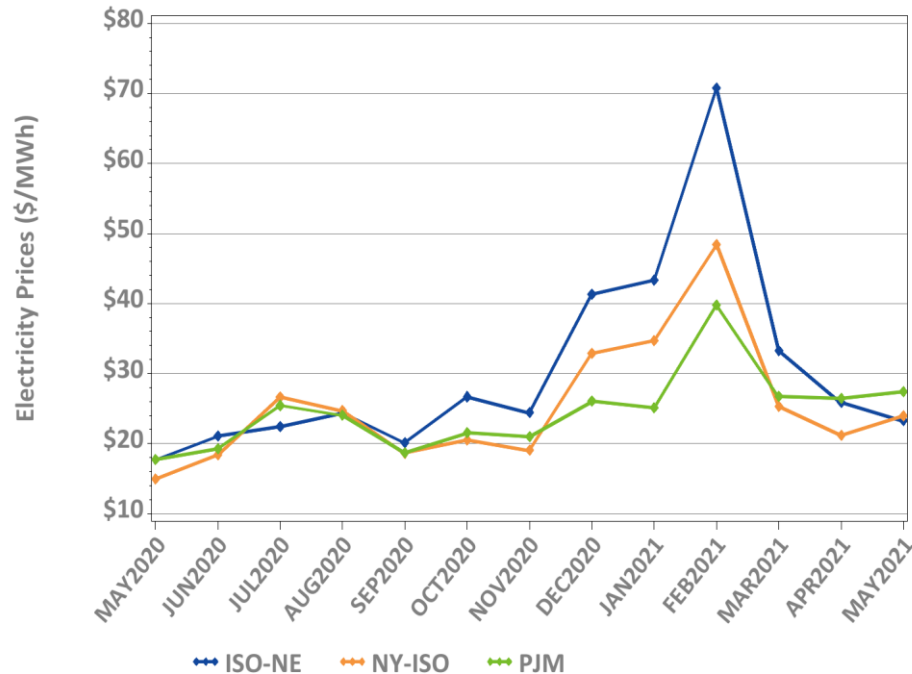
Underlying natural gas data furnished by:





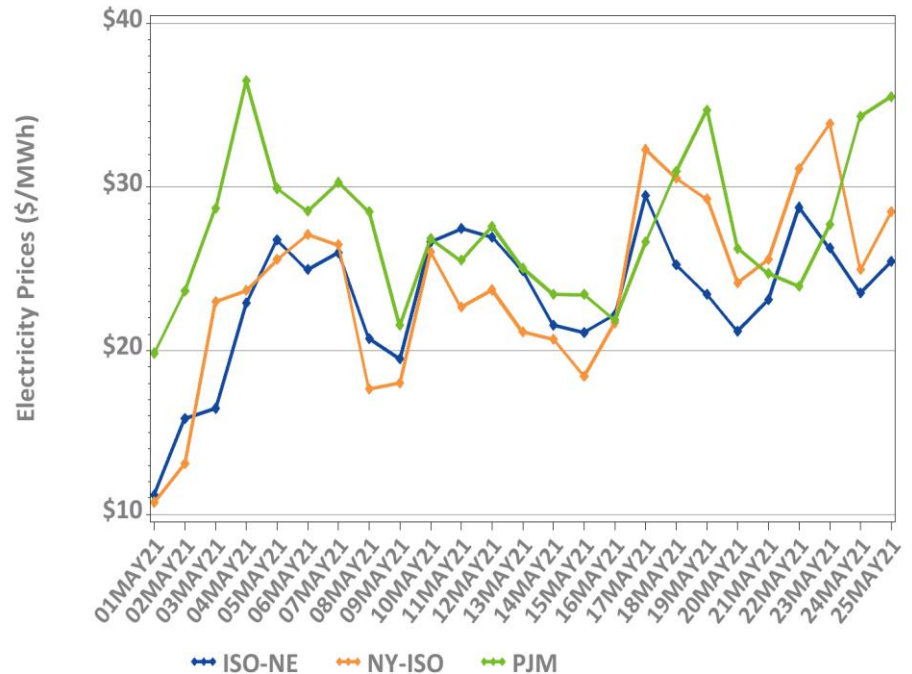
# New England, NY, and PJM Hourly Average Real Time Prices by Month

Monthly, Last 13 Months



\*Note: Hourly average prices are shown.

Daily: This Month

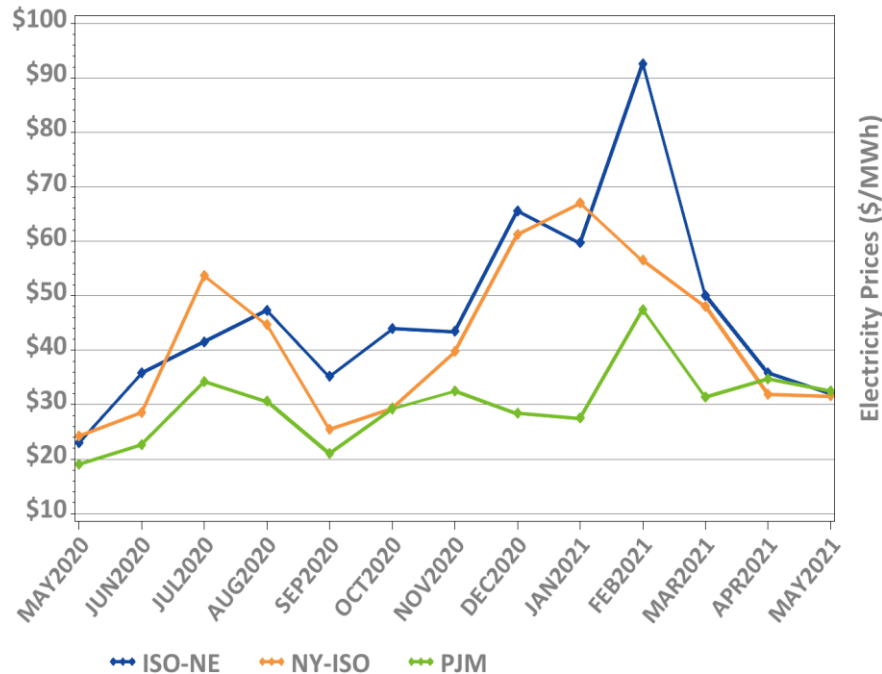


\*Note: Hourly average prices are shown.

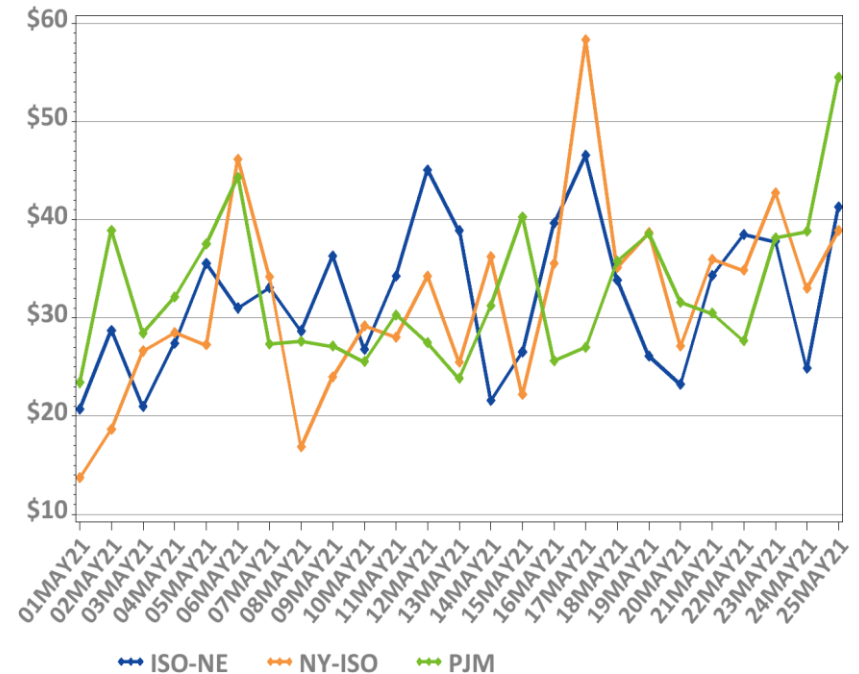


# New England, NY, and PJM Average Peak Hour Real Time Prices

Monthly, Last 13 Months



Daily: This Month



\*Forecasted New England daily peak hours reflected

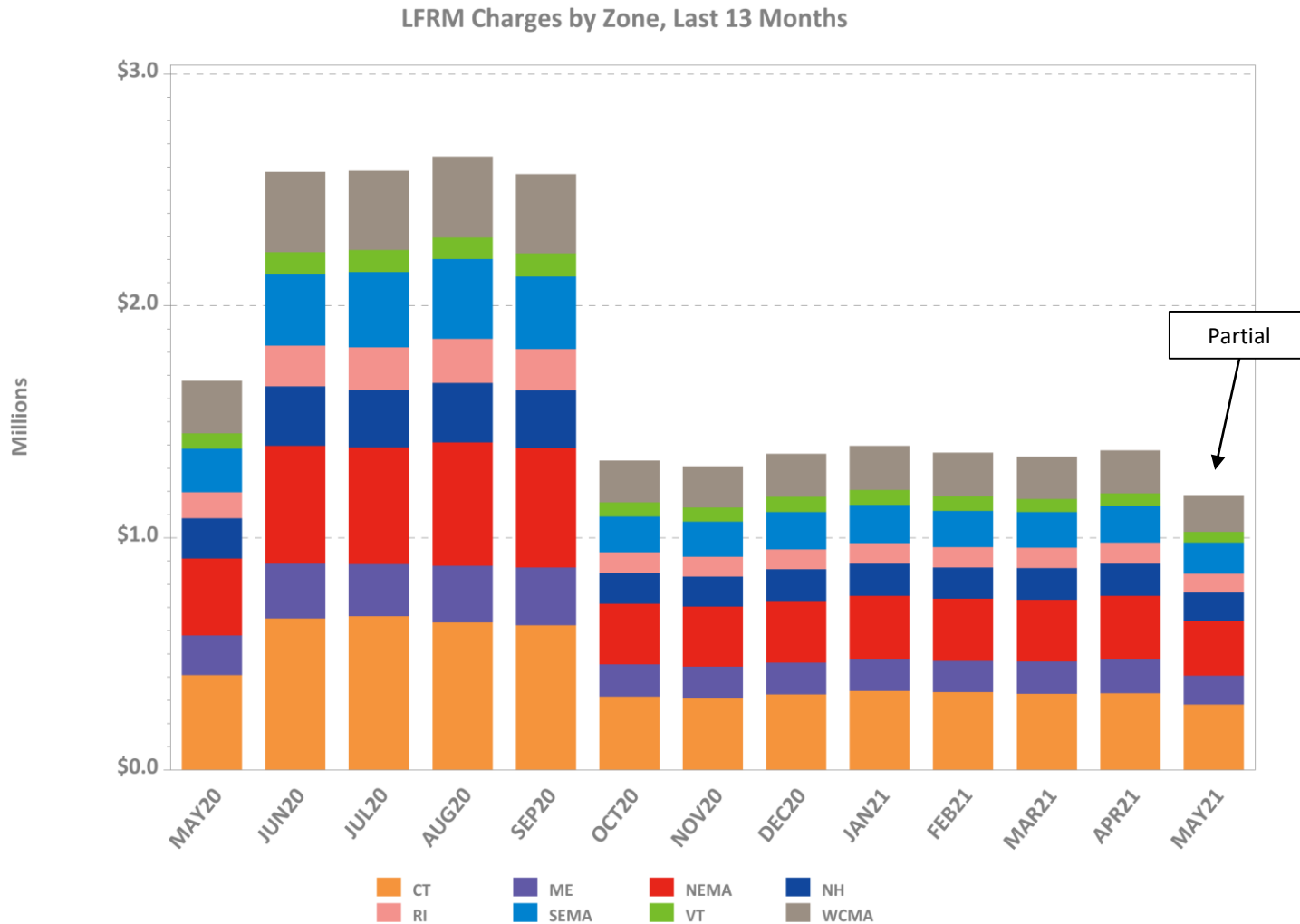
# Reserve Market Results – May 2021

- Maximum potential Forward Reserve Market payments of \$1.2M were reduced by credit reductions of \$11K, failure-to-reserve penalties of \$16K and no failure-to-activate penalties, resulting in a net payout of \$1.1M or 98% of maximum
  - Rest of System: \$0.92M/0.94M (98%)
  - Southwest Connecticut: \$0.03M/0.03M (100%)
  - Connecticut: \$0.23M/0.24M (97%)
- \$185K total Real-Time credits were not reduced by any Forward Reserve Energy Obligation Charges for a net of \$185K in Real-Time Reserve payments
  - Rest of System: 157 hours, \$130K
  - Southwest Connecticut: 157 hours, \$23K
  - Connecticut: 157 hours, \$22K
  - NEMA: 157 hours, \$10K

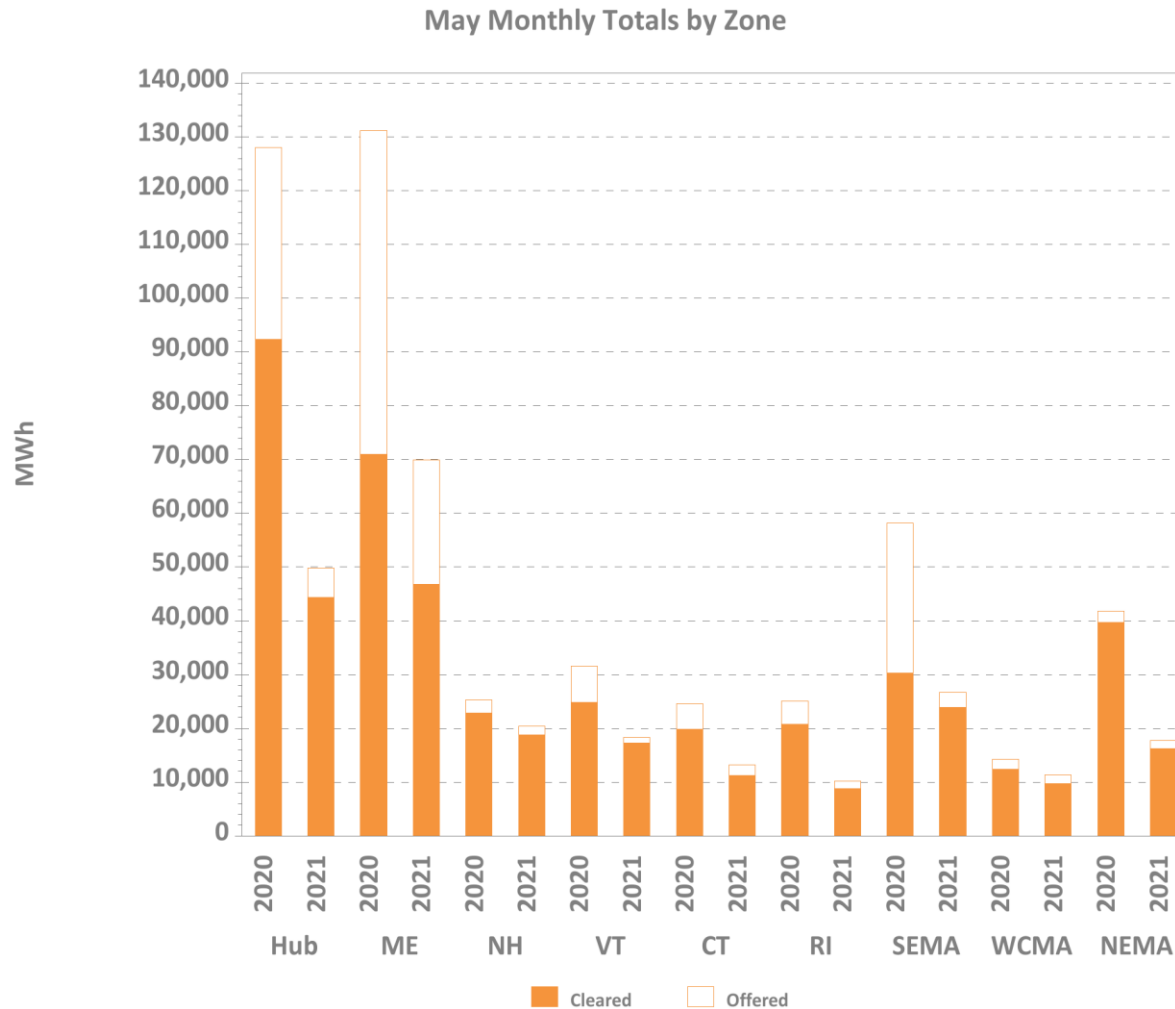
Note: “Failure to reserve” results in both credit reductions and penalties in the Locational Forward Reserve Market. While this summary reports performance by location, there were no locational requirements in effect for the current Forward Reserve auction period.



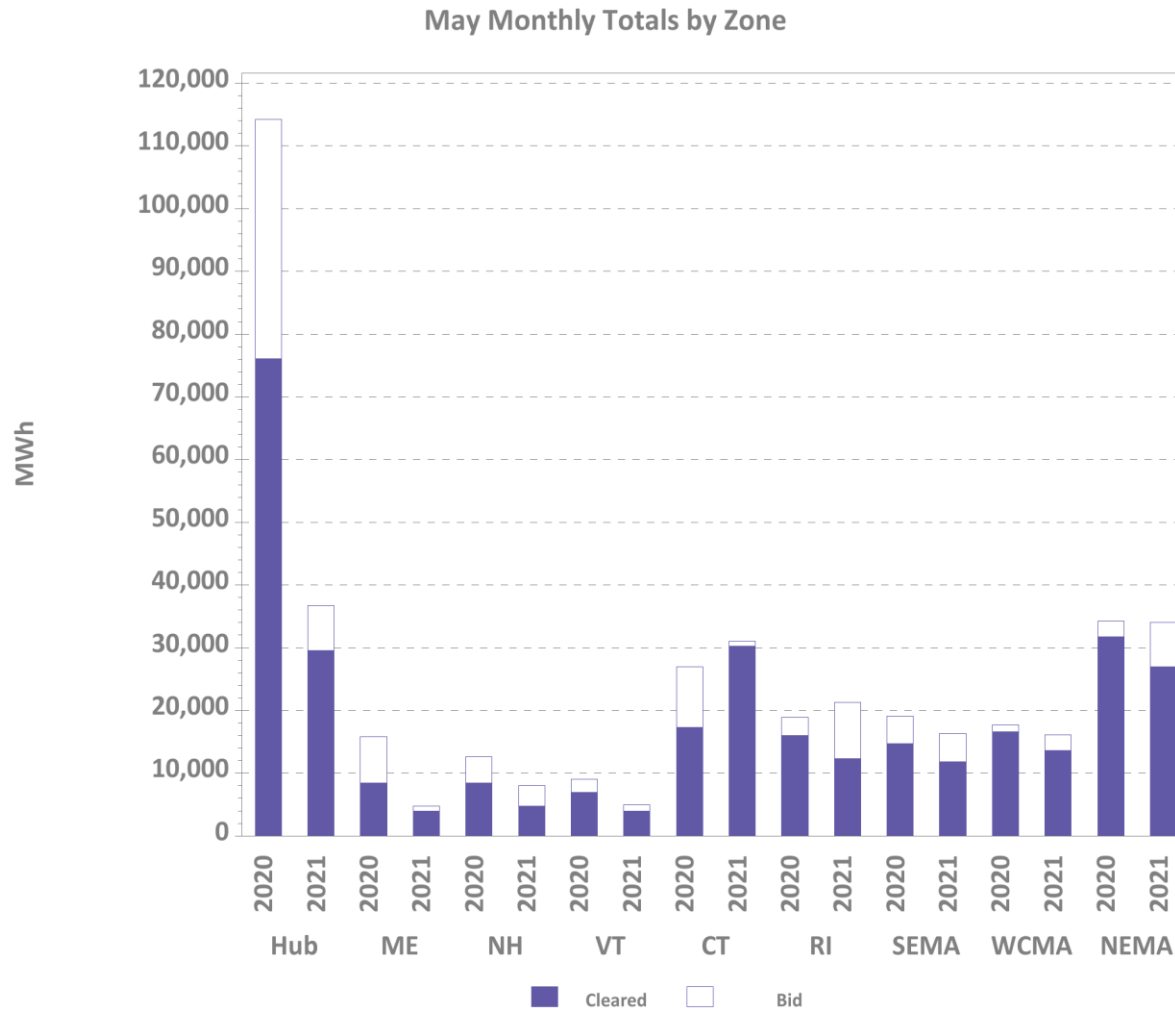
# LFRM Charges to Load by Load Zone (\$)



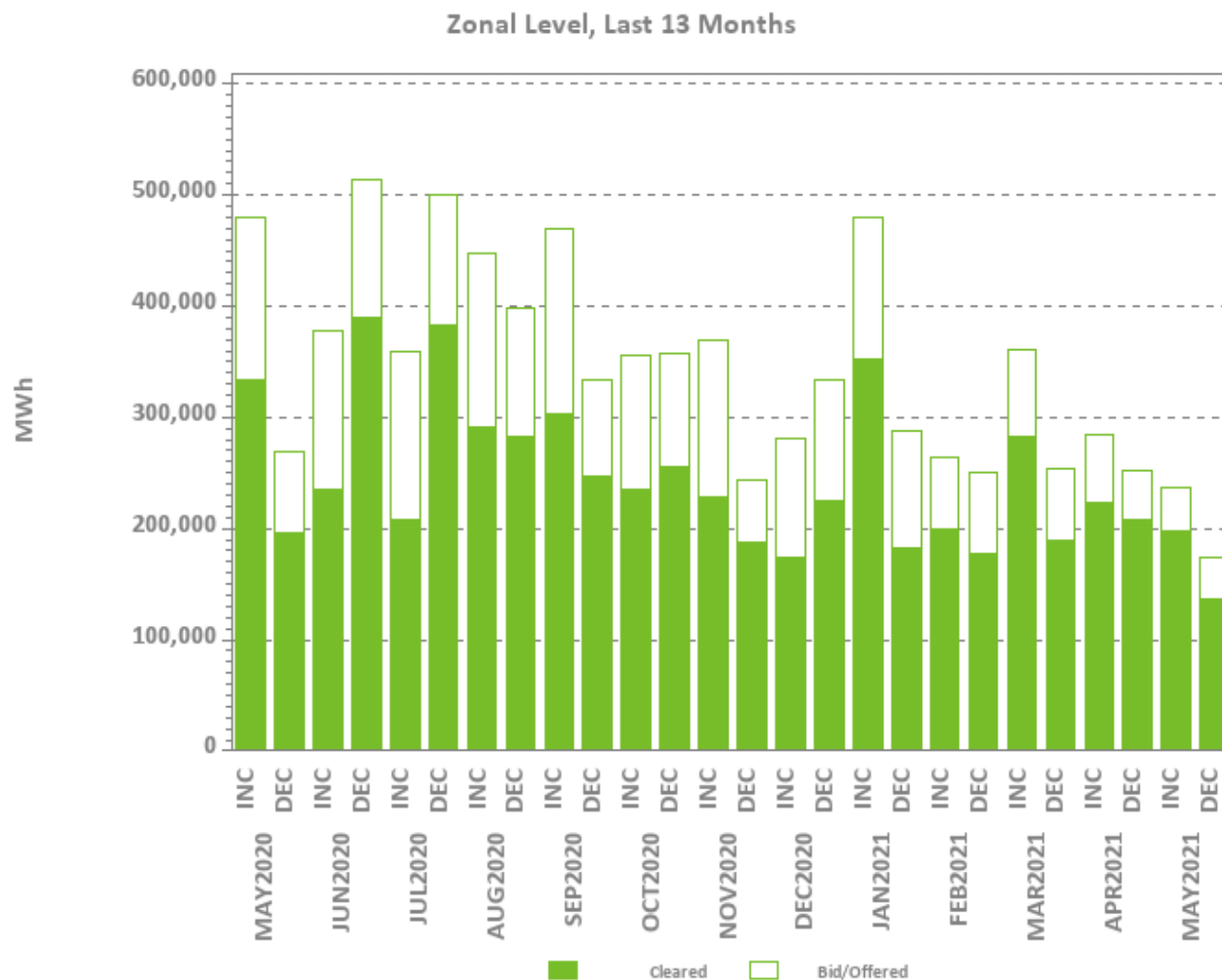
# Zonal Increment Offers and Cleared Amounts



# Zonal Decrement Bids and Cleared Amounts

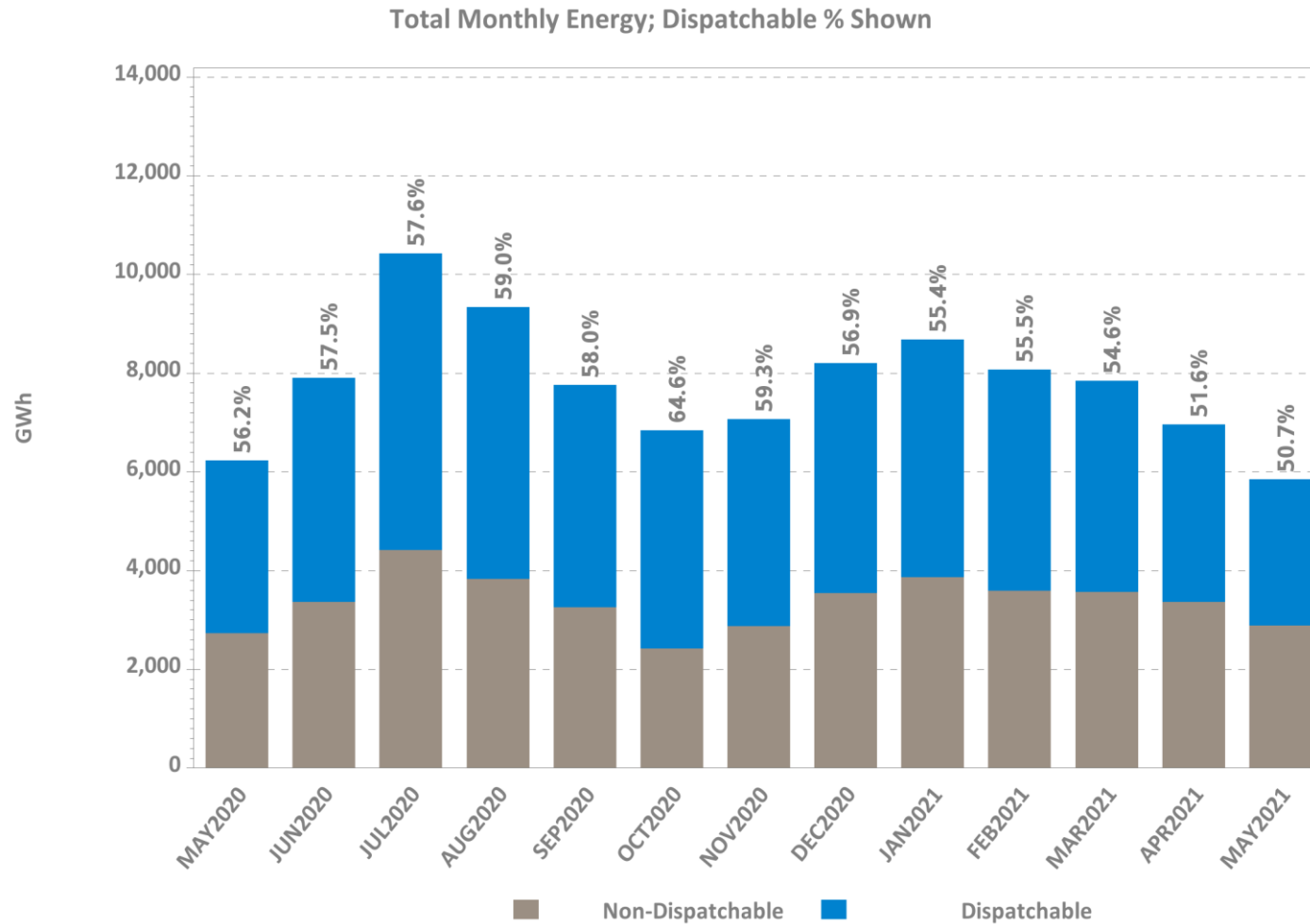


# Total Increment Offers and Decrement Bids



Data excludes nodal offers and bids

# Dispatchable vs. Non-Dispatchable Generation



\* Dispatchable MWh here are defined to be all generation output that is not self-committed ('must run') by the customer.





# REGIONAL SYSTEM PLAN (RSP)



# Regional System Plan (RSP)

- 2021 is an RSP publication year (RSP21)
- Over the next few months, supporting presentations will be made at the PAC
- The report will be much shorter and the Executive Summary will be more comprehensive
  - Static information found in the RSP to be moved to the ISO-NE website
  - Dynamic information found in the RSP to be included in the report but at a high level
- RSP21 Public Meeting will be held virtually on October 6



# Planning Advisory Committee (PAC)

- June 16 PAC Meeting Agenda Topics\*
  - C-129N 115 kV Line (Millbury #2 - Beaver Pond) Fiber Installation
  - X-176 115 kV Line (Ludlow - Palmer) Asset Condition Project
  - Line 690 Rebuild and Asset Condition Project
  - 115 kV and 230 kV Wood Pole and Shield Wire Replacements
  - RSP Transmission Projects and Asset Condition June 2021 Update
  - Representative Future Locational Reserve Needs for Current Reserve Zones
  - 2021 Economic Study - Future Grid Reliability Study Phase I - Overview of Assumptions Part 3
  - 2021 Economic Study - Future Grid Reliability Study Phase I - Preliminary Production Cost Results Part 1
  - Net ICRs, Representative Future Net ICRs and Operable Capacity Analysis for 2021 RSP
  - Transmission Planning for the Clean Energy Transition: Pilot Study Preliminary Results

\* Agenda topics are subject to change. Visit <https://www.iso-ne.com/committees/planning/planning-advisory> for the latest PAC agendas.



# Transmission Planning for the Clean Energy Transition

- On 9/24/20 the ISO initiated discussions with the PAC about proposed refinements to study assumptions that better reflect long-term trends, such as increased amounts of distributed-energy resources (primarily solar PV), offshore wind generation, and battery energy storage
- A follow-up presentation at the 11/19/20 PAC meeting outlined a proposal for a pilot study, with the following goals:
  - Explore transmission reliability concerns that may result from various system conditions possible by 2030
  - Quantify trade-offs necessary between transmission system reliability/flexibility and transmission investment cost
  - Inform future discussions on transmission planning study assumptions
- An overview of the system conditions and dispatch assumptions for the pilot study was discussed at the 12/16/20 and 1/21/21 PAC meetings
- Preliminary discussions of high-level results are expected to begin at the 6/16/21 PAC meeting, with further discussion of results continuing throughout Q3



# Economic Studies

- 2020 Economic Study Request
  - Study proponent is National Grid
  - Study simulations are complete, and results have been presented to PAC
    - Ancillary Services simulations will not be performed
    - Draft report to be completed by Q2 2021
- 2021 Economic Study Request
  - Submitted in accordance with Attachment K, Section 4.1(b) of the Tariff
  - FGRS Phase 1 Study will be the only 2021 economic study, which was submitted by NEPOOL
    - Assumptions and results presentations will go to the PAC monthly, with periodic updates to the MC/RC



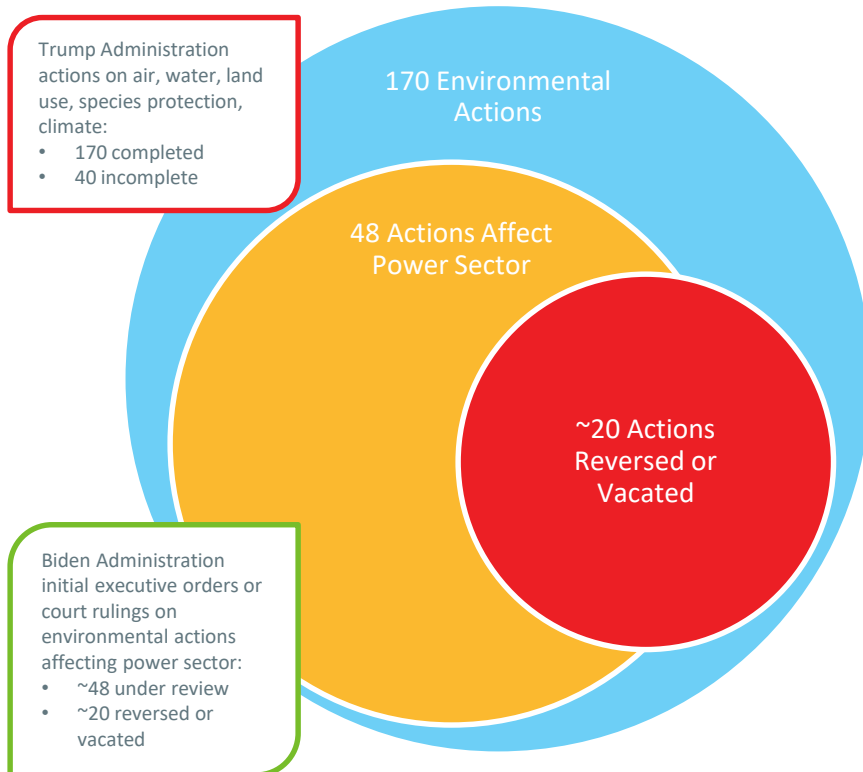
# Future Grid Reliability Study (FGRS)

- Phase 1
  - Studies include: Production Cost Simulations; Ancillary Services Simulations; Resource Adequacy Screen; and Probabilistic Resource Availability Analysis
  - Framework Document and supporting assumptions table, which describe study scenarios and objectives, have been developed by stakeholders
  - The ISO is working on model development by reviewing assumptions with NEPOOL
  - Production Cost Simulations initial results to be presented at the June PAC
  - Phase 1 work was submitted as the only 2021 economic study
- Phase 2
  - Studies include: Revenue Sufficiency Analysis and Transmission Security
  - Studies will be delayed as the Pathways and 2050 Transmission studies are further defined
  - Studies likely to be performed by a consultant
  - Embellishment of the study scope continues at the MC/RC



# Environmental Matters – Shift in Federal Priorities

*Many Prior Actions under Review, Vacated or Reversed, Regional Impact Unclear*



Source: White House

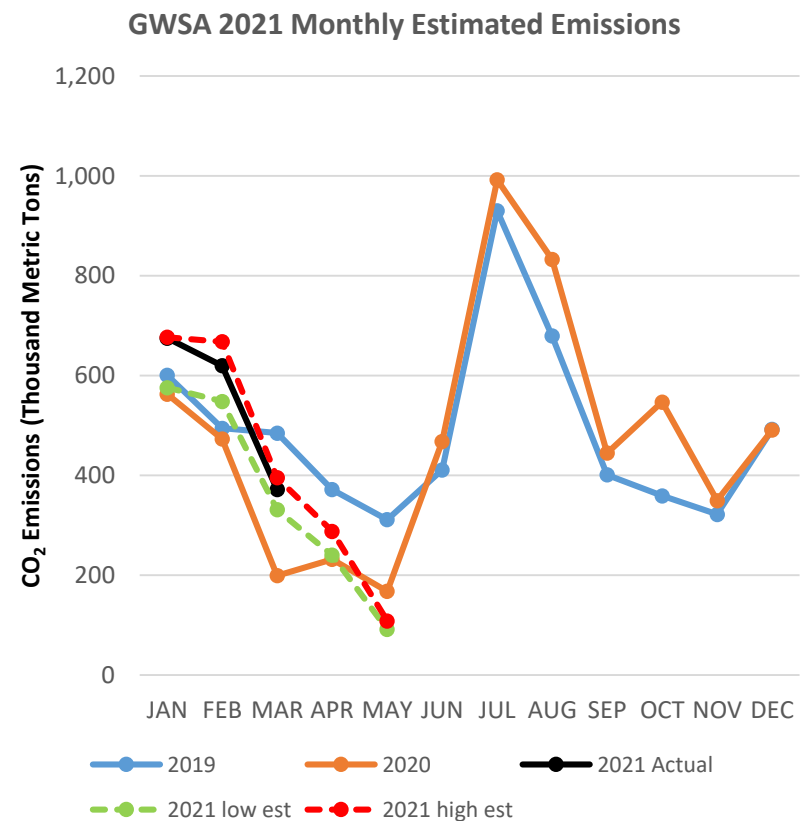
- **Enforcement:** EPA may prioritize enforcement where low-income or minority populations are affected
- **Permitting and Environmental Review:** environmental equity and cumulative burden on host communities expected to have greater weight
- **New and Revised Regulations:** federal agencies already reexamining Trump Administration environmental regulatory actions

# Environmental Matters – Massachusetts CO<sub>2</sub> Generator Emissions Cap

## 2021 CO<sub>2</sub> Emissions Trending Higher Than Past 1<sup>st</sup> Quarters

- 5/16/21: 2021 estimated CO<sub>2</sub> emissions range between 1.78 and 2.13 million metric tons (MMT):
  - 2.2 MMT in 2019; 1.6 MMT in 2020
  - 22% to 26% of the 8.23 MMT 2021 cap
- 3/11/21: GWSA auction clearing price was \$6.50 per metric ton
  - GWSA allowances valued below RGGI allowances (RGGI allowances \$7.21 per metric ton (direct comparison to GWSA metric ton allowance) or \$7.95 per short ton)
- 12/16/20: GWSA auction clearing price was \$7.25 per metric ton

## 2019-2021 Estimated Monthly Emissions (Thousand Metric Tons)



GWSA - Global Warming Solutions Act



# RSP Project Stage Descriptions

Stage	Description
1	Planning and Preparation of Project Configuration
2	Pre-construction (e.g., material ordering, project scheduling)
3	Construction in Progress
4	In Service

Note: The listings in this section focus on major transmission line construction and rebuilding.



# Greater Boston Projects

*Status as of 5/24/2021*

*Plan Benefit: Addresses long-term system needs in the Greater Boston area and improves system reliability*

Upgrade	Expected/ Actual In-Service	Present Stage
Install new 345 kV line from Scobie to Tewksbury	Dec-17	4
Reconductor the Y-151 115 kV line from Dracut Junction to Power Street	Apr-17	4
Reconductor the M-139 115 kV line from Tewksbury to Pinehurst and associated work at Tewksbury	May-17	4
Reconductor the N-140 115 kV line from Tewksbury to Pinehurst and associated work at Tewksbury	May-17	4
Reconductor the F-158N 115 kV line from Wakefield Junction to Maplewood and associated work at Maplewood	Dec-15	4
Reconductor the F-158S 115 kV line from Maplewood to Everett	Jun-19	4
Install new 345 kV cable from Woburn to Wakefield Junction, install two new 160 MVAR variable shunt reactors and associated work at Wakefield Junction and Woburn*	May-22	3*
Refurbish X-24 69 kV line from Millbury to Northboro Road	Dec-15	4
Reconductor W-23W 69 kV line from Woodside to Northboro Road	Jun-19	4

\* Substation portion of the project is a Present Stage status 4

# Greater Boston Projects, cont.

## *Status as of 5/24/2021*

*Plan Benefit: Addresses long-term system needs in the Greater Boston area and improves system reliability*

Upgrade	Expected/ Actual In-Service	Present Stage
Separate X-24 and E-157W DCT	Dec-18	4
Separate Q-169 and F-158N DCT	Dec-15	4
Reconductor M-139/211-503 and N-140/211-504 115 kV lines from Pinehurst to North Woburn tap	May-17	4
Install new 115 kV station at Sharon to segment three 115 kV lines from West Walpole to Holbrook	Sep-20	4
Install third 115 kV line from West Walpole to Holbrook	Sep-20	4
Install new 345 kV breaker in series with the 104 breaker at Stoughton	May-16	4
Install new 230/115 kV autotransformer at Sudbury and loop the 282-602 230 kV line in and out of the new 230 kV switchyard at Sudbury	Dec-17	4
Install a new 115 kV line from Sudbury to Hudson	Dec-23	2

# Greater Boston Projects, cont.

*Status as of 5/24/2021*

*Plan Benefit: Addresses long-term system needs in the Greater Boston area and improves system reliability*

Upgrade	Expected/ Actual In-Service	Present Stage
Replace 345/115 kV autotransformer, 345 kV breakers, and 115 kV switchgear at Woburn	Dec-19	4
Install a 345 kV breaker in series with breaker 104 at Woburn	May-17	4
Reconfigure Waltham by relocating PARs, 282-507 line, and a breaker	Dec-17	4
Upgrade 533-508 115 kV line from Lexington to Hartwell and associated work at the stations	Aug-16	4
Install a new 115 kV 54 MVAR capacitor bank at Newton	Dec-16	4
Install a new 115 kV 36.7 MVAR capacitor bank at Sudbury	May-17	4
Install a second Mystic 345/115 kV autotransformer and reconfigure the bus	May-19	4
Install a 115 kV breaker on the East bus at K Street	Jun-16	4
Install 115 kV cable from Mystic to Chelsea and upgrade Chelsea 115 kV station to BPS standards	Jul-21	3*
Split 110-522 and 240-510 DCT from Baker Street to Needham for a portion of the way and install a 115 kV cable for the rest of the way	May-21	4

\*Mystic to Chelsea line portion of the project is a present stage 4 as of October 2020.

# Greater Boston Projects, cont.

*Status as of 5/24/2021*

*Plan Benefit: Addresses long-term system needs in the Greater Boston area and improves system reliability*

Upgrade	Expected/ Actual In-Service	Present Stage
Install a second 115 kV cable from Mystic to Woburn to create a bifurcated 211-514 line	May-22	3
Open lines 329-510/511 and 250-516/517 at Mystic and Chatham, respectively. Operate K Street as a normally closed station.	May-19	4
Upgrade Kingston to create a second normally closed 115 kV bus tie and reconfigure the 345 kV switchyard	Mar-19	4
Relocate the Chelsea capacitor bank to the 128-518 termination position	Dec-16	4



# Greater Boston Projects, cont.

*Status as of 5/24/2021*

*Plan Benefit: Addresses long-term system needs in the Greater Boston area and improves system reliability*

Upgrade	Expected/ Actual In-Service	Present Stage
Upgrade North Cambridge to mitigate 115 kV 5 and 10 stuck breaker contingencies	Dec-17	4
Install a 200 MVAR STATCOM at Coopers Mills	Nov-18	4
Install a 115 kV 36.7 MVAR capacitor bank at Hartwell	May-17	4
Install a 345 kV 160 MVAR shunt reactor at K Street	Dec-19	4
Install a 115 kV breaker in series with the 5 breaker at Framingham	Apr-17	4
Install a 115 kV breaker in series with the 29 breaker at K Street	Apr-17	4



# SEMA/RI Reliability Projects

*Status as of 5/24/2021*

*Project Benefit: Addresses system needs in the Southeast Massachusetts/Rhode Island area*

Upgrade	Expected/ Actual In-Service	Present Stage
Construct a new 115 kV GIS switching station (Grand Army) which includes remote terminal station work at Brayton Point and Somerset substations, and the looping in of the E-183E, F-184, X3, and W4 lines	Oct-20	4
Conduct remote terminal station work at the Wampanoag and Pawtucket substations for the new Grand Army GIS switching station	Oct-20	4
Install upgrades at Brayton Point substation which include a new 115 kV breaker, new 345/115 kV transformer, and upgrades to E183E, F184 station equipment	Oct-20	4
Increase clearances on E-183E & F-184 lines between Brayton Point and Grand Army substations	Nov-19	4
Separate the X3/W4 DCT and reconductor the X3 and W4 lines between Somerset and Grand Army substations; reconfigure Y2 and Z1 lines	Nov-19	4

# SEMA/RI Reliability Projects, cont.

*Status as of 5/24/2021*

*Project Benefit: Addresses system needs in the Southeast Massachusetts/Rhode Island area*

Upgrade	Expected/ Actual In-Service	Present Stage
Add 115 kV circuit breaker at Robinson Ave substation and re-terminate the Q10 line	Dec-21	3
Install 45.0 MVAR capacitor bank at Berry Street substation	Cancelled*	N/A
Separate the N12/M13 DCT and reconductor the N12 and M13 between Somerset and Bell Rock substations	May-25	2
Reconfigure Bell Rock to breaker-and-a-half station, split the M13 line at Bell Rock substation, and terminate 114 line at Bell Rock; install a new breaker in series with N12/D21 tie breaker, upgrade D21 line switch, and install a 37.5 MVAR capacitor	Jun-23	2
Extend the Line 114 from the Dartmouth town line (Eversource-NGRID border) to Bell Rock substation	Dec-23	2
Reconductor L14 and M13 lines from Bell Rock substation to Bates Tap	Cancelled*	N/A

\*Cancelled per ISO-NE PAC presentation on August 27, 2020



# SEMA/RI Reliability Projects, cont.

*Status as of 5/24/2021*

*Project Benefit: Addresses system needs in the Southeast Massachusetts/Rhode Island area*

Upgrade	Expected/ Actual In-Service	Present Stage
Build a new 115 kV line from Bourne to West Barnstable substations which includes associated terminal work	Dec-23	1
Separate the 135/122 DCT from West Barnstable to Barnstable substations	Dec-21	3
Retire the Barnstable SPS	Dec-21	3
Build a new 115 kV line from Carver to Kingston substations and add a new Carver terminal	Dec-22	1
Install a new bay position at Kingston substation to accommodate new 115 kV line	Dec-22	1
Extend the 114 line from the Eversource/National Grid border to the Industrial Park Tap	Dec-23	1



# SEMA/RI Reliability Projects, cont.

*Status as of 5/24/2021*

*Project Benefit: Addresses system needs in the Southeast Massachusetts/Rhode Island area*

Upgrade	Expected/ Actual In-Service	Present Stage
Install 35.3 MVAR capacitors at High Hill and Wing Lane substations	Dec-21	3
Loop the 201-502 line into the Medway substation to form the 201-502N and 201-502S lines	Jan-23	2
Separate the 325/344 DCT lines from West Medway to West Walpole substations	Cancelled**	N/A
Reconductor and upgrade the 112 Line from the Tremont substation to the Industrial Tap	Jun-18	4
Reconductor the 108 line from Bourne substation to Horse Pond Tap*	Oct-18	4
Replace disconnect switches on 323 line at West Medway substation and replace 8 line structures	Aug-20	4

\* Does not include the reconductoring work over the Cape Cod canal

\*\* Cancelled per ISO-NE PAC presentation on August 27, 2020



# SEMA/RI Reliability Projects, cont.

*Status as of 5/24/2021*

*Project Benefit: Addresses system needs in the Southeast Massachusetts/Rhode Island area*

Upgrade	Expected/ Actual In-Service	Present Stage
Rebuild the Middleborough Gas and Electric portion of the E1 line from Bridgewater to Middleborough	Apr-19	4
Reconductor the J16S line	Jun-22	2
Replace the Kent County 345/115 kV transformer	Mar-22	2
West Medway 345 kV circuit breaker upgrades	Dec-21	3
Medway 115 kV circuit breaker replacements	Nov-20	4



# Eastern CT Reliability Projects

*Status as of 5/24/2021*

*Project Benefit: Addresses system needs in the Eastern Connecticut area*

Upgrade	Expected/ Actual In-Service	Present Stage
Reconductor the L190-4 and L190-5 line sections	Dec-26	1
Install a second 345/115 kV autotransformer (4X) and one 345 kV breaker at Card substation	Mar-23	2
Upgrade Card 115 kV to BPS standards	Mar-23	2
Install one 115 kV circuit breaker in series with Card substation 4T	Mar-23	2
Convert Gales Ferry substation from 69 kV to 115 kV	Dec-23	1
Rebuild the 100 Line from Montville to Gales Ferry to allow operation at 115 kV	Dec-22	1



# Eastern CT Reliability Projects, cont.

*Status as of 5/24/2021*

*Project Benefit: Addresses system needs in the Eastern Connecticut area*

Upgrade	Expected/ Actual In-Service	Present Stage
Re-terminate the 100 Line at Montville station and associated work. Energize the 100 Line at 115 kV	Dec-23	1
Rebuild 400-1 Line section to allow operation at 115 kV (Tunnel to Ledyard Jct.)	Dec-22	1
Add one 115 kV circuit breaker and re-terminate the 400-1 line section into Tunnel substation. Energize 400 Line at 115 kV	Dec-23	1
Rebuild 400-2 Line section to allow operation at 115 kV (Ledyard Jct. to Border Bus with CMEEC)	Dec-21	3
Rebuild the 400-3 Line Section to allow operation at 115 kV (Gales Ferry to Ledyard Jct.)	Dec-22	1
Install a 25.2 MVAR 115 kV capacitor and one capacitor breaker at Killingly	Mar-22	2

# Eastern CT Reliability Projects, cont.

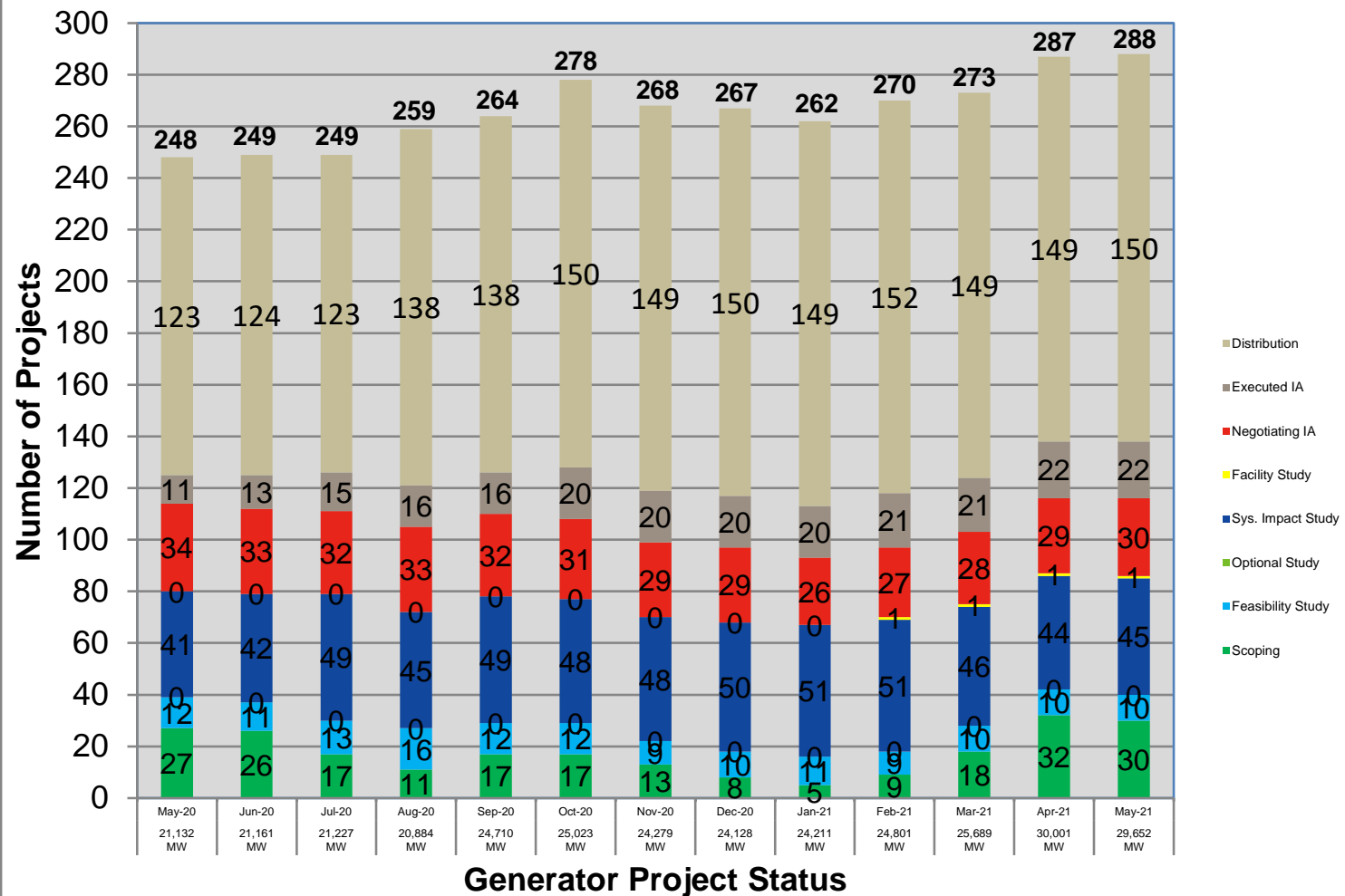
*Status as of 5/24/2021*

*Project Benefit: Addresses system needs in the Eastern Connecticut area*

Upgrade	Expected/ Actual In-Service	Present Stage
Install one 345 kV series breaker with the Montville 1T	June-22	2
Install a 50 MVAR synchronous condenser with two 115 kV breakers at Shunock	Dec-24	1
Install a 1% series reactor with bypass switch at Mystic, CT on the 1465 Line	Dec-22	1
Convert the 400-2 Line Section to 115 kV (Border Bus to Buddington), convert Buddington to 115 kV	Dec-23	1



# Status of Tariff Studies



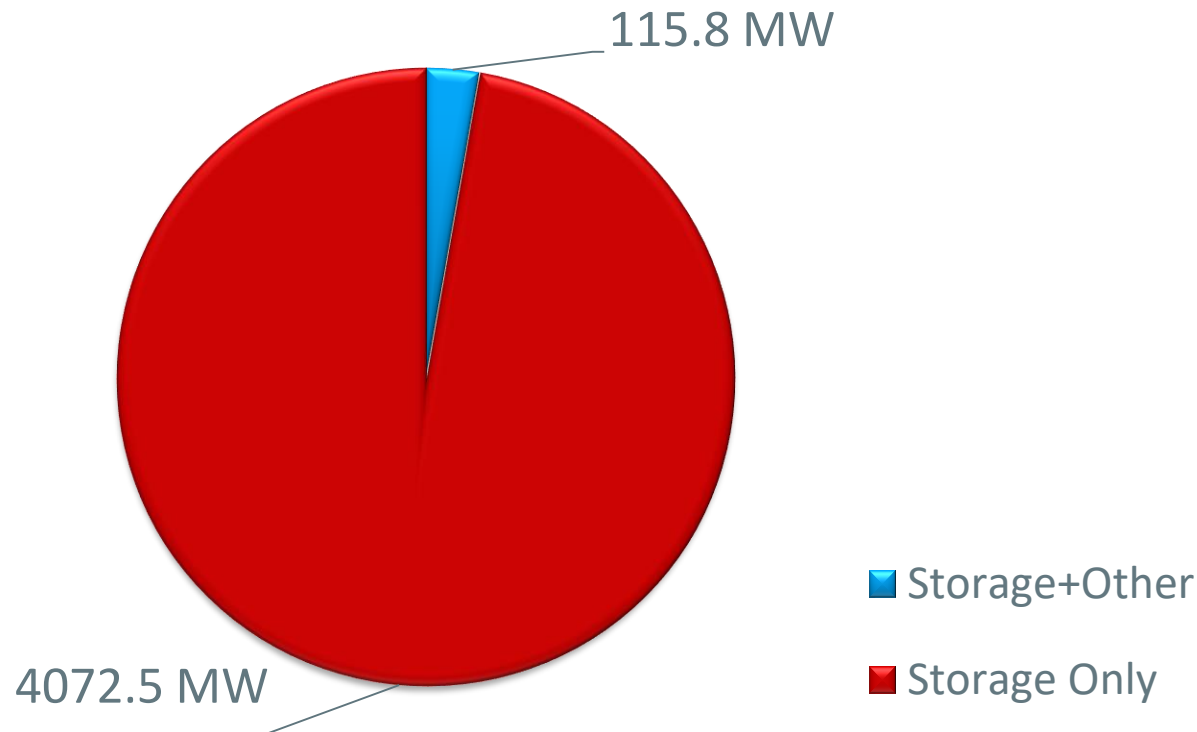
Note: May 2021 is based on partial data.

As of May 2021, there is 0 ETU in Scoping, 0 in FS, 4 in SIS, 0 in OIS, 0 in FAC, 0 Negotiating IA, and 2 with Executed IA.

<https://irrt.iso-ne.com/external.aspx>

# What is in the Queue (as of May 24, 2021)

Storage Projects are proposed as stand-alone storage or as co-located with wind or solar projects





# OPERABLE CAPACITY ANALYSIS

*Summer 2021 Analysis*



# Summer 2021 Operable Capacity Analysis

50/50 Load Forecast (Reference)	September - 2021 <sup>2</sup> CSO (MW)	September - 2021 <sup>2</sup> SCC (MW)
Operable Capacity MW <sup>1</sup>	29,380	30,079
Active Demand Capacity Resource (+) <sup>5</sup>	540	419
External Node Available Net Capacity, CSO imports minus firm capacity exports (+)	1,208	1,208
Non Commercial Capacity (+)	50	50
Non Gas-fired Planned Outage MW (-)	2,057	2,617
Gas Generator Outages MW (-)	356	394
Allowance for Unplanned Outages (-) <sup>4</sup>	2,100	2,100
Generation at Risk Due to Gas Supply (-) <sup>3</sup>	0	0
Net Capacity (NET OPCAP SUPPLY MW)	26,665	26,645
Peak Load Forecast MW(adjusted for Other Demand Resources) <sup>2</sup>	24,810	24,810
Operating Reserve Requirement MW	2,305	2,305
Operable Capacity Required (NET LOAD OBLIGATION MW)	27,115	27,115
Operable Capacity Margin	-450	-470

<sup>1</sup>Operable Capacity is based on data as of **May 25, 2021** and does not include Capacity associated with Settlement Only Generators, Passive and Active Demand Response, and external capacity. The Capacity Supply Obligation (CSO) and Seasonal Claim Capability (SCC) values are based on data as of **May 25, 2021**.

<sup>2</sup> Load forecast that is based on the 2021 CELT report and represents the week with the lowest Operable Capacity Margin, week beginning **September 11, 2021**.

<sup>3</sup> Total of (Gas at Risk MW) – (Gas Gen Outages MW).

<sup>4</sup> Allowance For Unplanned Outage MW is based on the month corresponding to the day with the lowest Operable Capacity Margin for the week.

<sup>5</sup> Active Demand Capacity Resources (ADCRs) can participate in the Forward Capacity Market (FCM), have the ability to obtain a CSO and also participate in the Day-Ahead and Real-Time Energy Markets.

# Summer 2021 Operable Capacity Analysis

90/10 Load Forecast	September - 2021 <sup>2</sup> CSO (MW)	September - 2021 <sup>2</sup> SCC (MW)
Operable Capacity MW <sup>1</sup>	29,380	30,079
Active Demand Capacity Resource (+) <sup>5</sup>	540	419
External Node Available Net Capacity, CSO imports minus firm capacity exports (+)	1,208	1,208
Non Commercial Capacity (+)	50	50
Non Gas-fired Planned Outage MW (-)	2,057	2,617
Gas Generator Outages MW (-)	356	394
Allowance for Unplanned Outages (-) <sup>4</sup>	2,100	2,100
Generation at Risk Due to Gas Supply (-) <sup>3</sup>	0	0
Net Capacity (NET OPCAP SUPPLY MW)	26,665	26,645
Peak Load Forecast MW(adjusted for Other Demand Resources) <sup>2</sup>	26,711	26,711
Operating Reserve Requirement MW	2,305	2,305
Operable Capacity Required (NET LOAD OBLIGATION MW)	29,016	29,016
Operable Capacity Margin	-2,351	-2,371

<sup>1</sup>Operable Capacity is based on data as of **May 25, 2021** and does not include Capacity associated with Settlement Only Generators, Passive and Active Demand Response, and external capacity. The Capacity Supply Obligation (CSO) and Seasonal Claim Capability (SCC) values are based on data as of **May 25, 2021**.

<sup>2</sup> Load forecast that is based on the 2021 CELT report and represents the week with the lowest Operable Capacity Margin, week beginning **September 11, 2021**.

<sup>3</sup> Total of (Gas at Risk MW) – (Gas Gen Outages MW).

<sup>4</sup> Allowance For Unplanned Outage MW is based on the month corresponding to the day with the lowest Operable Capacity Margin for the week.

<sup>5</sup> Active Demand Capacity Resources (ADCRs) can participate in the Forward Capacity Market (FCM), have the ability to obtain a CSO and also participate in the Day-Ahead and Real-Time Energy Markets.

# Summer 2021 Operable Capacity Analysis

## 50/50 Forecast (Reference)

### ISO-NE OPERABLE CAPACITY ANALYSIS

May 28, 2021 - 50-50 FORECAST using CSO MW

This analysis is a tabulation of weekly assessments shown in one single table. The information shows the operable capacity situation under assumed conditions for each week. It is not expected that the system peak will occur every week during June, July, August, and Mid September.

Report created: 5/25/2021

Study Week (Week Beginning , Saturday)	CSO Supply Resource Capacity MW	CSO Demand Resource Capacity MW	External Node Capacity MW	Non-Commercial Capacity MW	CSO Non Gas- Only Generator Planned Outages MW	CSO Gas-Only Generator Planned Outages MW	Unplanned Outages Allowance MW	CSO Generation at Risk Due to Gas Supply 50-50PLE MW	CSO Net Available Capacity MW	Peak Load Forecast 50-50PLE MW	Operating Reserve Requirement MW	CSO Net Required Capacity MW	CSO Operable Capacity Margin MW	Season Min OpCap Margin Flag	Season_Label
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
6/12/2021	29132	483	1210	31	52	46	2800	0	27958	24810	2305	27115	843	N	Summer 2021
6/19/2021	29132	483	1210	31	23	0	2800	0	28033	24810	2305	27115	918	N	Summer 2021
6/26/2021	29132	483	1210	31	88	133	2800	0	27835	24810	2305	27115	720	N	Summer 2021
7/3/2021	29369	540	1208	48	21	0	2100	0	29044	24810	2305	27115	1928	N	Summer 2021
7/10/2021	29369	540	1208	48	90	0	2100	0	28975	24810	2305	27115	1859	N	Summer 2021
7/17/2021	29369	540	1208	48	83	0	2100	0	28982	24810	2305	27115	1867	N	Summer 2021
7/24/2021	29369	540	1208	48	23	0	2100	0	29042	24810	2305	27115	1927	N	Summer 2021
7/31/2021	29380	540	1208	50	51	0	2100	0	29027	24810	2305	27115	1912	N	Summer 2021
8/7/2021	29380	540	1208	50	45	0	2100	0	29033	24810	2305	27115	1918	N	Summer 2021
8/14/2021	29380	540	1208	50	63	177	2100	0	28838	24810	2305	27115	1723	N	Summer 2021
8/21/2021	29380	540	1208	50	52	0	2100	0	29026	24810	2305	27115	1911	N	Summer 2021
8/28/2021	29380	540	1208	50	29	0	2100	0	29049	24810	2305	27115	1934	N	Summer 2021
9/4/2021	29380	540	1208	50	1332	0	2100	0	27746	24810	2305	27115	631	N	Summer 2021
9/11/2021	29380	540	1208	50	2057	356	2100	0	26665	24810	2305	27115	-450	Y	Summer 2021

### Column Definitions

- CSO Supply Resource Capacity MW:** Summation of all resource Capacity supply Obligations (CSO). Does not include Settlement Only Generators (SOG).
- CSO Demand Resource Capacity MW:** Demand resources known as Real-Time Demand Response (RTDR) will become Active Demand Capacity Resources (ADCRs) and can participate in the Forward Capacity market (FCM). These resources will have the ability to obtain a CSO and also participate in the Day-Ahead and Real-Time Energy Markets.
- External Node Capacity MW:** Sum of external Capacity Supply Obligations (CSO) imports and exports.
- Non-Commercial capacity MW:** New resources and generator improvements that have acquired a CSO but have not become commercial.
- CSO Non Gas-Only Generator Planned Outages MW:** All Non-Gas Planned Outages is the total of Non Gas-fired Generator/DARD Outages for the period. This value would also include any known long-term Non Gas-fired Forced Outages.
- CSO Gas-Only Generator Planned Outages MW:** All Planned Gas-fired generation outage for the period. This value would also include any known long-term Gas-fired Forced Outages.
- Unplanned Outage Allowance MW:** Forced Outages and Maintenance Outages scheduled less than 14 days in advance per ISO New England Operating Procedure No. 5 Appendix A.
- CSO Generation at Risk Due to Gas Supply Mw:** Gas fired capacity expected to be at risk during cold weather conditions or gas pipeline maintenance outages.
- CSO Net Available Capacity MW:** the summation of columns (1+2+3+4-5-6-7-8-9)
- Peak Load Forecast MW:** Provided in the annual 2021 CELT Report and adjusted for Passive Demand Resources assumes Peak Load Exposure (PLE) and does include credit of Passive Demand Response (PDR) and behind-the-meter PV (BTM PV).
- Operating Reserve Requirement MW:** 120% of first largest contingency plus 50% of the second largest contingency.
- CSO Net Required Capacity MW:** (Net Load Obligation) (10+11=12)
- CSO Operable Capacity Margin MW:** CSO Net Available Capacity MW minus CSO Net Required Capacity MW (9-12=13)
- Operable Capacity Season Label:** Applicable season and year.
- Season Minimum Operable Capacity Flag:** this column indicates whether or not a week has the lowest capacity margin for its applicable season.

# Summer 2021 Operable Capacity Analysis

## 90/10 Forecast

### May 28, 2021 - 90/10 FORECAST using CSO MW

This analysis is a tabulation of weekly assessments shown in one single table. The information shows the operable capacity situation under assumed conditions for each week. It is not expected that the system peak will occur every week during June, July, August, and Mid September.

Report created: 5/25/2021

Study Week (Week Beginning , Saturday)	CSO Supply Resource Capacity MW	CSO Demand Resource Capacity MW	External Node Capacity MW	Non-Commercial Capacity MW	CSO Non Gas- Only Generator Planned Outages MW	CSO Gas-Only Generator Planned Outages MW	Unplanned Outages Allowance MW	CSO Generation at Risk Due to Gas Supply 90-10PLE MW	CSO Net Available Capacity MW	Peak Load Forecast 90-10PLE MW	Operating Reserve Requirement MW	CSO Net Required Capacity MW	CSO Operable Capacity Margin MW	Season Min OpCap Margin Flag	Season_Label
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
6/12/2021	29132	483	1210	31	52	46	2800	0	27958	26711	2305	29016	-1058	N	Summer 2021
6/19/2021	29132	483	1210	31	23	0	2800	0	28033	26711	2305	29016	-983	N	Summer 2021
6/26/2021	29132	483	1210	31	88	133	2800	0	27835	26711	2305	29016	-1181	N	Summer 2021
7/3/2021	29369	540	1208	48	21	0	2100	0	29044	26711	2305	29016	27	N	Summer 2021
7/10/2021	29369	540	1208	48	90	0	2100	0	28975	26711	2305	29016	-42	N	Summer 2021
7/17/2021	29369	540	1208	48	83	0	2100	0	28982	26711	2305	29016	-34	N	Summer 2021
7/24/2021	29369	540	1208	48	23	0	2100	0	29042	26711	2305	29016	26	N	Summer 2021
7/31/2021	29380	540	1208	50	51	0	2100	0	29027	26711	2305	29016	11	N	Summer 2021
8/7/2021	29380	540	1208	50	45	0	2100	0	29033	26711	2305	29016	17	N	Summer 2021
8/14/2021	29380	540	1208	50	63	177	2100	0	28838	26711	2305	29016	-178	N	Summer 2021
8/21/2021	29380	540	1208	50	52	0	2100	0	29026	26711	2305	29016	10	N	Summer 2021
8/28/2021	29380	540	1208	50	29	0	2100	0	29049	26711	2305	29016	33	N	Summer 2021
9/4/2021	29380	540	1208	50	1332	0	2100	0	27746	26711	2305	29016	-1270	N	Summer 2021
9/11/2021	29380	540	1208	50	2057	356	2100	0	26665	26711	2305	29016	-2351	Y	Summer 2021

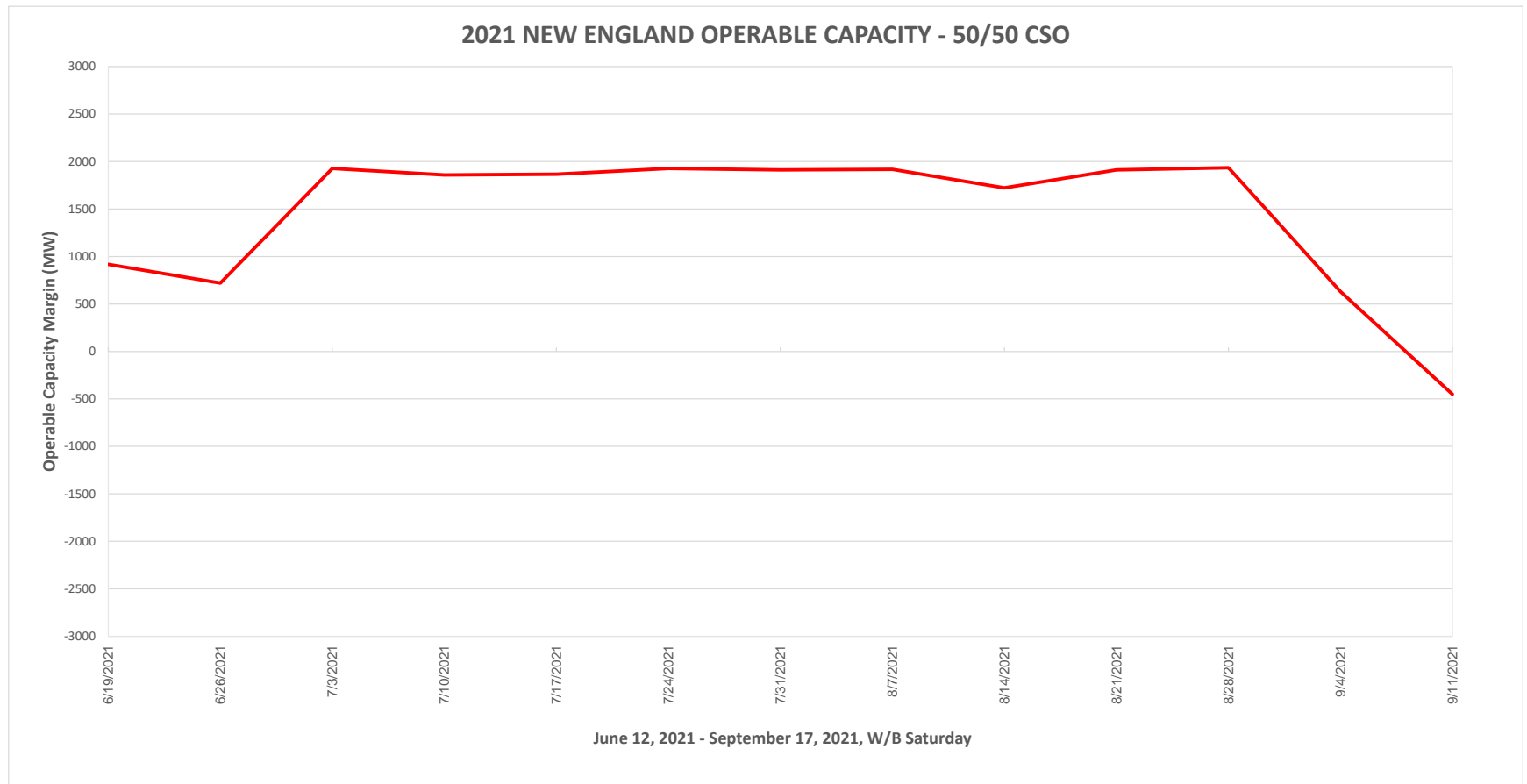
### Column Definitions

- CSO Supply Resource Capacity MW:** Summation of all resource Capacity supply Obligations (CSO). Does not include Settlement Only Generators (SOG).
- CSO Demand Resource Capacity MW:** Demand resources known as Real-Time Demand Response (RTDR) will become Active Demand Capacity Resources (ADCRs) and can participate in the Forward Capacity market (FCM). These resources will have the ability to obtain a CSO and also participate in the Day-Ahead and Real-Time Energy Markets.
- External Node Capacity MW:** Sum of external Capacity Supply Obligations (CSO) imports and exports.
- Non-Commercial capacity MW:** New resources and generator improvements that have acquired a CSO but have not become commercial.
- CSO Non Gas-Only Generator Planned Outages MW:** All Non-Gas Planned Outages is the total of Non Gas-fired Generator/DARD Outages for the period. This value would also include any known long-term Non Gas-fired Forced Outages.
- CSO Gas-Only Generator Planned Outages MW:** All Planned Gas-fired generation outage for the period. This value would also include any known long-term Gas-fired Forced Outages.
- Unplanned Outage Allowance MW:** Forced Outages and Maintenance Outages scheduled less than 14 days in advance per ISO New England Operating Procedure No. 5 Appendix A.
- CSO Generation at Risk Due to Gas Supply Mw:** Gas fired capacity expected to be at risk during cold weather conditions or gas pipeline maintenance outages.
- CSO Net Available Capacity MW:** the summation of columns (1+2+3+4-5-6-7-8-9)
- Peak Load Forecast MW:** Provided in the annual 2021 CELT Report and adjusted for Passive Demand Resources assumes Peak Load Exposure (PLE) and does include credit of Passive Demand Response (PDR) and behind-the-meter PV (BTM PV).
- Operating Reserve Requirement MW:** 120% of first largest contingency plus 50% of the second largest contingency.
- CSO Net Required Capacity MW:** (Net Load Obligation) (10+11=12)
- CSO Operable Capacity Margin MW:** CSO Net Available Capacity MW minus CSO Net Required Capacity MW (9-12=13)
- Operable Capacity Season Label:** Applicable season and year.
- Season Minimum Operable Capacity Flag:** this column indicates whether or not a week has the lowest capacity margin for its applicable season.

\*Highlighted week is based on the week determined by the 50/50 Load Forecast Reference week

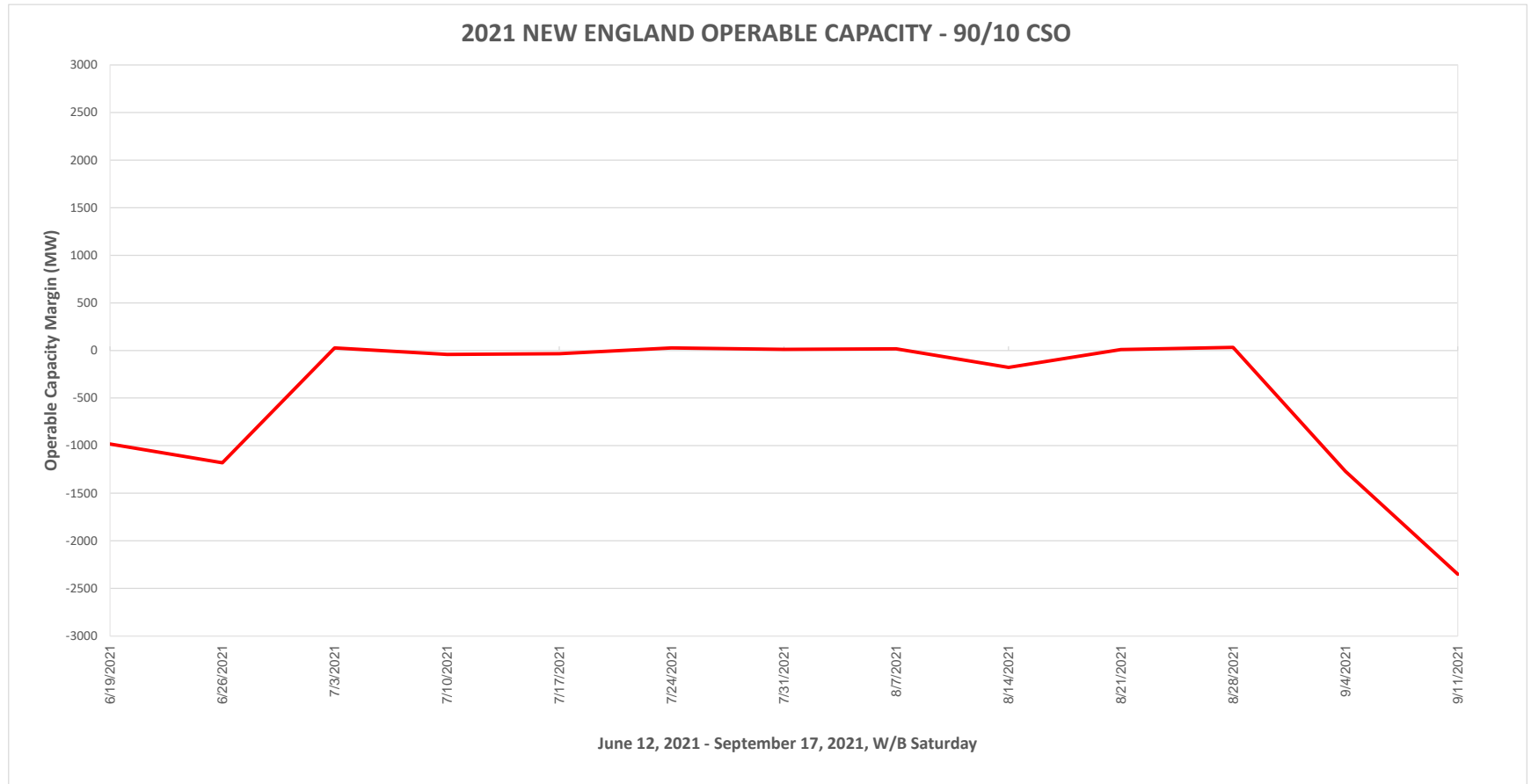
# Summer 2021 Operable Capacity Analysis

## 50/50 Forecast (Reference)



# Summer 2021 Operable Capacity Analysis

## 90/10 Forecast



# OPERABLE CAPACITY ANALYSIS

## *Appendix*





# Possible Relief Under OP4: Appendix A

OP 4 Action Number	Page 1 of 2 Action Description	Amount Assumed Obtainable Under OP 4 (MW)
1	Implement Power Caution and advise Resources with a CSO to prepare to provide capacity and notify “Settlement Only” generators with a CSO to monitor reserve pricing to meet those obligations. Begin to allow the depletion of 30-minute reserve.	0 <sup>1</sup>  600
2	Declare Energy Emergency Alert (EEA) Level 1 <sup>4</sup>	0
3	Voluntary Load Curtailment of Market Participants’ facilities.	40 <sup>2</sup>
4	Implement Power Watch	0
5	Schedule Emergency Energy Transactions and arrange to purchase Control Area-to-Control Area Emergency	1,000
6	Voltage Reduction requiring > 10 minutes	125 <sup>3</sup>

NOTES:

1. Based on Summer Ratings. Assumes 25% of total MW Settlement Only units <5 MW will be available and respond.
2. The actual load relief obtained is highly dependent on circumstances surrounding the appeals, including timing and the amount of advanced notice that can be given.
3. The MW values are based on a 25,000 MW system load and verified by the most recent voltage reduction test.
4. EEA Levels are described in Attachment 1 to NERC Reliability Standard EOP-011 - Emergency Operations



# Possible Relief Under OP4: Appendix A

OP 4 Action Number	Page 2 of 2 Action Description	Amount Assumed Obtainable Under OP 4 (MW)
7	Request generating resources not subject to a Capacity Supply Obligation to voluntary provide energy for reliability purposes	0
8	5% Voltage Reduction requiring 10 minutes or less	250 <sup>3</sup>
9	Transmission Customer Generation Not Contractually Available to Market Participants during a Capacity Deficiency.  Voluntary Load Curtailment by Large Industrial and Commercial Customers.	5  200 <sup>2</sup>
10	Radio and TV Appeals for Voluntary Load Curtailment Implement Power Warning	200 <sup>2</sup>
11	Request State Governors to Reinforce Power Warning Appeals.	100 <sup>2</sup>
Total		<b>2,520</b>

## NOTES:

1. Based on Summer Ratings. Assumes 25% of total MW Settlement Only units <5 MW will be available and respond.
2. The actual load relief obtained is highly dependent on circumstances surrounding the appeals, including timing and the amount of advanced notice that can be given.
3. The MW values are based on a 25,000 MW system load and verified by the most recent voltage reduction test.
4. EEA Levels are described in Attachment 1 to NERC Reliability Standard EOP-011 - Emergency Operations

## MEMORANDUM

**TO:** Participants Committee Members and Alternates

**FROM:** Pat Gerity, NEPOOL Counsel

**DATE:** May 26, 2021

**RE:** Fuels Industry Participant Determination and Approval of NEPGA Membership Application

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The Participants Committee (NPC) will be asked at its June 3, 2021 meeting to consider the recommendation of the Membership Subcommittee (Subcommittee) that the New England Power Generators Association (NEPGA)<sup>1</sup> be determined by the NPC to be a Fuels Industry Participant and conditionally approved for membership as a NEPOOL Participant. This memorandum briefly reviews the background and substance of the Subcommittee's recommendations and includes forms of resolution for Participants Committee action.

### ***NEPGA Membership Application***

NEPGA has expressed a desire to formalize its participation in the NEPOOL stakeholder process. For more than 15 years, NEPGA has participated in the Participant Processes pursuant to a standing invitation to attend as a guest. Given the evolution of the NEPOOL arrangements since that time, arrangements which now include the ability of Entities who are determined by the NPC to be a Fuels Industry Participant to participate as non-voting members, NEPGA now seeks the opportunity for its representatives to attend NEPOOL meetings as members, to offer proposals if and as appropriate without the need for such proposals to be sponsored by a voting member, to participate in all member discussions, to participate on the same basis as Fuels Industry Participants (e.g. Advanced Energy Economy) participate, and to otherwise enjoy directly the benefits and responsibilities of NEPOOL Participant status. NEPGA does not itself meet the eligibility criteria for membership in a Sector.

### ***Subcommittee Recommendation***

The members participating in the May Subcommittee meeting recommended that NEPGA be determined by the NPC to be, and thereby be permitted to participate as, a Fuels Industry Participant.<sup>2</sup> Although one member abstained from the recommendation that NEPGA be determined to be a Fuels Industry Participant, all supported the outcome that such a determination will facilitate NEPGA's participation in the Participant Processes as a non-voting NEPOOL member.

To be a Fuels Industry Participant, a Participant must either meet specific criteria identified in Section 1.28A of the Second Restated NEPOOL Agreement, or be determined by the NPC to be a Fuels

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<sup>1</sup> NEPGA describes itself as "the trade association representing competitive electric generating companies in New England. NEPGA's member companies represent approximately 26,000 MW of generating capacity in the region." NEPGA members are Participants and Related Persons to Participants in the Generation, Supplier and Alternative Resources Sectors. See <https://nepga.org/>.

<sup>2</sup> As a Fuels Industry Participant, NEPGA would have the right to appoint to each Principal Committee a **non-voting** member, and an alternate to that member, each of whom would have the rights of any other member of a Principal Committee **except the right to vote or to serve as an officer**. NEPGA would not be a member of a Sector. NEPGA would pay an Annual Fee of \$5,000.

Industry Participant. NEPGA does not meet the specific criteria in the NEPOOL Agreement, thus it can only become a Participant if the NPC makes the latter determination. The NPC has not delegated such a determination to the Subcommittee. The following two resolutions could be used to act on this matter:

RESOLVED, that, in accordance with Section 1.28A of the Second Restated NEPOOL Agreement, the Participants Committee determines the New England Power Generators Association (NEPGA) to be a Fuels Industry Participant.

FURTHER RESOLVED, that the Participants Committee approves the membership Application of NEPGA subject to the following conditions: (i) that NEPGA sign and return the Standard Membership Conditions, Waivers and Reminders acceptance letter; (ii) that the ISO and NEPOOL counsel find the NEPGA application complete; and (iii) that NEPGA execute an Indemnification Agreement should its requested membership effective date be less than 60 days from date of the membership filing that requests FERC acceptance of the addition of NEPGA to the list of NEPOOL Participants.

Should there be any questions or concerns ahead of the June 3 NPC meeting, please do not hesitate to contact me ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

**EXECUTIVE SUMMARY**  
**Status Report of Current Regulatory and Legal Proceedings**  
**as of June 1, 2021**

The following activity, as more fully described in the attached litigation report, has occurred since the report dated May 4, 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**

1	Remote ALJ Hearings (AD20-12)	May 18	"Remote Hearing Guidance for Participants" revised to make 2 changes
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**I. Complaints/Section 206 Proceedings**

2	NEPGA Net CONE Complaint (EL21-26)	May 28	FERC denies Complaint
3	NECEC/Avangrid Complaint Against NextEra/Seabrook (EL21-6)	May 6	ISO-NE submits letter to express importance of prompt resolution of this matter and EL21-3
		May 17	Avangrid submits letter supporting ISO-NE May 6, 2021 letter
3	NextEra Energy Seabrook Declaratory Order Petition re: NECEC Elective Upgrade Costs Dispute (EL21-3)	May 6	ISO-NE submits letter to express importance of prompt resolution of this matter and EL21-6

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

* 6	Cross-Sound Cable CIP IROL (Schedule 17) Cost Recovery Filing (ER21-2031)	May 28	CSC requests FERC acceptance of a proposed rate schedule to allow CSC to begin the recovery period for certain CIP-IROL Costs under ISO-NE Tariff Schedule 17; comment date <b>Jun 18, 2021</b>
7	Amended and Restated IRH Support and Use Agreements (ER21-712)	May 20	FERC approves settlement amending and restating the Support and the Use Agreements, including extending the term of each for another 20 years, subject to a 30-day compliance filing submitting each in eTariff format
* 9	MPD OATT 2021 Annual Informational Filing (ER20-1977)	May 3 May 7	Versant submits annual update of charges under the MPD OATT Versant submits Annual Real Power Loss Factor Informational Filing
10	MPD OATT 2019 Annual Info. Filing Settlement Agreement (ER15-1429-015)	May 20	FERC approves settlement agreement
10	ISO Securities: Authorization for Future Drawdowns (ES21-34)	May 12	FERC authorizes ISO-NE drawdowns under a new \$20 million Revolving Credit Line and a new \$4 million line of credit supporting the Payment Default Shortfall Fund through May 31, 2023

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

* 10	Solar Data Requirements & Relocation of Wind Data Requirements (ER21-1974)	May 24	ISO-NE and NEPOOL jointly file Tariff revisions to establish operational and meteorological data requirements for solar facilities and relocate and streamline already-existing data requirements for wind facilities; comment date <b>Jun 14, 2021</b>
		Jun 1	NESCOE intervenes

* 11	eTariff § III.13.7 Corrections (ER21-1883)	May 11	ISO-NE files conforming changes to eTariff § III.13.7 to remove updates to CONE, Net CONE, and PPR, not yet accepted by the FERC, but included in the eTariff version of § III.13.7 accepted in the Mar 31 order in the EER Exemption from PFP Settlement proceeding (ER21-943)
		May 21	NEPOOL intervenes
11	Waiver Request: FCA16 Qual. Req. (CMEEC, MMWEC, Pascoag, VT DPS) (ER21-1726)	May 5	NYPA submits comments supporting waiver request
11	FCA16 ORTP Jump Ball Filing (ER21-1637)	May 12	<a href="#">NEPGA</a> answers North East Offshore's protest
		May 13	<a href="#">NEPOOL</a> and <a href="#">ISO-NE</a> answer comments and protests filed in opposition to their ORTP proposals
		May 21-28	<a href="#">NEPOOL</a> , <a href="#">NEPGA</a> , <a href="#">MMWEC and NHEC</a> , <a href="#">North East Offshore</a> file answers
12	eTariff § I.2 Corrections (ER21-1513)	May 18	FERC accepts corrections, eff. Jan 1, 2021
12	Updated CONE, Net Cone and PPR Values (eff. FCA16) (ER21-787)	May 5	ISO-NE answers comments and protests on its <a href="#">deficiency letter response</a>
		May 28	FERC conditionally accepts updates and modified definition of Net CONE, subject to a 15-day compliance filing that reflects the assumption that the reference unit has on-site compression; eff. May 29, 2021

**V. OATT Amendments / TOAs / Coordination Agreements**

No Activity to Report

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

No Activity to Report

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

* Schedule 21-NSTAR Annual Informational Filing (ER09-1243; ER07-549)	Jun 1	NSTAR submits an informational filing containing the true-up of billings under Schedule 21-NSTAR for the Jan1, 2020 through Dec 31, 2020 period
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**VII. NEPOOL Agreement/Participants Agreement Amendments**

No Activity to Report

**VIII. Regional Reports**

* 15	Capital Projects Report - 2021 Q1 (ER21-1873)	May 7	ISO-NE files Q1 Report
		May 18	NEPOOL submits comments supporting Report
* 15	Interconnection Study Metrics Processing Time Exceedance Report Q1 2021 (ER19-1951)	May 13	ISO-NE files required quarterly report
* 16	ISO-NE FERC Form 3Q (2021/Q1) (not docketed)	May 25	ISO-NE submits its 2021 Q1 FERC Form 3Q

**IX. Membership Filings**

* 16	June 2021 Membership Filing (ER21-2026)	May 28	NEPOOL requests that the FERC accept (i) the membership of Hydroland and Vineyard Wind 1; (ii) the termination of Convergent Power; and (iii) Millennium's name change; comment date <b>Jun 18, 2021</b>
16	April 2021 Membership Filing (ER21-1570)	May 26	FERC accepts the membership of Ocean State BTM LLC and Transgrid Midwest LLC

* 16	Suspension Notices – Acadia Renew. Energy, Backyard Farms Energy, EPIS, Liberty Power Delaware (not docketed)	May 13 May 17	ISO-NE files notice of suspension from the New England Markets of Acadia Renewable Energy, Backyard Farms Energy, EPIS, and Liberty Power Delaware Acadia and Backyard Farms FAP Defaults cured, suspensions lifted
* 16	Suspension Notice – Manchester Methane, LLC (not docketed)	May 14	ISO-NE files notice of suspension of Manchester Methane, LLC from the New England Markets

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

18	Report on Research Results Under NERC's Final GMD Research Work Plan (RM15-11)	May 21	EPRI submits technical reports
19	Notices of Penalty: VTransco, CMP (NP21-14) (NP21-11)	May 28	NERC issues notice that it will not further review the VTransco or CMP Notices of Penalty
19	5-Year ERO Performance Assessment Report (RR19-7)		NERC submits further compliance filing; comment date <b>Jun 9, 2021</b>

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

* 20	203 Application: PPL/Narragansett (EC21-87)	May 4	PPL and Narragansett request authorization for a transaction pursuant to which a wholly-owned subsidiary of PPL will acquire 100% of the outstanding shares of common stock of Narragansett
20	203 Application: Seneca/Rice et al. (EC21-84)	May 17	Applicants supplement initial application
* 21	D&E Agreement: NSTAR/Cranberry Point Energy Storage (ER21-1908)	May 14	NSTAR files D&E Agreement; comment date <b>Jun 14, 2021</b>
22	Orders 864/864-A (Public Util. Trans. ADIT Rate Changes): New England Compliance Filings (various)	May 27	ER20-2429 (CMP). CMP requests an extension of time, to Jul 6, 2021, to respond to the FERC's May 4, 2021 deficiency letter

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

23	Climate Change, Extreme Weather, and Electric Sys. Reliability: Jun 1-2 Tech. Conf. (AD21-13)	May 21, 27 May 24 May 28	FERC issues supplemental notices with final conference program and expected speakers <a href="#">AFPA and GCG</a> file comments out of time Prepared remarks of speaker A. Silverstein posted
23	Electrification and the Grid of the Future: Apr 29 Technical Conference (AD21-12)	May 17	FERC invites submission of post-tech conf comments; comment date <b>Jul 1, 2021</b>
23	Resource Adequacy - Modernizing Electricity Mkt Design (AD21-10)	May 10 May 17 May 25 May 26	Reply comments on PJM tech conf filed by <a href="#">ACPA</a> , <a href="#">AEP</a> , <a href="#">EPISA</a> , <a href="#">Exelon</a> , <a href="#">Joint Consumer Advocates</a> , <a href="#">LS Power</a> , <a href="#">ODEC</a> , <a href="#">P3</a> , <a href="#">PIOs</a> , <a href="#">RESA</a> FERC issues supplemental notice of May 25 (New England) tech conf FERC holds New England tech conf New England speaker materials posted to eLibrary
24	The Office of Public Participation (AD21-9)	May 7	Nearly 30 sets of comments submitted since the last Report, including by: <a href="#">CT DEEP</a> , <a href="#">Harvard Electricity Law Initiative</a> , <a href="#">Berkshire Environmental Action Team</a> , <a href="#">RTOGov Researchers</a>
24	ISO/RTO Credit Principles and Practices (AD21-6)		post-tech conf comments due on or before <b>Jun 7, 2021</b>

24	Offshore Wind Integration in RTOs/ISOs (AD20-18)	May 10-14	Post-technical conference comments filed by over 30 parties, including: <a href="#">ISO-NE</a> , <a href="#">NESCOE</a> , <a href="#">Anbaric</a> , <a href="#">ConEd</a> , <a href="#">Eversource</a> , <a href="#">National Grid</a> , <a href="#">NRDC et al.</a> , <a href="#">Orsted</a> , <a href="#">Shell</a> , <a href="#">CT DEEP</a> , <a href="#">EEI</a> , <a href="#">MA DOER</a> , <a href="#">RENEW et al.</a> , and <a href="#">RWE Renewables Americas</a>
26	Hybrid Resources (AD20-9)	May 26	FERC issues White Paper; comments due <b>Aug 18, 2021</b>
26	Increasing Market & Planning Efficiency Through Improved Software Tech Conf (AD10-12)	May 28	FERC issues supplemental notice of Jun 22-24 tech conf
26	NOPR: Cybersecurity Incentives (RM21-3)	May 6	Reply comments filed by <a href="#">APPA/TAPS</a> , <a href="#">EEI</a> , <a href="#">SEIA</a> , <a href="#">CA PUC/DWR</a> , and the <a href="#">Ohio FEA</a>
27	NOPR: Electric Transmission Incentives Policy (RM20-10)	May 5 May 11	Indicated PJM TOs, New England TOs support requests for 30-day extension of time to submit comments FERC grants extension of time to submit comments on <i>Supplemental NOPR</i> ; comments due <b>Jun 25, 2021</b> ; reply comments, <b>Jul 26, 2021</b>
28	Order 2222/2222-A: DER Participation in ISO/RTO Markets (RM18-9)	May 14 May 20 May 24	AEE and AEMA respond to <a href="#">ISO-NE's May 4, 2021 answer</a> to <a href="#">their Apr 19 Request for Clarification and/or Rehearing</a> FERC issues notice that requests for rehearing of <i>Order 2222-A</i> are denied by operation of law FERC grants ISO-NE extension of time, to Feb 2, 2022 (2/2/222), to comply with <i>Order 2222</i>
31	Order 676-J: Incorporation of NAESB WEQ Standards v. 003.3 into FERC Regs (RM05-5-029, -030)	May 20	FERC issues <i>Order 676-J</i> , eff. [60 days after the date of publication in the <i>Federal Register</i> ]
34	NOI: Certification of New Interstate Natural Gas Facilities (PL18-1)	May 6-25	More than an additional 100 sets of comments filed since the last Report

### XIII. FERC Enforcement Proceedings



34	PacifiCorp (IN21-6)	May 7	PacifiCorp elects the federal district court path described in FPA § 31(d)(3) for any future adjudication of the allegations in this proceeding (should the FERC pursue civil penalties against PacifiCorp for alleged violations in this proceeding)
* 34	GreenHat (IN18-9)	May 25 May 27 May 28	FERC issues show cause order directing Respondents to show cause why they should not (i) be found to have violated FERC statutes and regulations, as well as the PJM Tariff and Operating Agreement; (ii) be required, jointly and severally, to <b>disgorge</b> just over <b>\$13 million</b> ; and (iii) be assessed <b>civil penalties of \$179 million</b> (Green Hat), and Bartholomew and Ziegenhorn <b>\$25 million each</b> Respondents request 32-day extension of time to respond FERC Staff comments on request for extension of time

### XIV. Natural Gas Proceedings



37	Iroquois ExC Project (CP20-48)	May 27	FERC staff issues notice that it will prepare an Environmental Impact Statement planned for a Sep 3, 2021 release
37	Atlantic Bridge Project (CP16-9)	May 3 May 5 May 14 May 19	Algonquin petitions DC Circuit for review of <i>Briefing Order</i> Parties file reply briefs Algonquin answers reply briefs FERC issues order dismissing requests for rehearing of the <i>Briefing Order</i>



**XV. State Proceedings & Federal Legislative Proceedings**

- |    |   |        |  |
|----|---|--------|--|
| 40 | New England States' Vision Statement / On-Line Technical Forums | May 13 | Written comments on equity and environmental justice topics filed and posted |
|----|---|--------|--|

**XVI. Federal Courts**

- |      |   |                |   |
|------|---|----------------|---|
| 41   | CIP IROL Cost Recovery Rules (20-1389)                            | May 14         | NESCOE files a notice that, because its interests were addressed in the FERC's brief, it would not submit an Intervenor for Respondent Brief  |
| 41   | Mystic 8/9 COS Agreement (20-1343 et al.) (consol.)               | May 17         | Parties submit proposed formats for the briefing of these cases   |
| 43   | Order 872 (9th Cir.) (20-72788 et al.) (consol.)                  | May 27         | SEIA and Other Petitioners submit Petitioners' briefs   |
| * 45 | Algonquin Atlantic Bridge Project <i>Briefing Order</i> (21-1115) | May 3<br>May 5 | Algonquin petitions DC Circuit for review of the FERC's <i>Briefing Order</i> and <i>April 19 Notice of Denial of Rehearings by Operation of Law</i><br>Clerk issues order requiring appearances, docketing statements and statement of issues by <b>Jun 4, 2021</b> ; dispositive motions, if any, and a Certified Index to the Record, by <b>Jun 21, 2021</b> |

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

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

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

**DATE:** June 1, 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 June 1, 2021. If you have questions, please contact us.

**COVID-19**

- **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> Since the last Report, the "Remote Hearing Guidance for Participants" was revised on May 28, 2021 to make two additional 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

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<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).

<sup>4</sup> *Chief Administrative Law Judge's Notices to the Public*, Docket No. AD20-12 (May 18, 2021) (requiring that only attorneys may access Live Litigation (§VI(a)(vii)) and encouraging that privileged sessions be limited and revising guidance on privileged versus public session management (§VI(k)).

<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).

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)**

As previously reported, Green Development, LLC ("Green Development") filed on February 10, 2021 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. 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. National Grid filed its answer on March 2, 2021. 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"). On March 23, Green Development and SEIA answered National Grid's March 2 answer. On April 9, National Grid answered those answers. This matter remains 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)).

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

On May 28, 2021, the FERC denied NEPGA's December 11, 2020 Net CONE complaint against ISO-NE.<sup>12</sup> 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.<sup>13</sup> In denying the Complaint, the FERC found that ISO-NE did not violate its current Tariff or the filed rate doctrine by using the proposed methodology to recalculate Net CONE. The FERC said that ISO-NE was "entitled to file a revised Net CONE definition pursuant to FPA section 205 and, as such, it was appropriate for ISO-NE to have performed its Net CONE calculations for the next FCA consistent with the definition it intended to file and have in effect in advance of that FCA".<sup>14</sup> Assertions regarding the impact of the proposed methodology to the market were left to be addressed in ER21-787 (see Section III

<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).

<sup>12</sup> *New England Power Generators Assoc., Inc. v. ISO New England Inc.*, 175 FERC ¶ 61,177 (May 28, 2021) ("*NEPGA Net Cone Complaint Order*").

<sup>13</sup> NEPGA also asked the FERC to find unjust and unreasonable the Net CONE value for FCAs 16-18 filed in ER21-787. Those values were conditionally accepted in a concurrently-issued order (see ER21-787 in Section III below). In the *NEPGA Net Cone Complaint Order*, the FERC said that NEPGA had not demonstrated that substituting the Net CONE values calculated using the old methodology (undoing the filing in ER21-787) was appropriate or necessary to address the alleged filed rate doctrine violation. *NEPGA Net Cone Complaint Order* at P. 55.

<sup>14</sup> *Id.* at P 53.

below).<sup>15</sup> Challenges, if any, to the *NEPGA Net Cone Complaint Order* will be due on or before June 28. 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)**

As previously reported, NECEC Transmission LLC (“NECEC”) and Avangrid Inc. (together, “Avangrid”) filed a complaint (the “Complaint”) on October 13, 2020 requesting FERC action “to stop NextEra from unlawfully interfering with the interconnection of the New England Clean Energy Connect transmission project (“NECEC Project”)” and seeking, among other things, an initial, expedited order that would grant certain relief<sup>16</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. NextEra submitted an answer to the October 13 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. Avangrid answered NextEra’s answer and NextEra answered Avangrid’s November 17 answer (“supplemental answer”), repeating its request that the FERC dismiss or deny the Complaint. Avangrid also answered the supplemental answer.

Avangrid amended the Complaint on March 26, 2021 to reflect that aspects of the relief originally requested in the Complaint are no longer feasible within the timeline previously sought. Avangrid continues to seek expeditious FERC action, requesting in its March 26 filing a FERC order on or before May 7, 2021 (which did not occur). On April 15, 2021, NextEra answered the amended Complaint. On April 20, 2021, Avangrid answered NextEra’s April 15 answer.

Since the last Report, on May 6, 2021, ISO-NE submitted a letter to express importance of prompt resolution of these matters. On May 17, Avangrid submitted a letter supporting ISO-NE’s May 6, 2021 letter. This matter 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)).

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

In a related matter, initiated a week earlier than the Avangrid Complaint, 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”).

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<sup>15</sup> *Id.* at P 54.

<sup>16</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 Seabrook's Petition were filed by Eversource, MMWEC and NEPGA. Avangrid and NECEC Transmission ("Avangrid") protested the Declaratory Order Petition. Doc-less interventions were filed by Avangrid, Dominion, Eversource, Calpine, Exelon, HQ US, National Grid, NESCOE, NRG, and Public Citizen. NextEra answered Avangrid's protest and Avangrid answered NextEra's answer. Since the last Report, on May 6, 2021, ISO-NE submitted a letter in this proceeding, as well as in EL21-6, to express importance of prompt resolution of these matters. This matter also 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)).

- **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>17</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>18</sup> However, the FERC's orders were challenged, and in *Emera Maine*,<sup>19</sup> the DC Circuit vacated the FERC's prior orders, and remanded the case for further proceedings consistent with its 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>20</sup> and third (EL14-86)<sup>21</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>22</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*.

<sup>17</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>18</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>19</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).

<sup>20</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>21</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>22</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*").

- **Base ROE Complaint IV (EL16-64).** The fourth and final ROE proceeding<sup>23</sup> also went to hearing before an ALJ, Judge Glazer, who issued his initial decision on March 27, 2017.<sup>24</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>25</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>26</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>27</sup> (EL14-12; EL15-45) in Section XI below). The FERC established a paper hearing on how its proposed methodology should apply to the four pending ROE proceedings.<sup>28</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

<sup>23</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>24</sup> *Belmont Mun. Light Dept. v. Central Me. Power Co.*, 162 FERC ¶ 63,026 (Mar. 27, 2018) (“*Base ROE Complaint IV Initial Decision*”).

<sup>25</sup> *Id.* at P 2.; Finding of Fact (B).

<sup>26</sup> *Coakley v. Bangor Hydro-Elec. Co.*, 165 FERC ¶ 61,030 (Oct. 18, 2018) (“*Order Directing Briefs*” or “*Coakley*”).

<sup>27</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 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>28</sup> *Id.* at P 19.



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>29</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>30</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 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>31</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

- **Cross-Sound Cable CIP IROL (Schedule 17) Cost Recovery Filing (ER21-2031)**

On May 28, 2021, Cross-Sound Cable Company LLC ("CSC") requested FERC acceptance of a proposed rate schedule to allow CSC 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"). CSC stated that the rate schedule will provide interested parties notice of CSC'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

<sup>29</sup> *Id.* at P 59.

<sup>30</sup> For purposes of the motion seeking clarification, "Customers" are CT PURA, MA AG and EMCOS.

<sup>31</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).

contemplated by Schedule 17 and a subsequent Section 205 filing identifying the specific costs to be recovered. A June 1, 2021 effective date was requested. Comments on this filing are due on or before June 18, 2021. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

- **FCA15 Results Filing (ER21-1226)**

On February 26, 2021, 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 were due on or before April 12, 2021 and were filed by MA AG and NEPGA. NEPOOL, NESCOE, Calpine, Dominion, Exelon, MA AG, National Grid, NRG, MA DPU, and Public Citizen filed doc-less interventions. Comments from more than 30 individual citizens have also been filed, largely focused on environmental issues, and the Merrimack Generating Station in particular. On April 27, ISO-NE answered the comments by MA AG, NEPGA and the individual citizens. This matter remains pending before the FERC. 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)).

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

On May 20, 2021, the FERC approved<sup>32</sup> the settlement that amended and restated four Support Agreements and an Agreement with Respect to Use of Québec Interconnection (“Use Agreement”).<sup>33</sup> The Support and Use Agreements provide for the 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

<sup>32</sup> *New England Hydro-Transmission Electric Company, Inc. et al.*, 175 FERC ¶ 61,140 (May 20, 2021).

<sup>33</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.



facilities interconnecting New England and Québec. The term of the Support Agreements (and thereby the Use Agreement) was extended for another 20 years, until October 31, 2040. The settlement was accepted effective as of January 1, 2021, as requested. The May 20 order also directed the Filing Parties<sup>34</sup> to make a compliance filing with revised tariff records in eTariff format reflecting the FERC's action, on or before June 21, 2021. Challenges, if any, to the May 20 order are due on or before June 21. 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>35</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>36</sup> (and the earlier, underlying orders) have been appealed to the DC Circuit. Three aspects of this proceeding are 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, CT Parties,<sup>37</sup> ENECOS,<sup>38</sup> 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>39</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.

**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

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<sup>34</sup> "Filing Parties" were the 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").

<sup>35</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>36</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>37</sup> "CT Parties" are: Conn. Pub. Utils. Regulatory Authority ("CT PURA"), the Conn. Dept. of Energy and Envir. Protection ("CT DEEP"), and the Conn. Office of Consumer Counsel ("CT OCC").

<sup>38</sup> "ENECOS" are: Braintree, Concord, Georgetown, Hingham, Littleton, Middleborough, Middleton, Norwood, Pascoag, Reading, Taunton, and Wellesley.

<sup>39</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).

("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. On April 26, 2021, the FERC accepted in part, and rejected in part, the Sep 2020 Compliance Filing.<sup>40</sup> The FERC found that Mystic had partially complied with its directive "to reflect the transfer in lieu of foreclosure in its original cost study."<sup>41</sup> Agreeing with CT Parties, the FERC found that Mystic improperly applied the difference between the purchase price and net original cost to reduce the plant's gross book value, thereby unreasonably increasing Mystic's rate base. Accordingly, the FERC directed Mystic to submit, on or before June 25, 2021, a compliance filing "adopting the accounting treatment that Mystic submitted in Attachment A of its answer for instructional purposes, which adds to accumulated depreciation the difference between the purchase price and net original cost (and not to the plant's gross book value)".<sup>42</sup>

**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 proposed 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 were due on or before March 18, 2021. CT Parties, ENECOS and Public Systems<sup>44</sup> filed protests of the third compliance filing, and Mystic answered those protests on April 2, 2021. In the *April 26 Order*, the FERC rejected the Feb 2021 Compliance Filing.<sup>45</sup> The FERC found that, while Mystic removed the phrase "that were expensed", Mystic also proposed other revisions to the language of section 2.4 of the COS Agreement that went beyond the directives of the *Dec 21, 2020 Third Compliance Order*. Under FERC precedent, filers may not include a rate change in a compliance filing that is not directed or otherwise authorized by the FERC.<sup>46</sup> Therefore, the FERC rejected Mystic's proposed changes to section 2.4 of the COS Agreement and directed Mystic to submit in its 60-day (June 25, 2021) compliance filing, a change to section 2.4 that simply removes the phrase "that were expensed."

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 2021 Annual Informational Filing (ER20-1977)**

On May 3, 2021, Versant submitted its annual informational filing setting forth, for the June 1, 2021 to May 31, 2022 rate year, the charges for transmission service under the MPD OATT. Versant separately submitted an updated transmission real power loss factor informational filing on May 7, 2021. Although these filings will not be noticed for public comment, they will be subject to the process established in the "Protocols for Implementing and Reviewing Charges Established by the MPD OATT Attachment J Rate Formulas" and may result in further proceedings. If there are questions on this latest MPD OATT Informational Filing, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

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<sup>40</sup> *Constellation Mystic Power, LLC*, 175 FERC ¶ 61,069 (Apr. 26, 2021) ("*April 26 Order*").

<sup>41</sup> *Id.* at PP 23-24. Mystic was directed to reflect the fact that a group of creditors acquired Mystic 8 and 9 from the then-owner (Boston Generating, LLC) in exchange for extinguishing a debt in accordance with the FERC's original cost test.

<sup>42</sup> *Id.* at P 24.

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

<sup>44</sup> "Public Systems" are Mass. Mun. Wholesale Electric Co. ("MMWEC") and New Hampshire Elec. Coop. ("NHEC").

<sup>45</sup> *April 26 Order* at P 30.

<sup>46</sup> *See Ind. & Mich. Mun. Distribs. Ass'n v. Ind. Mich. Power Co.*, 61 FERC ¶ 61,351, at 62,373 (1992).

- **MPD OATT 2019 Annual Informational Filing Settlement Agreement (ER15-1429-015)**

On May 20, 2021, the FERC approved<sup>47</sup> the uncontested Joint Offer of Settlement between Versant Power, 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>48</sup> Unless the May 20 order is challenged, this proceeding will be concluded. If you have any questions concerning this proceeding, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **ISO Securities: Authorization for Future Drawdowns (ES21-34)**

On May 12, 2021, the FERC authorized ISO-NE drawdowns under a new \$20 million Revolving Credit Line and a new \$4 million line of credit supporting the Payment Default Shortfall Fund,<sup>49</sup> each of which are with TD Bank, are for a term of three years ending June 30, 2024, and replace similar arrangements that will expire June 30, 2021.<sup>50</sup> The authorization is effective from June 1, 2021 through May 31, 2023 (the maximum allowable period under FERC regulations), and supersedes the 2020 Order in its entirety. Unless the 2021 Order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Paul Belval (860-275-0381; [pnbelval@daypitney.com](mailto:pnbelval@daypitney.com)).

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

- **Solar Data Requirements & Relocation of Wind Data Requirements (ER21-1974)**

On May 21, 2021, ISO-NE and NEPOOL jointly filed Tariff changes to establish operational and meteorological data requirements for solar facilities and relocate and streamline already-existing data requirements for wind facilities. Specifically, the changes: (i) add to Market Rule 1 section III.1.11.3 requirements for solar facilities to provide forced outage and meteorological data; (ii) move from the LGIA to section III.1.11.3 the requirements for wind facilities to provide forced outage and meteorological data (effectively extending the requirements to all wind facilities that interconnect through ISO-NE's generator interconnection process, as well as any wind facilities that may interconnect through state interconnection processes); add four new defined terms used in section III.1.11.3 (Solar High Limit, Solar Plant Future Availability, Wind High Limit, and Wind Plant Future Availability) to the Tariff's Definition section (I.2.2); and (iv) deletes "photovoltaic" from section III.1.11.3 so that the Tariff consistently uses the generic term "solar." The revisions were supported by the Participants Committee at its August 2, 2019 meeting (Consent Agenda Items #1 and #2). A July 20, 2021 effective date was requested. Comments on this filing are due on or before August 18, 2021. Thus far, doc-less interventions have been filed by Calpine and NESCOE. If you have any questions concerning this proceeding, please contact please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

<sup>47</sup> *Versant Power*, 175 FERC ¶ 61,131 (May 20, 2021).

<sup>48</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>49</sup> *ISO New England Inc.*, 175 FERC ¶ 62,084 (May 12, 2021) ("2021 Order") (continuing authorization through May 31, 2023).

<sup>50</sup> See *ISO New England Inc.*, 139 FERC ¶ 62,248 (June 22, 2012) (initially authorizing borrowings through June 30, 2014); *ISO New England Inc.*, 147 FERC ¶ 62,091 (May 6, 2014) (continuing authorization through June 30, 2015); *ISO New England Inc.*, 151 FERC ¶ 62,185 (June 15, 2015) (continuing authorization through June 30, 2017); *ISO New England Inc.*, 159 FERC ¶ 62,143 (May 9, 2017) (continuing authorization through June 30, 2019); *ISO New England Inc.*, 163 FERC ¶ 62,144 (June 1, 2018) (continuing authorization through May 31, 2020); *ISO New England Inc.*, 172 FERC ¶ 62,017 (July 13, 2020) ("2020 Order") (continuing authorization through July 12, 2022).

- **eTariff § III.13.7 Conforming Changes (ER21-1883)**

On May 11, 2021, ISO-NE filed conforming changes to eTariff § III.13.7 to remove updates to CONE, Net CONE, and the Capacity Performance Payment Rate ("PPR"), that had not yet been accepted by the FERC, but was nonetheless included in the eTariff version of § III.13.7 accepted in the March 31 order in the EER Exemption from PFP Settlement proceeding (ER21-943). Comments on this filing were due on or before June 1, 2021; none were filed. NEPOOL intervened doc-lessly. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **eTariff § III.13.1 Corrections (ER21-1766)**

On April 26, 2021, ISO-NE filed changes to Section III.13.1 of its eTariff to ensure that the eTariff Viewer reflects in all appropriate versions the rejection of the June 11, 2018 Economic Life Revisions and includes the corresponding, since-accepted compliance revisions. Comments on this filing were due on or before May 17, 2021; none were filed. NEPOOL intervened doc-lessly. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Waiver Request: FCA16 Qualification Requirement (CMEEC, MMWEC, Pascoag, VT DPS) (ER21-1726)**

On April 21, 2021, CMEEC, MMWEC, Pascoag, and VT DPS (together, "Movants") petitioned the FERC for a one-time waiver of the requirement to submit, by the deadline contained in ISO-NE Tariff Section III.13.1.10(e), the required copies of executed versions of its New York Power Authority ("NYPA") contracts in connection with the FCA16 New Capacity Imports qualification process. Movants explained that the waiver is necessary because, while the contracts with NYPA have been completed and have received initial approval from NYPA's Board of Trustees, the contracts will not have been signed prior to the close of the submission because of the duration of the state approval process. Comments on Movants' waiver request were due on or before May 12. On May 5, NYPA submitted comments supporting the waiver request, including confirming that executed final NYPA Contracts will not become available until mid-summer (after the June 10-18, 2021 submission window for FCA16). NEPOOL intervened doc-lessly. No other comments or interventions were filed. The waiver request is pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **ISO-NE IMM Ethical Standards Changes (ER21-1666)**

On April 13, 2021, ISO-NE and NEPOOL filed revisions to Market Rule 1 to include directly in Section 18 of Appendix A to Market Rule 1 the remaining minimum ethical standards for the IMM Unit and its employees that, pursuant to *Order 719*, must be included in the ISO-NE Tariff. While two of those ethical standard are already set forth directly in Appendix A Section 18, the revisions add the remaining five to Section 18 and delete Exhibit 5 to Appendix A (ISO-NE's Code of Conduct) which had been until now relied on for including those five standards. The changes were supported by the Participants Committee (by way of the March 4 Consent Agenda - Item No. 5). Comments on this filing were due on or before May 4, 2021; none were filed. Brookfield, Calpine, Eversource (out-of-time), National Grid, NESCOE, and NRG filed doc-less interventions. There was no activity since the last Report. This matter remains 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)).

- **FCA16 ORTP Jump Ball Filing (ER21-1637)**

On April 7, 2021, ISO-NE and NEPOOL filed alternative Tariff changes to establish Offer Review Trigger Prices (ORTPs) for the sixteenth Forward Capacity Auction (FCA16). The primary differences between the alternative proposals were the ORTPs for Off-Shore Wind, Energy Storage Devices (Lithium Ion Batteries), and Photovoltaic Solar, where NEPOOL proposed lower ORTPs,<sup>51</sup> as well as NEPOOL's Proposals regarding Economic Life determination, unit-specific offer review, the use of tax credits, and the ORTP for Combined Resources. The

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<sup>51</sup> For Off-Shore Wind, Lithium Ion Batteries and Photovoltaic Solar, ISO-NE proposed ORTPs of the FCA Starting Price, \$2.912, and \$1.381, respectively; NEPOOL, \$0.000, \$2.601, and \$0.000, respectively.

Participants Committee supported the NEPOOL alternative with a 72.5% vote in favor; the ISO-NE alternative, with a 19.04% in favor. ISO-NE and NEPOOL jointly requested that the FERC issue an order on or before Tuesday, June 8, 2021.

**Motion for Protective Order.** On April 13, 2021, NEPOOL requested the adoption of a Protective Order to allow for prompt access to the complete set of data relied on by ISO-NE for its alternative, particularly confidential cost information from Mott MacDonald's database. Access to that information would help the parties and the FERC to understand and assess the ISO's calculation for its proposed offshore wind ORTP. ISO-NE opposed NEPOOL's motion. PJM, concerned that "the risk of public disclosure – even subject to a protective order – may hinder PJM's ability to engage with independent consultants" who may be unwilling to disclose confidential and proprietary project specific costs given the non-disclosure agreements with their respective clients, urged the FERC to limit the scope of its order in this docket. NEPOOL answered points made in the ISO-NE protest and PJM comments. ISO-NE answered NEPOOL's answer. The FERC has not, as of the date of this Report, taken any action on the motion for protective order.

**Comments, Protests, Answers.** Comments were due on or before April 28 and were filed by: [NEPOOL](#), [ISO-NE IMM](#), [Acadia](#), [Calpine/Vistra](#), [ENECOS](#), [Enel X/ENGIE/Borrego/AEE/SEIA/ACPA](#), [FirstLight](#), [MMWEC/NHEC](#), [MA AG/NH OCA/CT OCC](#), [NEPGA](#), [North East Offshore](#), [New England for Off Shore Wind](#), [RENEW](#), [CT AG](#), [CT DEEP](#), [EPSA](#), [National Hydropower Assoc.](#) Interventions only were filed by a number of parties, including by: Avangrid, Brookfield, CLF, CPV Towantic, Dominion, ENE, Eversource, Exelon, EPSA, National Grid, NESCOE, NRDC, NRG, Vineyard Wind, Public Citizen intervene, Sierra Club, and the Maine Office of Public Advocate.

Since the last Report, [NEPGA](#) answered North East Offshore's protest on May 12. On May 13, [NEPOOL](#) answered arguments opposing aspects of the NEPOOL Alternative and [ISO-NE](#) responded to comments and protests filed in opposition to its proposed ORTP values and related Tariff changes. Answers to those answers were filed by [NEPOOL](#), [NEPGA](#), [MMWEC](#) and [NHEC](#), and [North East Offshore](#).

This matter is pending before the FERC. 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)), Joe Fagan (202-218-3901; [jfagan@daypitney.com](mailto:jfagan@daypitney.com)) or Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

- **eTariff § I.2 Corrections (ER21-1513)**

On May 18, 2021, the FERC accepted corrections filed by ISO-NE to its eTariff to remove from Section I.2 previously-rejected changes (proposed in the April 15, 2020 Energy Security ("ESI") Initiatives filing (ER20-1567)) that were also included as part of an April 16, 2020 filing accepted by the FERC that extended the implementation date of the Settlement-Only Generator Dispatchability Changes (ER20-1582).<sup>52</sup> The corrections will be effective as of January 1, 2021, as requested. Unless the May 18 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

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

On May 28, 2021, the FERC conditionally accepted,<sup>53</sup> eff. May 29, 2021, the updates to the Cost of New Entry ("CONE"), Net CONE and Performance Payment Rate ("PPR") values, as amended in ISO-NE's March 30, 2021 Deficiency Response,<sup>54</sup> as well as the modified definition of Net CONE, subject to a 15-day compliance filing (due

<sup>52</sup> *ISO New England Inc.*, Docket No. ER21-1513 (May 18, 2021) (unpublished letter order).

<sup>53</sup> *ISO New England Inc.*, 175 FERC ¶ 61,172 (May 28, 2021) ("May 28 Order").

<sup>54</sup> As previously reported, the FERC issued a deficiency letter, on March 1, 2021, directing ISO-NE to provide 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 were due on or before March 31,



on or before June 14, 2021) that reflects the assumption that the reference unit has on-site compression.<sup>55</sup> As noted in Section II above (EL21-26), the FERC denied NEPGA's Net CONE Complaint in a concurrently-issued order. Subject to the filing and acceptance of the 15-day compliance filing, this matter will be concluded. Challenges, if any, to the May 28 order are due on or before June 28, 2021. 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)).

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

- **Order 676-I Compliance Filing (ER21-941)**

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)).

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

No Activity to Report

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

- **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*

2021 and were filed by ISO-NE on March 30, 2021. ISO-NE's submission of the additional information re-set the 60-day deadline for FERC action on this filing.

<sup>55</sup> . In its answer to the Deficiency Letter protests, ISO-NE stated that, assuming the FERC determines (as it has) that the reference unit requires on-site compression, the FERC should direct ISO-NE to include \$8.75 million for that cost, that ISO-NE would account for on-site compression by adding \$100,000 in annual operating and maintenance costs, reducing the seasonal capacity in the dispatch model by 5.5 MW (to account for load to run the compression equipment), and reducing the plant capacity available for participation in the Forward Capacity Market by 5.5 MW. Accordingly, ISO-NE stated that the resulting CONE, Net CONE, and PPR values would be \$12.400/kW-month, \$7.468/kW-month, and \$9,337/MWh, respectively. *May 28 Order* at P 59.

*Order*,<sup>56</sup> and certified by Settlement Judge Dring<sup>57</sup> to the Commission,<sup>58</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-NSTAR Annual Informational Filing (ER09-1243; ER07-549)**

On June 1, 2021, NSTAR submitted an informational filing containing the true-up of billings under Schedule 21-NSTAR for the period January 1, 2020 through December 31, 2020. NSTAR stated that the filing complies with the requirements of Section 4 and Attachment D of Schedule 21-NSTAR, as well as the Settlement Agreement approved previously by the FERC.<sup>59</sup> 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)).

- **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>60</sup> and *531-B*<sup>61</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)).

<sup>56</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>57</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>58</sup> *Emera Maine and BHE Holdings*, 163 FERC ¶ 63,018 (June 11, 2018).

<sup>59</sup> See *NSTAR Elec. Co.*, 123 FERC ¶ 61,270 at P 5 (2008).

<sup>60</sup> *Martha Coakley, Mass. Att'y Gen.*, 149 FERC ¶ 61,032 (Oct. 16, 2014) ("*Opinion 531-A*").

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

- **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 - 2021 Q1 (ER21-1873)**

On May 7, 2021, ISO-NE filed its Capital Projects Report and Unamortized Cost Schedule covering the first quarter ("Q1") of calendar year 2021 (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) Security Information and Event Management Log Monitoring Infrastructure Replacement (\$2.91 million); (ii) IMM Data Analysis Phase III (\$1.57 million); (iii) 2021 Issue Resolution Project (\$1.13 million); (iv) TransSMART Technical Architecture Update (\$819,400); (v) Communication Front End Energy Management Platform 3.2 Upgrade (\$605,300); (vi) Learning Content Management System / Learning Management System Replacement (\$260,000); and (vii) Behind-the-Meter Photovoltaic Web Publication (\$145,000). The one Project with a significant change was the Data Governance, Risk Management & Compliance Software Phase I Project (with a 2021 budget decrease of \$125,000). Comments on this filing were due May 28, 2021. NEPOOL submitted comments supporting the Report on May 18. This matter is pending before the FERC. 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 Q1 2021 (ER19-1951)**

On May 13, 2021, ISO-NE filed, as required,<sup>62</sup> public and confidential<sup>63</sup> versions of its Interconnection Study Metrics Processing Time Exceedance Report (the "Exceedance Report") for the first quarter of 2021 ("2021 Q1"). ISO-NE reported that three of the five 2021 Q1 **Interconnection Feasibility Study ("IFS") reports** delivered to Interconnection Customers were delivered later than the best efforts completion timeline.<sup>64</sup> In addition, one IFS Report that has not yet been completed has 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 115.4 days (down from 178.5 in 2020 Q4). All five **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 434 days (down from 580 in 2020 Q4). In addition, 11 SIS reports that are not yet completed have exceeded the 270-day completion expectation. 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 will not be noticed for public comment.

<sup>62</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>63</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>64</sup> 90 days from the Interconnection Customer's execution of the study agreement.



- **ISO-NE FERC Form 3Q (2021/Q1) (not docketed)**

On May 25, 2021, ISO-NE submitted its 2021/Q1 FERC Form 3Q (quarterly financial report of electric utilities, licensees, and natural gas companies). FERC Form 3-Q is a quarterly regulatory requirement which supplements the annual FERC Form 1 financial reporting requirement. These filings are not noticed for comment.

- **ISO-NE 2020 FERC Form 714 (not docketed)**

On June 1, 2021, ISO-NE submitted its Annual Electric Balancing Authority Area and Planning Area Report for calendar year 2020. Through its Form 714 filing, ISO-NE reports, among other things, generation in the New England Control Area, actual and scheduled inter-balancing authority area power transfers, and net energy for load, summer-winter generation peaks and system lambda. The FERC uses the data to obtain a broad picture of interconnected balancing authority area operations including comprehensive information of balancing authority area generation, actual and scheduled inter-balancing authority area power transfers, and load; and to prepare status reports on the electric utility industry including review of inter-balancing authority area bulk power trade information. Planning area data will be used to monitor forecasted demands by electric utility entities with fundamental demand responsibility, and to develop hourly demand characteristics. These filings are not noticed for comment.

## IX. Membership Filings

- **June 2021 Membership Filing (ER21-2026)**

On May 28, 2021, NEPOOL requested that the FERC accept (i) the memberships of Hydroland, Inc. (AR Sector, RG Sub-Sector Small Group Member); and Vineyard Wind 1 LLC [Related Person to Avangrid companies (Transmission Sector)]; and (ii) the termination of the Participant status of Convergent Energy and Power LP. Comments on this filing are due on or before June 18, 2021.

- **May 2021 Membership Filing (ER21-1804)**

On April 30, 2021, NEPOOL requested that the FERC accept (i) the memberships of Protor Energy, LLC [Related Person to Darby Energy, LLC (Supplier Sector)]; and Voltus Inc. (AR Sector, Load Response Sub-Sector); and (ii) the termination of the Participant status of Great Bay Power Marketing (AR Sector, Small RG Group Member). Comments on this filing were due on or before May 21, 2021; none were filed. This matter is pending before the FERC.

- **April 2021 Membership Filing (ER21-1570)**

On May 26, 2021, the FERC accepted the memberships of Ocean State BTM LLC [Related Person to Madison BTM, Madison ESS, Rumford ESS, and New England Battery Storage (Generation Group Seat)]; and Transgrid Midwest LLC (Supplier Sector).<sup>65</sup> Unless the May 26 order is challenged, this proceeding will be concluded.

- **Suspension Notice (not docketed)**

Since the last Report, ISO-NE filed, pursuant to Section 2.3 of the Information Policy, a notice with the FERC noting that the following Market Participant was suspended from the New England Markets on the date indicated (at 8:30 a.m.) due to a Financial Assurance Default:

<sup>65</sup> *New England Power Pool Participants Comm.*, Docket No. ER21-1570 (May 26, 2021) (unpublished letter order).

<i><b>Date of Suspension/ FERC Notice</b></i>	<i><b>Participant Name</b></i>	<i><b>Default Type</b></i>	<i><b>Date Reinstated</b></i>
May 11/13	Acadia Renewable Energy	Financial Assurance	May 17
May 11/13	Backyard Farms Energy	Financial Assurance	May 17
May 11/13	Liberty Power Delaware	Financial Assurance	--
May 11/13	EPIS	Financial Assurance	--
May 12/14	Manchester Methane	Financial Assurance	--

Suspension notices are for the FERC's information only and are not docketed or noticed for public comment.

## 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)).

- **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 fifth informational filing on March 15, 2021, 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).

- **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>66</sup> On March 25, 2020, Joint Associations<sup>67</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.

<sup>66</sup> *Virtualization and Cloud Computing Services*, 170 FERC ¶ 61,110 (Feb. 20, 2020).

<sup>67</sup> "Joint Associations" are for purposes of this proceeding: EEI, APPA, NRECA, and LPPC.

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 to the comments filed, the FERC, in a December 17, 2020 order,<sup>68</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>69</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>70</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>71</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>72</sup> (the “MOD A Reliability Standards”). The FERC intends 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, which were just accepted in *Order 676-J* (see Section XII below).

- **Report on Research Results Under NERC’s Final GMD Research Work Plan (RM15-11)**

On April 30, 2021, NERC filed an informational report, pursuant to P 77 of *Order 830*, that provides further technical justification and support for the currently effective geomagnetic disturbances (“GMD”) planning

<sup>68</sup> *Virtualization and Cloud Computing Services*, 173 FERC ¶ 61,243 (Dec. 17, 2020) (“*Order Directing Jan 2022 Info. Filing*”).

<sup>69</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>70</sup> *Order 873* at P 2.

<sup>71</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>72</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 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.

standard, TPL-007-4 (Transmission System Planned Performance for GMD Events). The outcomes from this research project affirm the efficacy of the TPL-007 Reliability Standard and provide tools and insights for the ERO, industry, and research partners to use in accurately performing GMD Vulnerability Assessments. NERC committed, as part of the required periodic review of the TPL-007 Reliability Standard, to consider these research findings, as well as any new developments in space weather research and other insights that are gained during the implementation of the standard, to determine whether further improvements and refinements to the standard are necessary. NERC's April 30 Report was not noticed for public comment. Since the last Report, EPRI filed technical reports that it prepared in conjunction with NERC's Report. EPRI's reports will not be noticed for public comment

- **Notice of Penalty: VTransco (NP21-14) and CMP (NP21-11)**

**VTransco.** On April 29, 2021, NERC filed a Notice of Penalty regarding VTransco's violation of Reliability Standards FAC-003-4 (Transmission Vegetation Management) Requirements 2 and 6. Specifically, NPCC, NERC's Regional Entity for the Northeast, determined VTransco violated FAC-003-4 R2, from June 6-8, 2020, when a tree encroached into the Minimum Vegetation Clearance Distance and contacted a 345kV transmission line, causing the line to trip and lock out of service as designed. NPCC determined VTransco violated FAC-003-4 R6, from May 17, 2020-June 17, 2020, by failing to include the same two 345kV transmission lines in its database used for its Vegetation Management Program, thereby failing to perform a Vegetation Inspection on these two transmission lines at least once per calendar year with no more than 18 calendar months between inspections on the same Right-of-Way, as required. NPCC determined that these violations posed a moderate risk to the reliability of the Bulk Power System ("BPS"). To resolve all outstanding issues arising from NPCC's determinations and findings, NPCC and VTransco entered into a Settlement Agreement in which VTransco admits to the violations and agrees to a **\$100,000 penalty**, in addition to other activities outlined in the Settlement Agreement. Because the FERC decided not to further review the notice of penalty,<sup>73</sup> the penalty will be effective May 28, 2021.<sup>74</sup>

**CMP.** Also on April 29, 2021, as corrected on May 5, NERC filed a Notice of Penalty regarding CMP's violation of Reliability Standard TOP-001-4 (Transmission Operations). Specifically, NPCC determined that, in two self-reported incidences, CMP failed to ensure that a real-time assessment was performed, as required, every 30 minutes. NPCC concluded that the violations posed a moderate risk to the reliability and resilience of the Bulk Power System and cited prior violations of the TOP-001 standard as an aggravating factor. To resolve this matter, NPCC and CMP entered into a Settlement Agreement in which CMP admits to the violations and agrees to a **\$360,000 penalty**. Because the FERC decided not to further review the notice of penalty,<sup>73</sup> the penalty will be effective May 28, 2021.<sup>74</sup>

- **5-Year ERO Performance Assessment Report (RR19-7)**

On May 19, 2021, the FERC submitted a further compliance filing in response to the requirements of the January 19, 2021 *Order on Compliance Filings*<sup>75</sup> (i) to further clarify information sharing between NERC and the Electricity Information Sharing and Analysis Center<sup>76</sup> ("EISAC") as it relates to the development of Reliability Standards; and (ii) to revise NERC's Rules of Procedure to explicitly require that NERC share all Points Bulletins ("APBs") with the FERC no later than at the time of issuance. Comments on the further compliance filing are due on or before June 9, 2021.

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<sup>73</sup> *N. Am. Elec. Rel. Corp.*, 175 FERC ¶ 61,173 (May 28, 2021).

<sup>74</sup> See 18 CFR § 39.7(e).

<sup>75</sup> *N. Am. Elec. Rel. Corp.*, 174 FERC ¶ 61,030 (2021) ("*Order on Compliance Filings*") (accepting NERC's compliance filings submitted in response to the FERC's 2020 *Five Year Order* (*N. Am. Elec. Rel. Corp.*, 170 FERC ¶ 61,029 (Jan. 23, 2020)). and directing the further compliance filing).

<sup>76</sup> The EISAC, created in 1999 pursuant to a U.S. presidential directive, provides its member utilities and partners with resources to prepare for and reduce cyber and physical security threats to the North American electricity industry

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

- **203 Application: PPL/Narragansett (EC21-87)**

On May 4, 2021, PPL Corporation and The Narragansett Electric Company (“Narragansett”) requested authorization for a transaction pursuant to which a wholly-owned subsidiary of PPL will acquire 100% of the outstanding shares of common stock of Narragansett. The transaction is expected to close in the fourth quarter of 2021. No comments on the application were filed by the May 25, 2021 comment date and 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).

- **203 Application: Seneca/Rice et al. (EC21-84)**

On April 28, 2021, Seneca Energy II (“Seneca”), among others, requested authorization for a transaction pursuant to which its ultimate upstream ownership will change to include a publicly listed company (Rice Acquisition Corp. (“Rice”)) and both Aria Energy LLC (“Aria”), which is wholly-owned by funds managed by Ares Management Corporation (“Ares Management”), and Archaea Energy, LLC (“Archaea”). After the closing, Aria affiliates will hold approximately 20% of the expected outstanding voting shares; Archaea and its members, 29%; Rice and its shareholders, the remaining shares. Seneca will remain, for the time being, a Related Person to Generation Sector member Kleen Energy. Applicants supplemented their 203 application on May 20, 2021 addresses the potential for future affiliation with Panda Stonewall LLC (“Stonewall”). 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).

- **203 Application: ReEnergy/Ember (EC21-83)**

Also on April 28, 2021, ReEnergy Livermore Falls LLC and ReEnergy Stratton LLC (“ReEnergy”) requested authorization for the sale of 55% of their membership interests to a new joint venture holding company to be owned by ReEnergy Biomass and Ember RGE Holdings, LLC (“Ember”). Upon consummation, ReEnergy Biomass and Ember will ultimately hold 15-30% and 70-85%, respectively, of the voting interests in the joint venture holding company. Comments on the 203 application were due on or before May 19, 2021; 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).

- **203 Application: Engie/Hull Street (Waterbury Generation) (EC21-75)**

On May 28, 2021, the FERC authorized a transaction pursuant to which all of the equity interests in Waterbury Generation will be acquired by an indirect subsidiary of Hull Street Energy (“Hull Street”), making Waterbury Generation a Related Person of AR Sector member Central Rivers Power MA and its affiliates.<sup>77</sup> Pursuant to the May 28 order, notice must be filed within 10 days of consummation of the transaction, which as of the date of this Report has not yet occurred.

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

As previously reported, Exelon Generation Company, LLC (“ExGen”), on behalf of its public utility subsidiaries, requested on February 25, 2021 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 were due on or before March 18, 2021. Joint PJM Consumer

<sup>77</sup> *Waterbury Generation LLC and Hull Street Energy, LLC*, 175 FERC ¶ 62,131 (May 28, 2021).

Advocates<sup>78</sup> filed a protest requesting, among other things, that the FERC direct Applicants to file supplemental materials that include a market power analysis and addresses the vertical market power concerns that Joint PJM Consumer Advocates raised in its comments. Doc-less interventions only were filed by PJM, PJM IMM, EDF, Old Dominion, and Public Citizen. Since the last Report, Exelon answered Joint PJM Consumer Advocates on April 2, 2021. On April 16, the FERC issued a deficiency letter requiring a response from Exelon within 30 days. On April 29, 2021, Exelon submitted its responses to the April 16 deficiency letter. Comments on the April 29 deficiency letter response were due on or before May 13, 2021; 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).

- **D&E Agreement: NSTAR/Cranberry Point Energy Storage (ER21-1908)**

On May 14, 2021, NSTAR filed a Preliminary Agreement for Design, Engineering and Construction services (the “D&E Agreement”) between itself and Cranberry Point Energy Storage (“Cranberry Point”). The D&E Agreement sets forth the terms and conditions under which NSTAR would advance certain design, engineering and cost estimating activities of certain upgrades identified in the System Impact Study for the large generating facility being developed by Cranberry Point that will interconnect to the NSTAR’s 115 kV transmission system at or near Carver substation in Cape Cod. NSTAR requested that the D&E Agreement be accepted for filing as of the day after the filing, or May 15, 2021. Comments on this filing are due on or before June 4, 2021. 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: CL&P / Gravel Pit Solar (ER21-1740)**

On April 23, 2021, CL&P filed a notice of cancellation of a Design and Engineering Agreement (“D&E Agreement”) with Gravel Pit Solar LLC. The D&E Agreement set forth the terms and conditions under which Gravel Pit Solar would reimburse CL&P for the costs associated with performing preliminary engineering and design activities of the line work and switching station that is required to interconnect the project to the transmission system, prior to execution of an LGIA. By its terms, the Agreement terminated upon execution of the LGIA, which occurred on April 20, 2021. An April 23, 2021 effective date was requested for this notice of cancellation. Comments on this filing were due on or before May 14, 2021; 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: CMP / Rumford (ER21-1457)**

On March 16, 2021, CMP filed a notice of cancellation of an Interconnection Agreement between CMP and Rumford Power that expired by its own terms on October 31, 2020 and was replaced by a new, three-party Large Generator Interconnection Agreement (“Renewed LGIA”) between ISO-NE, CMP and Rumford Power. An October 22, 2020 effective date was requested. Comments on this filing were due on or before April 6, 2021; none were filed. This matter remains 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).

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<sup>78</sup> “Joint PJM Consumer Advocates” are: the Office of the People’s Counsel for the District of Columbia, Citizens Utility Board, the Delaware Division of the Public Advocate, Maryland Office of the People’s Counsel, New Jersey Division of Rate Counsel, and the Pennsylvania Office of Consumer Advocate.

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

In accordance with *Order 864*<sup>79</sup> and *Order 864-A*,<sup>80</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
Mar 11, 2021	ER21-1325	NHT	pending
Mar 8, 2021	ER21-1295	Eversource (CL&P, PSNH, NSTAR)	pending
Feb 16, 2021	ER21-1154	Fitchburg Gas & Electric ("FG&E")	pending
Oct 30, 2020	ER21-311	Green Mountain Power	pending
Apr 16, 2021	ER21-1694		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
	ER21-1650		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
	ER21-1709		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	New England TOs	pending
	ER21-1130		
Jul 15, 2020	ER20-2429	CMP	pending
	ER21-1702		pending
Jun 29, 2020	ER20-2219	New England Power	pending
Jun 23, 2020	ER20-2133	Versant Power	pending
Mar 22, 2021	-001		
May 18, 2020	ER20-1839	VETCO	pending
Jan 7, 2021			
Feb 26, 2020	ER20-1089	New England Elec. Trans. Corp.	pending
Dec 11, 2020			
Feb 26, 2020	ER20-1088	New England Hydro Trans. Elec. Co.	pending
Dec 11, 2020			
Feb 26, 2020	ER20-1087	New England Hydro Trans. Corp.	pending
Dec 11, 2020			

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

♦ **ER20-2429 (CMP)**. On May 27, 2021, CMP requested an extension of time, to July 6, 2021, to respond to the FERC's May 4, 2021 deficiency letter.

<sup>79</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>80</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*").



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

- **Climate Change, Extreme Weather, and Electric Sys. Reliability: Jun 1-2 Technical Conference (AD21-13)**

On March 5, 2021, the FERC issued a notice that FERC staff will convene on June 1-2, 2021, a technical conference to discuss issues surrounding the threat to electric system reliability posed by climate change and extreme weather events. This technical conference will address (i) concerns that, because extreme weather events are increasing in frequency, intensity, geographic expanse, and duration, the number and severity of weather-induced events in the electric power industry may also increase; and (ii) specific challenges posed to electric system reliability by climate change and extreme weather, which may vary by region. The FERC seeks to understand the near, medium and long-term challenges facing the regions of the country; how decision makers in the regions are evaluating and addressing those challenges; and whether further FERC action is needed to help achieve an electric system that can withstand, respond to, and recover from extreme weather events. A supplemental notice will be issued prior to the conference with further details regarding the agenda and organization.

Pre-technical conference comments were due on or before April 15, 2021 and were filed by, among others, [ISO-NE](#), [AEE](#), [Dominion](#), [EDF](#), [Eversource](#), [Exelon](#), [LS Power](#), [National Grid](#), [PSEG](#), [Vistra](#), [APPA](#), [Capital Power](#), [EEI](#), [NARUC](#), [NEI](#), [NERC](#), [NRECA](#), and the [R Street Institute](#).

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

On April 29, 2021, the FERC convened a Commissioner-led technical conference 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 of the technical conference was to “initiate a dialog between Commissioners and stakeholders on how to prepare for an increasingly electrified future.” Panel discussions addressed (1) projections, drivers, and risks of electrification; (2) infrastructure requirements of electrification (the extent to which electrification may influence or necessitate additional transmission and generation infrastructure); (3) transmission and distribution system services provided by flexible demand (how newly electrified sources of energy demand (e.g., electric vehicles, smart thermostats, etc.) could provide grid services and enhance reliability); and (4) the role of local, state, and federal coordination as electrification advances. On May 17, the FERC issued a notice inviting the submission of post-technical conference comments addressing issues raised during the technical conference and/or identified in the April 14, 2021 Supplemental Notice of Technical Conference. Any such comments are due on or before July 1, 2021.

- **Resource Adequacy - Modernizing Electricity Market Design (AD21-10)**

**March 23 Tech Conf (PJM).** The FERC convened a Commissioner-led technical conference was on March 23, 2021 to provide input to the Commission on resource adequacy in the evolving electricity sector. Speaker materials from the March 23 technical conference have been posted to eLibrary. On March 29, Ohio PUC Commission Dan Conway submitted written comments. On April 5, the FERC issued a notice inviting post-technical conference comments on specific PJM-specific questions. Initial comments were due on or before April 26, 2021; reply comments must be submitted on or before May 10, 2021. More than 45 sets of comments were filed, including by: [AEE](#), [Calpine](#), [Cogentrix](#), [Dominion](#), [Exelon](#), [FirstLight](#), [LS Power](#), [NESCOE](#), [NEPGA](#), [NRG](#), [PSEG](#), [Shell](#), [Vistra](#), [CT DEEP](#), [EEI](#), [EPSA](#), and [NRECA/APPA](#), some of which addressed issues to be discussed in the May 25 New England technical conference (identified immediately below). On May 10, 2021, reply comments were filed by the [American Clean Power Association](#) (“ACPA”), [AEP](#), [EPSA](#), [Exelon](#), [Joint Consumer Advocates](#), [LS Power](#), [Old Dominion Electric Cooperative](#) (“ODEC”), [PJM Power Providers](#) (“P3”), [Public Interest Organizations](#) (“PIOs”), and the [Retail Electric Supply Association](#) (“RESA”).

**May 25 Tech Conf (New England).** On April 22, 2021, the FERC issued a notice that it will convene a remotely-held, Commissioner-led technical conference regarding the wholesale markets administered by ISO New England Inc. On May 3, the FERC issued a supplemental notice of the technical conference, which included an agenda and topics/questions for discussion for the technical conference. The technical conference will include the



following three panel discussions: (1) Commissioner-led discussion of the relationship between state policies and the New England Markets; (2) Staff-led discussion of short-term options and complementary potential market changes to accommodate state policies in New England; and (3) Staff-led discussion of long-term options and centralized procurement of clean energy. Panelists have yet to be announced. A copy of the supplemental notice of the technical conference is included with this Report.

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

On April 16, 2021, the FERC convened a workshop to allow for input to the Commission on the creation of the Office of Public Participation (“OPP”). As previously reported, 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. At the workshop, the Commission heard input on the following considerations in forming the OPP, 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. A transcript of the workshop is posted in the FERC’s eLibrary.

In addition, the FERC held a series of virtual listening sessions, between March 17, 2021 to March 25, 2021, to similarly solicit public input on how the Commission should establish and operate the OPP with the following groups: (1) landowners and communities affected by infrastructure development (March 17); (2) environmental justice communities and tribal interests (March 22); (3) tribal governments (March 24); and (4) energy consumers and consumer advocates (March 25). The deadline for written comments was extended to May 7, 2021, and in all nearly 140 sets of comments were filed. This matter is pending before the Commission.

- **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 and a transcript of the technical conference are posted in the FERC’s eLibrary.

On April 21, 2021, the FERC issued a notice inviting post-technical conference comments on the issues raised during the technical conference, including the questions listed in the February 24, 2021 supplemental notice of the technical conference and in the attachment to the April 21 notice. Post-technical conference comments are due on or before June 7, 2021.

- **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.”

On March 11, 2021, the FERC issued a notice inviting interested persons to file, on or before May 10, 2021, post-technical conference comments on the questions listed in the attachment to its Notice or to the questions outlined in the October 22, 2020 supplemental notice of technical conference. Post-technical conference comments were filed by over 30 parties, including: [ISO-NE](#), [NESCOE](#), [Anbaric](#), [ConEd](#), [Eversource](#), [National Grid](#), [NRDC et al.](#), [Orsted](#), [Shell](#), [CT DEEP](#), [EEI](#), [MA DOER](#), [RENEW et al.](#), and [RWE Renewables Americas](#). This matter is pending before the FERC.

- **Carbon Pricing in RTO/ISO Markets Policy Statement (AD20-14)**

On April 15, 2021, the FERC issued a Policy Statement<sup>81</sup> to explain how it will approach FPA section 205 filings that propose RTO/ISO market rules that incorporate a state-determined carbon price. Without indicating a preference for a state-determined carbon pricing approach over other state policies, and noting “whether and how a state chooses to address [greenhouse gas] emissions is a matter exclusively within that state’s jurisdiction”, the FERC expressly stated that “it is the policy of this Commission to encourage efforts of RTOs/ISOs and their stakeholders—including States, market participants, and consumers—to explore and consider the value of incorporating state-determined carbon prices into RTO/ISO markets.”<sup>82</sup>

The *Carbon Pricing Policy Statement* explained the FERC’s jurisdiction to review, and identified the following non-binding list of potential considerations that the FERC may use to evaluate, a filing to establish market rules for incorporating a state determined carbon price into an RTO/ISO market:

- 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 would state determined carbon prices, including any changes to these prices, be reflected in RTO/ISO tariffs or market designs?
- b. How would the FPA section 205 proposal provide adequate price transparency and enhance price formation?
- c. How would the carbon price or prices be reflected in locational marginal prices (“LMP”)?
- d. How would the incorporation of the state-determined carbon price into the RTO/ISO market affect dispatch? Would the state-determined carbon price affect how the RTO/ISO co-optimizes energy and ancillary services? Would any reforms to RTO/ISO co-optimization rules be necessary in light of the state determined carbon price? Would any reforms to other market design elements be necessary, such as to market power mitigation rules or other rules that affect whether the market produces just and reasonable rates?
- e. Would the filer’s proposal result in economic or environmental leakage? If so, how might the proposal address any such leakage?
- f. What elements of the proposal affect the wholesale rates paid by customers? How does the proposal consider this impact and the impact on consumers overall?

The *Carbon Pricing Policy Statement* makes clear that the FERC will determine whether the filing meets the FPA section 205 standard based on the particular facts and circumstances presented in that proceeding. The

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<sup>81</sup> *Carbon Pricing in Organized Wholesale Electricity Markets*, 175 FERC ¶ 61,036 (Apr. 15, 2021) (“*Carbon Pricing Policy Statement*”). A policy statement provides only a general expression of FERC policy. It does not establish any binding rule, regulation, or other precedent. When applied in specific cases, parties can challenge or support the application of the Policy Statement in those proceedings.

<sup>82</sup> *Id.* at P 19.

*Carbon Pricing Policy Statement* follows a September 30, 2020 technical conference and October 15, 2020 Notice of Proposed Policy Statement<sup>83</sup> summarized in previous Reports.

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

As previously reported, the FERC convened a July 23, 2020 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 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 are due August 18, 2021. The FERC will use the reports and comments to determine whether further action is appropriate.

**Hybrid Resources White Paper.** On May 26, 2021, the FERC issued a white paper that discusses the hybrid resources technical conference, as well as information learned in post-technical conference comments. Interested persons were invited to submit comments on the white paper and encouraged to jointly respond to both the white paper and RTO/ISO informational reports where applicable to avoid duplicate comments. Comments on the white paper are also due August 18, 2021.

- **Increasing Market and Planning Efficiency Through Improved Software Tech Conf (Jun 22-24, 2021) (AD10-12)**

On June 22-24, the FERC will hold its 12<sup>th</sup> annual technical conference addressing increasing Real-Time and Day-Ahead market efficiency through improved software. On May 28, 2021, the FERC issued a supplemental notice of the technical conference that included speakers’ summaries of their presentations. The conference will take place virtually via WebEx, with remote participation from both presenters and attendees. Further details on remote attendance and participation will be released prior to the conference. Attendees must register through the FERC’s website on or before June 11, 2021. WebEx connections may not be available to those who do not register. The FERC will accept comments following the conference, with a comment deadline of July 30, 2021.

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

On December 17, 2020, the FERC issued a NOPR<sup>84</sup> proposing to establish rules for incentive-based rate treatment for voluntary cybersecurity investments by a public utility for or in connection with the transmission or sale of electric energy subject to FERC jurisdiction, and rates or practices affecting or pertaining to such rates for the purpose of ensuring the reliability of the BPS.

Comments on the *Cyber security Incentives NOPR* were due on or before April 6, 2021. Comments were filed by: [NECPUC](#), [APPA](#), [EEI](#), [EPSA](#), [LPCC](#), [NERC](#), [NRECA](#), [TAPS](#), [Accenture](#), [aDolus Inc. et al.](#),<sup>85</sup> [Alliant](#), [Anterix](#), [Bureau of Reclamation](#), [CA Dept of Water Resources State Water Project/CPUC](#), [George Cotter](#), [FRS](#), [Hitachi ABB Power Grids](#), [IECA](#), [ITC](#), [Joint Consumer Advocates](#), [MI PUC](#), [Org of MISO States](#), [MISO TOs](#), [PJM](#)

<sup>83</sup> *Carbon Pricing in Organized Wholesale Electricity Markets*, 173 FERC ¶ 61,062 (Oct. 15, 2020) (“*Proposed Policy Statement*”).

<sup>84</sup> *Cybersecurity Incentives*, 173 FERC ¶ 61,240 (Dec. 17, 2020) (“*Cybersecurity Incentives NOPR*”).

<sup>85</sup> These joint comments were filed by aDolus Inc., Fortress Information Security, GMO GlobalSign Inc., Ion Channel, ReFirm Labs and Reliable Energy Analytics LLC.

TOs, and [Public Citizen](#). Reply comments were due May 6, 2021<sup>86</sup> and were filed by [APPA/TAPS](#), [EEI](#), [SEIA](#), California Public Utilities Commission and California Department of Water Resources (“[CA PUC/DWR](#)”), and the Office of the Ohio Federal Energy Advocate (“[Ohio FEA](#)”). This matter is pending before the FERC.

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

On November 19, 2020, the FERC issued a NOPR<sup>87</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* were due on or before March 22, 2021.<sup>88</sup> Comments were submitted by over 50 parties, including by ISO-NE, DC Energy, Dominion, EDF, ENEL/EnerNOC, Eversource, Exelon, NRDC, Vistra, EEI, EPRI, EPSA, New England State Agencies,<sup>89</sup> NRECA/LPPC, and Potomac Economics. Reply comments were submitted by the Organization of MISO States, Potomac Economics, and ITC Holdings Corp. This matter is pending before the FERC.

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

In two developments since the last Report, the FERC issued on April 15, 2021 (i) a supplemental notice of proposed rulemaking,<sup>90</sup> and (ii) a notice of a September 10, 2021 workshop.<sup>91</sup>

**Supplemental NOPR.** In light of comments already received in this proceeding,<sup>92</sup> the FERC issued the *Supplemental NOPR* to propose and seek comment on a revised incentive for transmitting and electric utilities that join Transmission Organizations (“Transmission Organization Incentive”). The incentive would be reduced from 100 to 50 basis points and would be available only for three years. The FERC seeks comment on whether voluntary participation should be a requirement, and if so, how “voluntary” should be determined. In addition, the FERC now proposes to require each utility that has received a Transmission Organization Incentive for three or more years to submit a compliance filing revising its tariff to remove the incentive from its transmission tariff. The *Supplemental NOPR* did not address the other proposals contained in the *March NOPR*.<sup>93</sup> A more detailed

<sup>86</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>87</sup> *Managing Transmission Line Ratings*, 173 FERC ¶ 61,165 (Nov. 19, 2020) (“*Managing Transmission Line Ratings NOPR*”).

<sup>88</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>89</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.

<sup>90</sup> *Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act*, 175 FERC ¶ 61,035 (Apr. 15, 2021) (“*Supplemental NOPR*”).

<sup>91</sup> Notice of Workshop, *Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act*, Docket Nos. RM20-10 and AD19-19 (Apr. 15, 2021).

<sup>92</sup> Over 80 sets of comments on the *March NOPR* were filed on or before the July 1, 2020 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.

<sup>93</sup> As previously reported, the *March NOPR* proposed revisions to the FERCs existing transmission incentives policy and corresponding regulations, including 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-

summary of the NOPR was distributed to the Transmission Committee and discussed at the TC's March 25, 2020 meeting.

On May 11, 2021, the FERC granted requests for a 30-day extension of time to submit comments on the *Supplemental NOPR*. Comments on the *Supplemental NOPR* are now due on or before June 25, 2021; reply comments, July 26, 2021.

**September 10, 2021 Workshop.** The FERC will convene a workshop on September 10, 2021 to discuss certain performance-based ratemaking approaches, particularly shared savings, that may foster deployment of transmission technologies. The notice states that the workshop will explore: the maturity of the modeling approaches for various transmission technologies; the data needed to study the benefits/costs of such technologies; issues pertaining to access to or confidentiality of this data; the time horizons that should be considered for such studies; and other issues related to verifying forecasted benefits. The workshop may also discuss whether and how to account for circumstances in which benefits do not materialize as anticipated and may explore other performance-based ratemaking approaches for transmission technologies seeking incentives under FPA section 219, particularly market-based incentives.

If you have any questions concerning these matters, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

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

On September 17, 2020, the FERC issued a final rule ("*Order 2222*")<sup>94</sup> adopting reforms to remove what it found were barriers to the participation of distributed energy resource ("DER")<sup>95</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;

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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.**
- ◆ **Transmission Organization Incentive.** A 50-basis-point increase for transmitting utilities that turn over their wholesale facilities to a Transmission Organization and *only for the first three years after transferring operational control of its facilities*. The FERC seeks comment as to whether participation must be voluntary to receive the incentive, and if so, how the CFERC should determine whether the decision to join 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.

<sup>94</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>95</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."

- (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.

**ISO-NE Compliance Deadline Extensions.** On May 24, 2021, the FERC approved the extension of time requested by ISO-NE, to February 2, 2022 (2/2/222), to comply with *Order 2222*.<sup>96</sup> In granting the extension of time, as it did for MISO, SPP and PJM, the FERC directed ISO-NE to submit an informational filing indicating any changes to the stakeholder process schedule provided in its extension request on or before June 23, 2021 and to submit status reports every 90 days thereafter until the date that ISO-NE submits its compliance filing.<sup>97</sup>

**Order 2222-A.** On March 18, 2021, the FERC issued *Order 2222-A*,<sup>98</sup> which addressed arguments on rehearing and set aside and clarified *Order 2222* in part. Specifically, as is its right under *Allegheny*, the FERC modified the discussion in *Order 2222* and set aside *Order 2222*, in part, by finding that the participation of demand response in DER aggregations is subject to the opt-out and opt-in requirements of *Orders 719* and *719-A*, providing further clarification on the FERC's interconnection policies pertaining to Qualifying Facilities ("QFs"), and modifying § 35.28(g)(12)(i) to make a non-substantive ministerial correction. Requests for rehearing and/or clarification of *Order 2222-A* were due on or before April 19, 2021 and were filed by: AEE/AEMA (Advanced Energy Management Alliance), EEI, National Association of Regulatory Utility Commissioners ("NARUC"), Louisiana Public Service Commission ("LPSC") and the Mississippi Public Service Commission ("MPSC"), North Carolina Utilities Commission, the MISO Transmission Owners ("MISO TOs"), and Voltus. On April 30, MISO filed comments supporting the rehearing requests filed by NARUC, LPSC/MPSC and the MISO TOs. On May 4, ISO-NE answered the AEE/AEMA request for clarification and/or rehearing of *Order 2222*. On May 14, AEE/AEMA answered ISO-NE's May 4 answer.

On May 20, 2021, the FERC issued a "Notice of Denial of Rehearings by Operation of Law and Providing for Further Consideration". The Notice confirmed that the 60-day period during which a petition for review of *Order*

<sup>96</sup> *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Indep. Sys. Operators*, 175 FERC ¶ 61,156 (May 24, 2021).

<sup>97</sup> *Id.* at P 5.

<sup>98</sup> *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Indep. Sys. Operators*, Order No. 2222-A, 174 FERC ¶ 61,197 (Mar. 18, 2021) ("*Order 2222-A*").



2222-A can be filed with an appropriate federal court was triggered when the FERC did not act on the requests for rehearing of *Order 2222-A*.<sup>99</sup> 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.”<sup>100</sup> Appeals of *Order 2222-A* are now ripe for appeal to the Federal Courts.

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

As previously reported, *Order 860*,<sup>101</sup> issued three years after the FERC’s *Data Collection NOPR*,<sup>102</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 has posted 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 July 1, 2021, and submitters will have until close of business on November 2, 2021 to make their initial baseline submissions. Submitters will be required to obtain 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>103</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>104</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](#).

**Notice Seeking Comments on Change to MBR Database.** On March 18, 2021, the FERC issued a notice seeking comments on proposed changes to the MBR Data Dictionary to reflect the affiliations, or lack of affiliation, among Sellers for which their ultimate upstream affiliate is an institutional investor who acquired

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<sup>99</sup> *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Indep. Sys. Operators*, 175 FERC ¶ 61,156 (May 24, 2021).

<sup>100</sup> *Id.*

<sup>101</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>102</sup> *Data Collection for Analytics and Surveillance and Market-Based Rate Purposes*, 156 FERC ¶ 61,045 (July 21, 2016) (“*Data Collection NOPR*”).

<sup>103</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>104</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*”).

their securities pursuant to a section 203(a)(2) blanket authorization.<sup>105</sup> Specifically, the FERC proposes to update the MBR Data Dictionary and add the following three new attributes to the Entities table: the blanket authorization docket number, and the utility ID types and the utility IDs of the utilities whose securities were purchased under the corresponding blanket authorization docket number. Appropriate Sellers would be required to submit the docket number of the proceeding in which the FERC granted the section 203(a)(2) blanket authorization and the upstream affiliate whose securities were acquired pursuant to the section 203(a)(2) blanket authorization. Comments on the Notice are due on or before June 7, 2021.<sup>106</sup> In light of the proposed changes, the FERC deferred by three months the effective date of *Order 860* and its associated deadlines.

***Effective Date Extended a Second Time by 3 Months.*** On March 18, 2021, the FERC issued a notice extending the effective and associated implementation dates of *Order 860* by an additional *three* months. The new *Order 860* effective date will be July 1, 2021, and the deadline for baseline submissions to and including November 2, 2021. First change in status filings under these new timelines will be due November 30, 2021.

***April 22, 2021 Technical Workshop.*** On April 22, 2021, the FERC held a technical workshop to discuss the functionality and features of the MBR Database.

- ***Order 676-J: Incorporation of NAESB WEQ Standards v. 003.3 into FERC Regs (RM05-5-029, -030)***

On May 20, 2021, the FERC issued Order 676-J,<sup>107</sup> which revises FERC regulations to incorporate by reference the latest version (Version 003.3) of the 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 WEQ Version 003.3 Standards include, in their entirety, the WEQ-023 Modeling Business Practice Standards contained in the WEQ Version 003.1 Standards, which address the technical issues affecting Available Transfer Capability (“ATC”) and Available Flowgate Capability (“AFC”) calculation for wholesale electric transmission services, with the addition of certain revisions and corrections. The FERC also revised its regulations to provide that transmission providers must avoid unduly discriminatory and preferential treatment in the calculation of ATC. *Order 676-J* will become effective [60 days after the date of publication in the *Federal Register*].<sup>108</sup> Public utilities must make a compliance filing to comply with the requirements of this final rule through eTariff 12 months after implementation of the WEQ Version 003.2 Standards. Compliance filings for cybersecurity and Parallel Flow Visualization standards are due [9 months after the date of publication in the *Federal Register*].

- ***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>109</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.

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<sup>105</sup> *Data Collection for Analytics and Surveillance and Market-Based Rate Purposes*, 174 FERC ¶ 61,214 (Mar. 18, 2021).

<sup>106</sup> The Notice was published *Fed. Reg.* on Apr. 6, 2021 (Vol. 86, No. 64) pp. 17,823-17,828.

<sup>107</sup> *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-J, 175 FERC ¶ 61,139 (May 20, 2021) (“*Order 676-J*”).

<sup>108</sup> *Order 676-J* has not yet been published in the *Fed. Reg.*

<sup>109</sup> *Waiver of Tariff Requirements*, 171 FERC ¶ 61,156 (May 21, 2020) (“*Proposed Policy Statement*”).



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.
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>110</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).

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<sup>110</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.

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>111</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>112</sup> INGAA, Kansas Electric Power Coop. (“KEPC”), NGA, NGSA, NRECA, Public Citizen, Sunflower Electric Power, and TAPS. Reply comments were filed by APPA, Joint Trade Associations,<sup>113</sup> KEPC, and the Sustainable FERC Project. The proposed Policy Statement remains 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>114</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>115</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>116</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>117</sup> answered the New England TO’s May 10 supplemental comments. On June 15, 2020, Joint Parties<sup>118</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>119</sup> WIRES submitted supplemental

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<sup>111</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>112</sup> “Indicated Generators” are Vistra, NRG, FirstLight, Cogentrix, and LS Power.

<sup>113</sup> “Joint Trade Associations” are AEE, AWEA, EEI, EPSA, INGAA, NGSA, NRECA and SEIA.

<sup>114</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>115</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>115</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>116</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>117</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>118</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>119</sup> “Six Cities” are the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California.

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)**

As previously reported, the FERC’s February 18, 2021 notice of inquiry (“2021 NOI”) sought new information and additional stakeholder perspectives to help the FERC explore whether it should revise its approach under the currently effective policy statement on the certification of new natural gas transportation 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 NGA section 7.<sup>120</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>121</sup> Comments on the 2021 NOI were due May 26, 2021. In all, more than 130 sets of comments were filed, including a large number from concerned private citizens. This matter is pending before the FERC.

### XIII. FERC Enforcement Proceedings

#### Electric-Related Enforcement Actions

- **GreenHat (IN18-9)**

On May 20, 2021, the FERC directed GreenHat Energy, LLC (“GreenHat”), John Bartholomew, Kevin Ziegenhorn, and [Luan Troxel as the Executor for] the Estate of Andrew Kittell (“Kittell Estate”) (collectively, “Respondents”) to show cause why they should not be found to have violated FPA section 222, along with section 1c.2 of the FERC’s regulations, PJM Tariff Attachment Q, Section B and section 15.1.3 of PJM’s Operating Agreement, by engaging in a manipulative scheme in PJM’s Financial Transmission Rights (“FTR”) market which generated more than \$13 million in unjust profits for Respondents and imposed approximately \$179 million in losses on PJM Members. The FERC directed GreenHat, Bartholomew, Ziegenhorn, and the Kittell Estate to show cause why they should not be required, jointly and severally, to disgorge unjust profits of just **over \$13 million**, plus interest and directed GreenHat, Bartholomew, and Ziegenhorn (but not the Kittell Estate) to show cause why they should not be assessed civil penalties of **\$179 million, \$25 million, and \$25 million**, respectively. Ouch.

On May 27, Respondents asked for a 32-day extension of time, to Monday, June 21, 2021, to file their answer. FERC staff responded to Respondent’s motion, not opposing the extension of time, but noting that under California law, the FERC must act by October 21, 2021 to preserve its ability to seek disgorgement from the Kittell Estate if it issues a penalty order in this proceeding. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **PacifiCorp (IN21-6)**

On April 15, 2021, in the FERC’s first-ever Show Cause Order addressing alleged violations of NERC Reliability Standards,<sup>122</sup> the FERC directed PacifiCorp to show cause why it should not be found to have

<sup>120</sup> *Certification of New Interstate Natural Gas Facilities*, 174 FERC ¶ 61,125 (Feb. 18, 2021) (“2021 NOI”).

<sup>121</sup> *Id.* at P 3.

<sup>122</sup> *PacifiCorp*, 175 FERC ¶ 61,039 (Apr. 15, 2021) (“*PacifiCorp Show Cause Order*”).

violated FPA section 215(b)(1) and section 39.2 of the FERC's regulations by failing to comply with Reliability Standard FAC 009-1 (Establish and Communicate Facility Ratings), Requirement R1, and the successor Reliability Standard FAC-008-3 (Facility Ratings), Requirement R6 (collectively, "FAC-009-1 R1"), which requires a transmission owner to establish and have facility ratings that are consistent with its Facility Ratings Methodology ("FRM"). An Enforcement investigation found that clearance measurements on a majority of PacifiCorp's transmission lines were incorrect under the National Electric Safety Code, which were used to calculate PacifiCorp's facility ratings, thus making PacifiCorp's facility ratings inconsistent with its FRM. Enforcement alleges that PacifiCorp was aware of incorrect clearances on its system since at least 2007 when FAC-009-1 R1 became mandatory, but failed to identify and remedy them in a timely manner, and PacifiCorp's violations began on August 31, 2009, when it implemented its FRM policy, and at least some of the violations continued until August 2017 when PacifiCorp completed remediation of all of its incorrect clearances to make them consistent with its FRM. Enforcement also pointed to the role of the violations in the Wood Hollow, Utah wildfire that lasted from June 23 to July 1, 2012. In light of these alleged violations, the FERC directed PacifiCorp to show cause why it should not be assessed civil penalties in the amount of **\$42 million**.

On April 21, PacifiCorp asked for a 60-day extension of time, to July 15, 2021, to file its answer. On April 22, FERC staff responded to Respondent's motion, not opposing the extension of time, but asking that, for scheduling conflict reasons, its deadline to reply also be extended by 30 days. On May 4, 2021, the FERC extended PacifiCorp's answer period by 60 days, to and including July 16, 2021, and Enforcement's reply period, 60 days from the filing of PacifiCorp's answer. Since the last Report, PacifiCorp exercised its right, pursuant to FPA § 31(d)(1), to elect the federal district court path described in FPA § 31(d)(3) for any future adjudication of these allegations in the event that the FERC chooses to pursue a civil penalty against PacifiCorp for alleged violations. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

### Natural Gas-Related Enforcement Actions

- **Rover Pipeline, LLC and Energy Transfer Partners, L.P. (IN19-4)**

On March 18, 2021, the FERC issued a show cause order<sup>123</sup> in which it directed Rover Pipeline, LLC ("Rover") and Energy Transfer Partners, L.P. ("ETP" and together with Rover, "Respondents") to show cause why they should not be found to have violated Section 157.5 of the FERC's regulations by misleading the FERC in its Application for Certificate of Public Convenience and Necessity under NGA section 7(c).<sup>124</sup> The FERC directed Respondents to show cause why they should not be assessed civil penalties in the amount of **\$20.16 million**. On April 5, 2021, the FERC extended by 60 days, to June 18, 2021, the deadline for Respondents' answer.

- **BP (IN13-15)**

On December 17, 2020, the FERC issued *Opinion 549-A*,<sup>125</sup> a 159-page decision addressing arguments raised on rehearing requested of *Opinion 549*.<sup>126</sup> *Opinion 549-A* modifies the discussion in *Opinion 549*, but

<sup>123</sup> *Rover Pipeline, LLC, and Energy Transfer Partners, L.P.*, 174 FERC ¶ 61,208 (Mar. 18, 2021) ("*Rover/ETP Show Cause Order*").

<sup>124</sup> Specifically, Rover stated that it was "committed to a solution that results in no adverse effects" to the Stoneman House, an 1843 farmstead located near Rover's largest proposed compressor station. In truth, the OE Staff Report alleges, Rover was simultaneously planning to purchase the house with the intent to demolish it, if necessary, to complete its pipeline. The OE Staff Report alleges that Rover purchased the house in May 2015 and demolished the house in May 2016. The OE Staff Report further finds that despite taking these actions during the year and a half that Rover's application was pending before the FERC, Rover did not notify the FERC that it purchased the Stoneman House, intended to destroy the Stoneman House, and did destroy the Stoneman House. The OE Staff Report therefore concludes that Rover violated section 157.5's requirement for full, complete and forthright applications, through its misrepresentations and omissions, when it decided not to tell FERC that it had purchased the house and was considering demolishing it, and when Rover demolished it in May 2016 without notifying FERC.

<sup>125</sup> *BP America Inc. et al.*, Opinion No. 549-A, 173 FERC ¶ 61,239 (Dec. 17, 2020) ("*BP Penalties Allegheny Order*").

<sup>126</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

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>127</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>128</sup>

On December 29, 2020, 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>129</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 a scheme to manipulate the price of natural gas at four locations in the southwest United States between June 2009 and June 2012.<sup>130</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.

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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>127</sup> *BP Penalties Allegheny Order* at P 1.

<sup>128</sup> *Id.* at P 319.

<sup>129</sup> *Total Gas & Power North America, Inc.*, 155 FERC ¶ 61,105 (Apr. 28, 2016) ("*TGPNA Show Cause Order*").

<sup>130</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 NGA section 4A 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.

**XIV. 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 January 26, 2021 that the FERC act promptly and issue the certificate; National Grid and ConEd submit comments supporting Iroquois' application and request for action.
  - On May 27, 2021, FERC staff issued a notice that it will prepare an environmental impact statement ("EIS") for this Project, which will respond to comments filed on the Environmental Assessment, and plans to release that EIS on September 3, 2021.
- ***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>131</sup> Rehearing of the *Authorization Order* was timely requested, but denied by operation of law.
  - *Briefing Order*. In a fairly unprecedented order issued February 18, 2021,<sup>132</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 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 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*?
  - Requests for rehearing of the *Briefing Order* were filed by Algonquin, NGSA and Center for Liquefied Natural Gas, and by America and Energy Infrastructure Council. Cheniere Energy submitted comments in support of the requests for rehearing. On April 19, 2021, the FERC issued a "Notice of Denial of Rehearings by Operation of Law and Providing for Further

<sup>131</sup> *Algonquin Gas Transmission, LLC*, Docket No. CP16-9 at 1 (Sep. 24, 2020) (delegated order) ("*Authorization Order*").

<sup>132</sup> *Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, LLC*, 174 FERC ¶ 61,126 (Feb. 18, 2021) ("*Briefing Order*").

Consideration”.<sup>133</sup> The Notice confirmed that the 60-day period during which a petition for review of its *Briefing Order* can be filed with an appropriate federal court was triggered when the FERC did not act on the requests for rehearing of the *Briefing Order*. 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.” On May 19, the FERC issued that order,<sup>134</sup> dismissing the requests for rehearing of the *Briefing Order*, noting, over the objection of Commissioner Danly, that the *Briefing Order* was an exercise of the FERC’s continuing oversight of the Project (meaning the claimed harms would be speculative and premature) and Algonquin and Trade Associations will have an opportunity to submit, if they choose, in requests for rehearing of any final decision by the Commission in this proceeding. Algonquin petitioned the DC Circuit for reviewed of the *Briefing Order* and the notice of denial by operation of law on May 3, 2021 (see Section XVI below).

- ▶ Initial briefs in response to the *Briefing Order* were due April 5, 2021. Nearly 50 sets of initial briefs and comments were filed. Reply briefs were due on or before May 5, 2021; 12 sets of reply briefs were filed. Algonquin answered those reply briefs on May 14.
- ▶ 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>135</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>136</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>137</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

<sup>133</sup> *Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, LLC*, 175 FERC ¶ 62,022 (Apr. 19, 2021) (“April 19 Notice of Denial of Rehearings by Operation of Law”).

<sup>134</sup> *Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, LLC*, 175 FERC ¶ 61,150 (May 19, 2021).

<sup>135</sup> *Nat’l Fuel Gas Supply Corp. and Empire Pipeline, Inc.*, 167 FERC ¶ 61,007 (Apr. 2, 2019).

<sup>136</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>137</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).

York (“Northern Access Project”) in an order issued February 3, 2017.<sup>138</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 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>139</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>140</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>141</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>142</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>143</sup>

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<sup>138</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*”).

<sup>139</sup> *Nat’l Fuel Gas Supply Corp. v. NYSDEC et al.* (2d Cir., Case No. 17-1164).

<sup>140</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>141</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>142</sup> *National Fuel Gas Supply Corp. and Empire Pipeline, Inc.*, 173 FERC ¶ 61,197 (Dec. 1, 2020).

<sup>143</sup> *Id.* at P 10.



**XV. 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, the following series of online technical forums to discuss the issues presented in the Vision Statement were held:

Jan 13, 2021	Wholesale Market Reform
Jan 25, 2021	Wholesale Market Reform
Feb 2, 2021	Transmission Planning
Feb 25, 2021	Governance Reform
Mar 18, 2021	Equity and Environmental Justice

Written comments on the topics and discussions addressed in the on the equity and environmental justice topics and discussions were, following an extension, due by May 13, 2021. Comments submitted are posted on [NewEnglandEnergyVision.com](#). Recordings of the technical forums, as well as draft notices, agendas, and additional information on these sessions, are also available on the New England States' Vision Statement website (<https://newenglandenergyvision.com/>).

**XVI. 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)).

- **ISO-NE Implementation of Order 1000 Exemptions for Immediate Need Reliability Projects (20-1422) Underlying FERC Proceeding: EL19-90<sup>144</sup>**

**Petitioner: LS Power**

**Status: Briefing Underway**

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. 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. In accordance with that amended schedule, LS Power filed Petitioner's Brief on April 5, 2021 and MMWEC filed an "Intervenor in Support of Petitioners" Brief on April 12, 2021. Next up is the FERC's brief due on June 11, 2021. Remaining deadlines after that include: Intervenor in Support of FERC due July 9, 2021; Petitioner's Reply Brief, July 9, 2021;

<sup>144</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).

Intervenors in Support of Petitioner Reply Brief, July 9, 2021; Deferred Appendix, July 16, 2021; and Final Briefs July 30, 2021.

- **CIP IROL Cost Recovery Rules (20-1389)**  
**Underlying FERC Proceeding: ER20-739<sup>145</sup>**  
**Petitioner: Cogentrix, Vistra**  
**Status: Briefing Underway**

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 (which it corrected on March 8 to remove the use of the acronym "NERC" to identify the "North American Electric Reliability Corporation). FERC filed Respondent's Brief on April 30, 2021. On May 14, NESCOE (Intervenor for Respondent) filed a notice that, because its interests were addressed in the FERC's brief, it would not submit an Intervenor for Respondent Brief. Next up will be Petitioners' Reply Brief (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>146</sup>**  
**Petitioners: Mystic (20-1343), NESCOE (20-1361, 21-1067), MA AG (20-1362), CT Parties (20-1365, 20-1368, 21-1070)**  
**Status: Briefing Not Yet Begun**

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>147</sup> The cases have been consolidated into Case No. 20-1343. 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 March 25, 2021, the Court issued an order returning this case to its active docket. On March 26, the Court granted the interventions by MMWEC/NHEC, NESCOE, and ENECOS. On April 16, 2021, the Court ordered the parties to file, and the parties did file, by May 17, 2021, proposed formats for the briefing of these cases.

- **CASPR (20-1333, 20-1331) (consolidated)\*\***  
**Underlying FERC Proceeding: ER18-619<sup>148</sup>**  
**Petitioners: Sierra Club, NRDC, RENEW Northeast, and CLF**  
**Status: Being Held in Abeyance**

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

<sup>145</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>146</sup> *July 2018 Order; July 2018 Rehearing Order; Dec 2018 Order; Dec 2018 Rehearing Order; Jul 17 Compliance Order.*

<sup>147</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>148</sup> *ISO New England Inc.*, 162 FERC ¶ 61,205 (Mar. 9, 2018) ("CASPR Order").

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 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. On March 24, 2021, the Court granted NEPOOL's intervention and established a briefing schedule that, as explained just below, has since been superseded.

On April 7, 2021, the Court granted Petitioners' motion to hold this matter in abeyance, pending further order of the Court. The parties were directed to file motions to govern future proceedings in these cases on or before October 22, 2021.

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

**Underlying FERC Proceeding: ER15-414<sup>149</sup>**

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

**Status: Being Held in Abeyance**

On August 28, 2020, the TOs<sup>150</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>151</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 that this case remain in abeyance pending further order of the court. On April 21, 2021, the FERC filed an unopposed motion for continued abeyance of this case *because* the Commission intends to issue a future order on Petitioners' request for rehearing of the challenged Order Rejecting Compliance Filing, and because the remand proceeding in which the challenged order was issued remains ongoing.

On May 4, 2021, the Court ordered that this case remain in abeyance pending further order of the court, directing the FERC to file a status report by September 1, 2021 and at 120-day intervals thereafter. The parties were directed to file motions to govern future proceedings in this case within 30 days of the completion of agency proceedings.

<sup>149</sup> *ISO New England Inc.*, 161 FERC ¶ 61,031 (Oct. 6, 2017) ("Order Rejecting Filing").

<sup>150</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>151</sup> *Emera Maine v. FERC*, 854 F.3d 9 (D.C. Cir. 2017) ("*Emera Maine*").

- **2013/14 Winter Reliability Program Order on Compliance and Remand (20-1289, 20-1366 ) (consol.)**  
**Underlying FERC Proceeding: ER13-2266<sup>152</sup>**  
**Petitioner: TransCanada**  
**Status: Briefing Complete; Pending Court Action**

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>153</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. On March 12, FERC filed its Respondent Brief. Since the last Report, TransCanada filed Petitioner’s Reply Brief on April 9, 2021 and the Deferred Appendix on April 16. TransCanada filed its Final Brief on April 30, 2021. Briefing is now complete and this matter is pending before the Court.

- **ISO-NE’s Inventoried Energy Program (Chapter 2B) Proposal (19-1224\*\*\*; 19-1247; 19-1252; 19-1253)(consolidated); Underlying FERC Proceeding: ER19-1428<sup>154</sup>**  
**Petitioners: ENECOS (Belmont et al.) (19-1224); MA AG (19-1247); NH PUC/NH OCA (19-1252); Sierra Club/UCS (19-1253)**  
**Status: Briefing Complete; Pending Court Action**

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, 2020, the Court ordered that the cases be removed from abeyance. Opening Briefs from Petitioners were filed on December 11, 2020. 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. Petitioners’ Reply Brief was filed on March 30, 2021. The Deferred Appendix was filed on April 20, 2021. Final Briefs were filed on May 4, 2021. With briefing complete, this matter is now pending before the Court.

#### 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>155</sup>**  
**Petitioners: SEIA et al.**  
**Status: Briefing Again Underway**

On September 17, 2020, SEIA petitioned the 9<sup>th</sup> Circuit Court of Appeals for review of *Order 872*.<sup>156</sup> On October 9, the FERC filed an unopposed motion for the Court to hold this appeal in abeyance, suspend filing of the

<sup>152</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>153</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.

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

<sup>155</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>156</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

certified index to the record, and issue a new briefing schedule after January 4, 2021. The abeyance was to 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.

On March 25, 2021, the Court granted SEIA's unopposed March 5, 2021 motion to lift the stay in this proceeding. Briefing has resumed. On May 27, 2021, Petitioners' briefs were filed by SEIA and Other Petitioners.<sup>157</sup> Remaining submissions will include: joint brief of petitioner-intervenors (June 28, 2021); motions and associated briefs by amici curiae in support of petitioners (June 28, 2021); Respondent's brief (September 27, 2021); joint brief of respondent-intervenors (October 27, 2021); motions and associated briefs by amici curiae in support of respondent (October 27, 2021); and any optional reply briefs (December 13, 2021).

- **PennEast Project (18-1128)**

**Underlying FERC Proceeding: CP15-558<sup>158</sup>**

**Petitioners: NJ DEP, DE and Raritan Canal Commission, NJ Div. of Rate Counsel**

**Status: Being Held in Abeyance**

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>159</sup> for the construction and operation of a new 116-mile natural gas pipeline from Luzerne County, Pennsylvania, to Mercer County, New Jersey, along 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 March 23, 2021, noting developments since the December 23, 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."

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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>157</sup> "Other Petitioners" are Montana Environmental Information Center, Sierra Club, Center for Biological Diversity, Vote Solar, Appalachian Voices, Energy Alabama, Georgia Interfaith Power & Light, North Carolina Sustainable Energy Association, Upstate Forever, and Community Renewable Energy Association.

<sup>158</sup> *PennEast Pipeline Co., LLC*, 162 FERC ¶ 61,053 (Jan. 19, 2018), *reh'g denied*, 163 FERC ¶ 61,159 (May 30, 2018).

<sup>159</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.



- **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>160</sup>**

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

**Status: Briefing Underway**

The MISO Transmission Owners (TOs), Transource and "Dec 23 Petitioners",<sup>161</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. The FERC filed a certified Index to the Record on December 3, 2020, the Parties filed a joint unopposed briefing schedule on December 23, 2020. Statements of issues were filed on February 8, 2021. Since the last Report, Petitioners' Briefs were filed on March 10. On March 17, 2021, a motion to participate as amicus curiae was jointly filed by NEP, CPM, Eversource, Fitchburg and Unitil, NHT, VTransco, Versant Power, and UI ("New England Parties") (that motion was granted on April 30, 2021). On March 18, New England Parties submitted an amicus brief in support of Transmission Owning Petitioners. On March 24, 2021, Intervenor in Support of Petitioners<sup>162</sup> filed their Brief. The following deadlines remain: 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.

- **Algonquin Atlantic Bridge Project Briefing Order (21-1115);**

**Underlying FERC Proceeding: CP16-9-012<sup>163</sup>**

**Petitioner: LS Power**

**Status: Briefing Not Yet Begun**

On May 3, 2021, Algonquin petitioned the DC Circuit Court of Appeals for review of the *Briefing Order* and the *April 19 Notice of Denial of Rehearings by Operation of Law*. Appearances are due June 4, 2021. Parties must file docketing statements and statement of issues to be raised also by June 4. Dispositive motions, if any, and a Certified Index to the Record must be filed by June 21, 2021.

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<sup>160</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>161</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.

<sup>162</sup> The Intervenor for Petitioners Brief was filed by Citizens Utility Board of Wisconsin, Illinois Citizens Utility Board, Indiana Office of Utility Consumer Counselor, Iowa Office of Consumer Advocate, Louisiana Public Service Commission, Michigan Citizens Against Rate Excess, Minnesota Department of Commerce, and Missouri Office of Public Council.

<sup>163</sup> *Briefing Order; April 19 Notice of Denial of Rehearings by Operation of Law*

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