

EXECUTIVE SUMMARY
Status Report of Current Regulatory and Legal Proceedings
as of March 2, 2022

The following activity, as more fully described in the attached litigation report, has occurred since the report dated February 1, 2022 ("last Report") was circulated. New matters/proceedings since the last Report are preceded by an asterisk '*'. Page numbers precede the matter description.

COVID-19

No Activity to Report

I. Complaints/Section 206 Proceedings

* 2	NMISA Complaint Against PTO AC (Reciprocal TOUT Discount) (EL22-31)	Feb 14	NMISA files complaint against PTO AC (who for these purposes hold exclusive Section 205 rights) for failure to consider and implement a reciprocal discount to the TOUT charges applied to transactions between New England and Northern Maine; comment date Mar 7, 2022
		Feb 16-28	NEPOOL, Calpine, National Grid intervene

II. Rate, ICR, FCA, Cost Recovery Filings

7	CSC Request for Regulatory Asset Recovery of Previously-Incurred CIP IROL Costs (ER21-2334)	Feb 24	FERC issues an Allegheny Order, modifying the discussion in, but sustaining the results of, its <i>August 31, 2021 CSC CIP-IROL Costs Order</i>
8	Mystic 8/9 Cost of Service Agreement (ER18-1639)	Feb 18	FERC issues an Allegheny Order, modifying the discussion in, but sustaining the results of, its <i>Mystic ROE First Allegheny Order</i>
		Feb 22	Mystic petitions the DC Circuit for review of the <i>Mystic ROE Second Allegheny Order</i> (see Section XVI)

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

* 10	Waiver Request: FCA16 Information Publication Deadline (ISO-NE) (ER22-1060)	Feb 15	ISO-NE requests temporary waiver of the Tariff provisions requiring publication of information on FCA16 no later than Feb 22 in light of the ongoing Killingly-related uncertainty regarding the results of FCA16
		Feb 17-Mar 2	NEPOOL, Calpine, Constellation, Eversource, HQ US, LS Power, National Grid, NESCOE, NRG, EPSA, MA DPU (out-of-time) intervene
		Feb 22	NEPGA submits comments supporting FCA16 Publication Waiver Request
* 10	Exigent Circumstances Filing: FCA16 Information Publication Deadline (ISO-NE) (ER22-1053)	Feb 15	ISO-NE files Exigent Circumstances filing; comment date Mar 8, 2022
		Feb 16-Mar 2	NEPOOL, Constellation, Dominion, Eversource, HQUS, National Grid, NESCOE, EPSA, and the MA DPU file doc-less interventions
* 10	New England's <i>Order 2222</i> Compliance Filing (ER22-983)	Feb 2	ISO-NE and NEPOOL submit Tariff revisions in response to the requirements of <i>Order 2222</i> ; comment date now Apr 1, 2022
		Feb 3-Mar 2	Avangrid, Calpine, Constellation, ENE, Enerwise, Eversource, FirstLight, MA AG, National Grid, NESCOE, NRDC/Sustainable FERC Project, NRG, Voltus, AEMA, APPA, EEI, MA DPU, SEIA intervene
		Feb 11	AEMA requests extension of comment date to Apr 1, 2022
		Feb 18	ISO-NE supports AEMA request; FERC grants extension of comment date to Apr 1, 2022
* 11	Waiver Request: Queue Position Modifications (ConnectGen South Wrentham) (ER22-864)	Feb 10	ISO-NE opposes waiver request; NEPOOL, RENEW intervene
		Feb 25	South Wrentham answers ISO-NE's Feb 10 opposition
		Mar 2	ISO-NE answers South Wrentham's Feb 25 answer

11	CSO Termination: Killingly Energy Center (ER22-355)	Feb 9	ISO-NE requests expedited consideration of NTE CT's request for reh'g of <i>Killingly CSO Termination Order</i>
		Feb 11	FERC issues a "Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration" of NTE CT's request for reh'g of the <i>Killingly CSO Termination Order</i>
		Feb 11	FERC issues notice that it was considering the release of information designated as confidential
		Feb 15	ISO-NE and NTE CT confirm no objection to release of information
		Feb 18	ISO-NE files copy of its Emergency Motion for Dissolution of the DC Circuit's Stay Order
		Feb 23	FERC issues <i>Killingly CSO Termination Allegheny Order</i>
		Feb 24	ISO-NE and NTE CT file un-redacted versions of their filings submitted in this proceeding; comment date on ISO-NE filing, Mar 21, 2022

IV. OATT Amendments / TOAs / Coordination Agreements



* 12	Order 676-J Compliance Filing Part I (CSC-Schedule 18-Attachment Z) (ER22-1168)	Mar 2	ISO-NE and CSC file revisions to ISO-NE Tariff Schedule 18 Attachment Z to incorporate the new cybersecurity and PFV standards contained in NAESB's WEQ Version 003.3 Standards; comment date Mar 23, 2022
* 12	Order 676-J Compliance Filing Part I (ISO-NE-Schedule 24) (ER22-1161)	Mar 2	TOs file revisions to ISO-NE Tariff Schedules 20A-Common and 21-Common to incorporate the new NAESB WEQ Version 003.3 cybersecurity and PFV Standards; comment date Mar 23, 2022
* 13	Order 676-J Compliance Filing Part I (ISO-NE-Schedule 24) (ER22-1150)	Mar 2	ISO-NE files revisions to Schedule 24 to incorporate the new NAESB WEQ Version 003.3 cybersecurity and PFV Standards; comment date Mar 23, 2022
13	Tariff Changes Associated with Order 1000 Lessons Learned (ER22-733)	Feb 2	ISO-NE answers Public Systems' comments, LS Power request for clarification or protest
		Feb 25	FERC accepts Tariff changes, eff. Feb 28, 2022
14	Attachment K Planning Changes (ER22-727)	Feb 2	ISO-NE answers Public Systems' comments
		Feb 25	FERC accepts Tariff changes, eff. Feb 25, 2022
14	BTM Generation Proposal (ER21-2337)	Feb 11	FERC accepts the BTM Generation Proposal, eff. Sep 1, 2021

V. Financial Assurance/Billing Policy Amendments



* 16	FCM Billing Acceleration and RBA Changes (ER22-1167)	Mar 2	ISO-NE and NEPOOL jointly file changes; comment date Mar 23, 2022
* 16	Non-Commercial Capacity Trading FA Changes (ER22-863)	Feb 10	Eversource, National Grid intervene

VI. Schedule 20/21/22/23 Changes



* 16	Schedule 21-VP: Schedule 21 Name Update (ER22-1115)	Feb 25	Versant files a revised Schedule 21-VP to rename the Schedule from "Schedule 21-EM" to "Schedule 21-VP" and to replace all references to "Emera Maine" with "Versant Power"
* 16	Schedule 21-NEP: 3rd Revised RI LSAs (ER22-927)	Feb 9	RI PUC submits comments supporting LSAs
* 17	Schedule 23: NSTAR/Berkshire Wind/ISO-NE SGIA (ER22-720)	Feb 17	FERC accepts 2021 SGIA and cancellation of 2014 SGIA, eff. Nov 23, 2021
* 17	Schedule 21-NEP: 2nd Revised Narragansett LSA (ER22-707)	Feb 18	FERC accepts 2 nd Revised LSA, eff. Jan 1, 2022

VII. NEPOOL Agreement/Participants Agreement Amendments*No Activity to Report***VIII. Regional Reports**

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|------|---|----------------------------------|--|
| * 19 | Capital Projects Report - 2021 Q4 (ER21-1041) | Feb 10
Feb 15-Mar 2
Feb 23 | ISO-NE files 2021 Q4 Report
NEPOOL, Eversource, National Grid intervene
NEPOOL files comments supporting Q4 Report |
| * 19 | Interconnection Study Metrics Processing Time Exceedance Report Q4 2021 (ER19-1951) | Feb 14 | ISO-NE files required quarterly report |
| * 20 | Order 2222 Stakeholder Process Status Update; Voltus Tech Conf Request (RM18-9) | Feb 3-11 | Comments on Voltus' request filed by: AEE , AEMA , APPA/NRECA , EEL , ISO-RTO Council , MISO , SPP , Sunrun , Ameren , Camus Energy , Energy Web Foundation , Integrity Energy Partners , Environmental Law and Policy Center , Google , Leapfrog Power , Nuvve Holding , Tesla , U Delaware EV Research and Development Group , Utilidata |

IX. Membership Filings

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| * 20 | March 2022 Membership Filing (ER22-1131) | Feb 28 | NEPOOL requests that the FERC accept (i) the memberships of Emera Energy Services Sub. No. 6 and Tidal Energy; and (ii) the name changes of GB II New Haven, GB II Connecticut, and Generate Colchester Fuel Cells; comment deadline Mar 22, 2022 |
| * 20 | Involuntary Termination: Sunwave Holdings USA Inc. (ER22-1039) | Feb 11 | NEPOOL and ISO-NE request the involuntary termination of the Participant status of Sunwave USA Holdings Inc.; comment date Mar 4, 2022 |
| 21 | January 2022 Membership Filing (ER22-747) | Feb 24 | FERC accepts (i) the memberships of EnPowered USA Inc.; and Sheldon Energy LLC; and (ii) the termination of the Participant status of ENGIE Power & Gas |
| * 21 | Suspension Notice – NTE Connecticut, LLC (not docketed) | Feb 11 | ISO-NE files notice of Feb 9 suspension of NTE Connecticut, LLC from the New England Markets |

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

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| 21 | NERC Annual Report on FFT & Compliance Exception Programs (RC11-6-014) | Feb 25 | FERC accepts Annual Report, eff. Feb 25, 2022 |
| * 22 | Revised Reliability Standard (CIP-014 Compliance Section) (RD22-3) | Feb 16 | NERC requests modifications to the Compliance section of Reliability Standard CIP-014; comment deadline Mar 15, 2022 |
| 22 | Revised Reliability Standards (SOL Changes) (RD22-2) | Feb 3 | FERC re-dockets this proceeding (from RM21-19) and establishes a Feb 24 comment date (no comments filed) |
| 24 | Rules of Procedure Changes (Reliability Standards Development Revisions) (RR21-8) | Feb 24 | FERC issues Deficiency Letter requiring NERC to file additional information as an amendment to its filing; deficiency letter due on or before Mar 28, 2022 |

XI. Misc. - of Regional Interest

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| 25 | 203 Application: PSEG/Generation Bridge II (Arclight) (EC21-125) | Feb 14
Feb 23 | FERC authorizes PSEG sale of Project Companies to Generation Bridge Transaction consummated and notice of consummation filed |
| * 25 | Versant Power MPDOATT Order 676-J Compliance Filing Part I (ER22-1142) | Mar 2 | Versant, in response to the requirements of Order 676-J, files revisions to Section 4 of the MPDOATT; comment date Mar 23, 2022 |

* 25	ISA Cancellation: NSTAR/Servistar (ER22-1013)	Feb 10	NSTAR files notice of cancellation of Servistar LLC Interconnection Study Agreement (project withdrawn); comment date Mar 3, 2022
26	Related Facilities Agreement: CL&P / Revolution Wind (ER22-697)	Feb 15	FERC accepts RFA, eff. Dec 21, 2021
26	Cost Reimbursement Agreement Cancellation: Narragansett / CV South Street Landing (ER22-612)	Feb 7	FERC accepts notice of cancellation, eff. Feb 9, 202
26	D&E Agreement Cancellation: CL&P/ NRG Middletown (ER22-599)	Feb 4	FERC accepts notice of cancellation, eff. Dec 31, 2021
28	Orders 864/864-A (Public Util. Trans. ADIT Rate Changes): New England Compliance Filings (various)	Feb 18 Feb 18-28	ER20-2572 et al. (New England TOs(RNS)). FERC grants NEP's requested clarification of TOs First Order 864 Compliance Filings Order TOs submit further Order 864 compliance filings, most to correct the effective date to Jan 27, 2020, some with further changes in response to orders accepting initial filings

XII. Misc. - Administrative & Rulemaking Proceedings



* 30	NOI: Dynamic Line Ratings (AD22-5)	Feb 17	FERC issues a NOI seeking comments on dynamic line ratings; initial comments due Apr 25, 2022 ; reply comments, May 25, 2022
30	Joint Federal-State Task Force on Electric Transmission (AD21-15)	Feb 2 Feb 4 Feb 16 Feb 22 Mar 2	FERC issues Notice and Agenda for Feb 16, 2022 Joint Federal-State Task Force meeting on Electric Transmission FERC issues order confirming NARUC nomination of Utah PSC Chairman T. LeVar to replace Commissioner K. Raper Second Joint Federal-State Task Force meeting held Transcript of first JFSTF meeting posted in eLibrary FERC invites post-Feb 16 meeting comments; comment date Apr 1, 2022
32	Reliability Tech Conf (Sep 30) (AD21-11)	Feb 22	Post-tech conf comments filed by: ISO-NE , Americans for a Clean Energy Grid , AGA/APGA , CAISO , EEL , Energy Systems Integration Group , EPSA , Grain Belt Express , Grid Lab , MISO , Natural Gas Council , Natural Gas Supply Association , Public Power Associations
32	Modernizing Electricity Market Design - Energy and Ancillary Service Markets (AD21-10)	Feb 1-Mar 1	Initial post-tech conf comments filed by: ISO-NE , Appian Way Energy Partners , Constellation , Dominion , Envir. Defense Fund , FirstLight , LS Power , CAISO , MISO , NYISO , PJM , SPP MMU , ACPA , Clean Energy Organizations , EEL , Energy Trading Institute , EPRI , EPSA , Middle River Power , National Hydropower Assoc. , NYSERDA , PJM Providers Group , Public Citizen ; reply comments deadline, Mar 7, 2022
* 33	Increasing Market and Planning Efficiency Through Improved Software Tech Conf (Jun 21-23, 2022) (AD10-12)	Feb 24	FERC issues notice that it will hold its 13th annual tech conf addressing from June 21-23; a detailed agenda with the list of and times for the selected speakers will be published on the FERC's website and in eLibrary after May 20, 2022
34	NOI: Industry Assoc'n Dues & Expenses Rate Recovery, Reporting, and Acc'ting Treatment (RM22-5)	Feb 22	Initial comments filed by AGA , APPA , EEL , EPRI , Harvard Electricity Law Institute , INGA , MAAG , National Grid , NEI , Nexamp , NRECA , PJM , Public Citizen , Public Interest Organizations , Ratepayers , Sunova , UCS ; reply comments deadline Mar 23, 2022
34	ANOPR: Transmission Planning and Allocation and Generator Interconnection (RM21-17)	Feb 14	Clean Energy Coalition files supplemental reply comments
36	Order 881: Managing Transmission Line Ratings (RM20-16)	Feb 18	FERC issues notice that requests for rehearing and/or clarification of Order 881 may be deemed denied by operation of law

XIII. FERC Enforcement Proceedings

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| 39 | Rover/ETP (CPCN Show Cause Order) (IN19-4) | Feb 4 | Enforcement Litigation Staff answered Respondents request stay of ALJ proceedings |
| | | Feb 16 | Presiding ALJ schedules a prehearing videoconference for Mar 8, 2022 |
| | | Feb 24 | Chief Judge Cintron substitutes ALJ Joel DeJesus in place of ALJ Satten as presiding judge |
| | | Feb 25 | Presiding Judge DeJesus adopts time and date for Mar 8 videoconference; directs participants to submit a jointly-proposed procedural schedule by Mar 2, 2022 |
| 41 | Total Gas & Power North America, Inc. et al. (IN12-17) | Feb 16 | Oral argument addressing administrative matters and procedural motions; answers to whistleblower witnesses motions to intervene due on Mar 2, 2022 ; discussions on disputed data requests not resolved during oral argument to continue |
| | | Feb 23 | Presiding ALJ issues order confirming Feb 16 bench rulings |

XIV. Natural Gas Proceedings

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| 42 | Northern Access Project (CP15-115) | Feb 1-16 | Over 150 parties submit comments on Applicants' request for an additional extension of time, until Dec 31, 2024, to complete construction of the Project and enter service |
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XV. State Proceedings & Federal Legislative Proceedings**No Activity to Report**

XVI. Federal Courts



* 45	NTE CT Petition for Review of Killingly CSO Termination Orders (22-1027)	Feb 23	NTE CT petitions DC Circuit for review of the FERC's <i>Killingly CSO Termination Orders</i>
		Feb 25	Clerk directs initial submissions and appearances by Mar 28, 2022 ; dispositive motions, Certified Index to the Record by Apr 11, 2022
		Mar 1	ISO-NE moves to intervene
45	NTE CT Petition to Stay FERC Order Accepting Killingly CSO Termination (22-1011)	Feb 4	FERC issues per curiam order ordering that the <i>Killingly CSO Termination Order</i> be stayed until 30 days after the FERC resolves the pending request for rehearing
		Feb 18	ISO-NE files emergency motion to lift Stay
		Feb 22	NEPGA moves to intervene and supports ISO-NE motion to lift Stay
		Feb 23	NTE CT opposes motion to lift Stay
		Feb 24	ISO-NE replies to NTE CT Feb 23 motion; Court issues full opinion on Stay promised in the Feb 4 per curiam order; NTE CT supplements its Feb 23 response
		Feb 25	Court grants NEPGA intervention
		Mar 2	Court issues per curiam order lifting the Feb 4 Stay
46	CSC Request for Regulatory Asset Recovery of Previously-Incurred CIP IROL Costs (21-1275)	Feb 16	DC Circuit grants the FERC's motion to hold the petition in abeyance, directing (i) the FERC to file status reports at 30-day intervals (first report due Mar 18, 2022) and (ii) the parties to file motions to govern future proceedings on or before Mar 28, 2022
46	Mystic ROE (21-1198) (consol.)	Feb 8	Clerk issues order granting in part the request for an extension of time to file the certified index to the record; due Feb 22, 2022
		Feb 11	CT Parties file Docketing Statement and Statement of Issues
		Feb 14	Mystic files Docketing Statement and Statement of Issues
		Feb 22	FERC files certified index to the record
		Feb 24	Court consolidates 22-1026 into 21-1198
		Feb 24	Court grants MAAG, Mystic, MMWEC, NHEC motions to intervene
		Mar 1	Court orders proposed briefing formats to be filed by Mar 31, 2022
47	Mystic 8/9 CoS Agreement (20-1343 et al.) (consolidated)	Feb 3	Reply Briefs filed
		Feb 9	Oral argument scheduled for May 5, 2022
		Feb 17	Joint Appendix filed
		Feb 24	Final Briefs filed, completing briefing
49	PennEast Project (18-1128 et al.)	Feb 8	Petitions dismissed; mandate issued
50	Algonquin Atlantic Bridge Project Briefing Order (21-1115*, 21-1138, 21-1153, 21-1155) (consol.);	Feb 15	Court issues order extending the abeyance; directs Petitioners to file motions to govern future proceedings by May 31, 2022

M E M O R A N D U M

TO: NEPOOL Participants Committee Members and Alternates

FROM: Patrick M. Gerity, NEPOOL Counsel

DATE: March 2, 2022

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"),¹ state regulatory commissions, and the Federal Courts and legislatures through March 2, 2022. 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.² 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, 2020.³ The "Remote Hearing Guidance for Participants" was revised on May 18, 2021 to make two additional changes.⁴ 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 December 8, 2021, the waiver of FERC regulations that require that filings with the FERC be notarized or supported by sworn declarations was ***extended for an additional three months, through March 31, 2022***.⁵ The December 8 notice extended the waiver first noticed in May, 2020⁶ for a fourth time. As previously reported, Entities may also seek waiver of FERC orders, regulations, tariffs and rate schedules, including motions for waiver of regulations that govern the form of filings, as appropriate, to address needs resulting from steps they have taken in response to the coronavirus.⁷ The FERC does not anticipate issuing any

¹ Capitalized terms used but not defined in this filing are intended to have the meanings given to such terms in the Second Restated New England Power Pool Agreement (the "Second Restated NEPOOL Agreement"), the Participants Agreement, or the ISO New England Inc. ("ISO" or "ISO-NE") Transmission, Markets and Services Tariff (the "Tariff").

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

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

⁴ 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)).

⁵ See *Extension of Non-Statutory Deadlines*, Docket No. AD20-11-000 (Dec. 8, 2021) ("Fourth Extension").

⁶ *Extension of Non-Statutory Deadlines*, Docket No. AD20-11-000 (May 8, 2020) ("First Extension"); *Extension of Non-Statutory Deadlines*, Docket No. AD20-11-000 (Jan. 25, 2021) ("Second Extension"); *Extension of Non-Statutory Deadlines*, Docket No. AD20-11-000 (July 26, 2021) ("Third Extension").

⁷ *Extension of Non-Statutory Deadlines*, Docket No. AD20-11-000 (Apr. 2, 2020).

further blanket extensions after March 31, 2022, but is closely monitoring developments and will make that decision in light of conditions near the end of the Fourth Extension period.

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

In light of the continuing nature of the COVID-19 National Emergency, the FERC extended on December 8, 2021, *for an additional 3 months, through March 31, 2022*, the blanket waivers of ISO/RTO Tariff *in-person*⁸ meeting and notarization requirements.⁹ The July 26 order extended for a fourth time the blanket waivers first granted in the FERC's April 2, 2020 order and extended in orders issued August 20, 2020, January 25, 2021, and July 26, 2021.¹⁰ The FERC does not anticipate issuing any further blanket extensions after March 31, 2022, but is closely monitoring developments and will make that decision in light of conditions near the end of this fourth extension.

I. Complaints/Section 206 Proceedings

- **NMISA Complaint Against PTO AC (Reciprocal TOUT Discount) (EL22-31)**

On February 14, 2022, the Northern Maine Intendent System Administrator ("NMISA") filed a complaint against the PTO AC (who for these purposes hold exclusive Section 205 rights) for failure to consider and implement a reciprocal discount to the Through and Out ("TOUT") charges applied to transactions between the New England and Northern Maine regions, one which would be identical in substance to the reciprocity between New England and New York. The PTO AC response and comments on this Complaint are due on or before March 7, 2022. Thus far, NEPOOL, Calpine and National Grid have submitted doc-less interventions. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **206 Investigation: ISO-NE Tariff Schedule 25 and Section I.3.10 (EL21-94)**

As previously reported, the FERC instituted on September 7, 2021 a proceeding under FPA Section 206 to consider whether Schedule 25 and Tariff section I.3.10 may be unjust and unreasonable.¹¹ This proceeding arises out of issues raised in the NECEC Transmission LLC ("NECEC")/Avangrid Complaint Against NextEra/Seabrook (related to the interconnection of the New England Clean Energy Connect transmission project ("NECEC Project")) summarized below (EL21-6). Specifically, the FERC identified a concern that "Schedule 25's definition of Affected Party and Tariff section I.3.10 may be unjust and unreasonable to the extent they may allow generating facilities and their components to be identified as facilities on which adverse impacts must be remedied before an elective transmission upgrade can interconnect to the ISO-NE transmission system, even though generators are not subject to the [FERC]'s open access transmission principles," and could result in upgrades identified on an Affected Party's system without any obligation for the Affected Party to construct the identified upgrades.¹²

Accordingly, the FERC directed ISO-NE to: (1) show cause as to why Schedule 25 and Tariff section I.3.10 remain just and reasonable or (2) explain what changes to Schedule 25 and/or Tariff section I.3.10 it believes would remedy the identified concerns if the FERC were to determine that Schedule 25 and/or Tariff section I.3.10

⁸ 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).

⁹ *Temporary Action to Facilitate Social Distancing*, 177 FERC ¶ 61,174 (Dec. 8, 2021).

¹⁰ *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); 172 FERC ¶ 61,151 (Aug. 20, 2020) (extending the waivers through Jan. 29, 2021); 174 FERC ¶ 61,047 (Jan. 25, 2021) (extending the waivers through July 31, 2021); 176 FERC ¶ 61,044 (July 26, 2021) (extending the waivers through Jan. 1, 2022).

¹¹ *NECEC Transmission LLC and Avangrid, Inc. v. NextEra Energy Resources, LLC et al. and ISO New England Inc.*, 176 FERC ¶ 61,148 (Sep. 7, 2021) ("Sep 7 Order").

¹² *Id.* at P 20.

has become unjust and unreasonable and proceeds to establish a replacement rate. On September 8, 2021, the FERC issued a notice of the proceeding and of the refund effective date, which will be October 13, 2020 (the date the NECEC/Avangrid Complaint Against NextEra/Seabrook was filed). Those interested in participating in this proceeding were required to intervene on or before October 5, 2021.¹³ NEPOOL, NESCOE, Brookfield, Calpine, Dominion, Eversource, HQ US, LS Power, MA AG, MMWEC, National Grid, NECEC Transmission, NEPGA, NextEra, NRG, CT DEEP, MA DOER, Pixelle Androscoggin (out-of-time), Vistra (out-of-time), American Clean Power Association (“ACPA”), EPSA, RENEW Northeast, Inc. (“RENEW”), and Public Citizen intervened.

ISO-NE Answer. On November 8, 2021, ISO-NE submitted its answer explaining why Schedule 25 and Tariff section I.3.10 remain just and reasonable. ISO-NE called for the FERC to “assist Affected Parties and Interconnection Customers in resolving any disputes pertaining to upgrades on Affected Systems—such as the dispute between NECEC Transmission and NextEra Energy Seabrook, LLC in Docket No. EL21-6—as quickly as possible.” Interested parties had until January 7, 2022 to address whether ISO-NE’s existing Tariff remains just and reasonable and if not, what changes to ISO-NE’s Tariff should be implemented as a replacement rate.

Comments. Comments were filed by the January 7, 2022 deadline by [NEPOOL](#), [NECEC/Avangrid](#), [NEPGA](#), [NextEra](#). On January 20 [NextEra](#) answered the NECEC/Avangrid comments. On January 28, [NECEC](#) answered NextEra’s January 20 answer and [ISO-NE](#) answered NECEC’s Jan 7 comments.

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).

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

As previously reported, 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 NECEC Project and seeking, among other things, an initial, expedited order that would grant certain relief¹⁴ 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. 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.

¹³ The Notice was published in the *Fed. Reg.* on Sep. 14, 2021 (Vol. 86, No. 175) p. 51,140.

¹⁴ 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.

Additional Briefing. On September 7, 2021, the FERC issued an order establishing additional briefing in this proceeding and instituted a broader Section 206 proceeding (see EL21-94 above).¹⁵ Initial briefs¹⁶ were due on or before October 7, 2021, and were filed by [ISO-NE](#), [Avangrid](#), [NextEra](#), [MAAG](#), [NEPGA/EPSC](#), [MA DOER](#). Reply briefs were due on or before October 22, 2021, and were filed by [Avangrid](#), [NextEra](#), [ISO-NE](#). Avangrid answered NextEra's November 4 answer, NextEra moved to lodge a letter from a Branch Chief of the Nuclear Regulatory Commission ("NRC"), including an Inspection Report for Seabrook Station for the time period from July 1, 2021 through September 30, 2021 (together, the "NRC Seabrook Report"), to directly refute a central claim of Avangrid (that Seabrook should have already replaced the Generation Breaker at issue in this proceeding), and Avangrid opposed that motion to lodge (asserting that the NRC Seabrook Report is outside the scope of these proceedings and will not assist the FERC in its decision making). With briefing complete, this matter is again before the FERC. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; 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").

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. 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. NextEra moved to lodge both an August 29, 2021 filing containing an executed Engineering and Procurement Agreement ("E&P Agreement") between Seabrook and NECEC Transmission, LLC ("NECEC") that was filed with the FERC on August 19, 2021 and the NRC Seabrook Report. Avangrid answered that motion, asserting that the NRC Seabrook Report was outside the scope of the proceeding and the motion to lodge should be denied. This matter

¹⁵ *NECEC Transmission LLC and Avangrid, Inc. v. NextEra Energy Resources, LLC et al. and ISO New England Inc.*, 176 FERC ¶ 61,148 (Sep. 7, 2021).

¹⁶ The FERC requested additional briefing from the Parties, as well as from ISO-NE, on the following issues: (i) whether or not Seabrook's breaker is properly identified as a part of Seabrook's generating facility; (ii) if Seabrook's breaker is part of Seabrook's generating facility, under what authority, if any, Seabrook may be subject to the upgrade obligations imposed on Affected Parties under the ISO-NE Tariff; (iii) if Seabrook's breaker is part of Seabrook's generating facility, what obligations, if any, Seabrook has under its LGIA with respect to replacement of the breaker and whether or not ISO New England Operating Documents and Applicable Reliability Standards impose an obligation to replace the breaker. If Seabrook's breaker is appropriately classified as a system protection facility, what obligations Seabrook has to replace the breaker. If the Seabrook LGIA obligates Seabrook to act, a description of the scope of Seabrook's obligation under the LGIA; (iv) whether there exists any solution for the interconnection of the NECEC Project that may be implemented without the replacement of Seabrook's breaker; and (v) If replacement of Seabrook's breaker is necessary for the interconnection of the NECEC Project, whether there exists any interim solution for the interconnection of the NECEC Project that would allow energization of the NECEC Project prior to the replacement of Seabrook's breaker.

remains pending before the FERC. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; 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,¹⁷ 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*).¹⁸ However, the FERC's orders were challenged, and in *Emera Maine*,¹⁹ the U.S. Court of Appeals for the D.C. Circuit ("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)²⁰ and third (EL14-86)²¹ 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.²² 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*.

¹⁷ 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*").

¹⁸ *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*").

¹⁹ *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).

²⁰ 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%.

²¹ 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.

²² *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 proceeding²³ also went to hearing before an ALJ, Judge Glazer, who issued his initial decision on March 27, 2017.²⁴ 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.²⁵ 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.²⁶ 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*²⁷ (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.²⁸

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

²³ 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 XVI below, have been appealed to, and are pending before, the DC Circuit.

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

²⁵ *Id.* at P 2.; Finding of Fact (B).

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

²⁷ *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*.

²⁸ *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%.²⁹ 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 Customers³⁰ 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, and 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*³¹ 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) or Joe Fagan (202-218-3901; jfagan@daypitney.com).

II. Rate, ICR, FCA, Cost Recovery Filings

- **CSC Request for Regulatory Asset Recovery of Previously-Incurred CIP IROL Costs (ER21-2334)**

As previously reported, the FERC denied the request by Cross-Sound Cable Company LLC ("CSC") for authorization to establish a regulatory asset that would include all CIP-IROL Costs³² that CSC prudently incurred between January 1, 2016 and May 31, 2021 (\$1.324 million) and recover those costs under Schedule 17 (from all ISO-NE transmission customers) over a five-year period (beginning on the date the FERC makes

²⁹ *Id.* at P 59.

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

³¹ *Ass'n of Buss. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, Opinion No. 569, 169 FERC ¶ 61,129 (Nov. 21, 2019) ("*MISO ROE Order*"), order on reh'g, Opinion No. 569-A, 171 FERC ¶ 61,154 (May 21, 2020).

³² Interconnection Reliability Operating Limits ("IROL") Critical Infrastructure Protection ("CIP") costs under Schedule 17 of the ISO-NE Tariff.

this rate treatment and related cost recovery effective).³³ Relying on its *Schedule 17 Orders*,³⁴ which found that Schedule 17 permits recovery only of CIP-IROL costs incurred on or after the effective date of a FPA section 205 filing made by an IROL-Critical Facility owner to recover such costs, and recovery of CIP-IROL costs incurred prior to the effective date of any relevant, individual FPA section 205 filing would violate the rule against retroactive ratemaking, the FERC found that permitting the recovery here proposed by CSC would violate the filed rate doctrine.³⁵ The FERC rejected the alternative bases for FERC approval proposed by CSC.³⁶ CSC requested rehearing of the *August 31, 2021 CSC CIP-IROL Costs Order*.

CSC Request for Rehearing. On November 1, 2021, the FERC issued a “Notice of Denial of Rehearings by Operation of Law and Providing for Further Consideration”.³⁷ The Notice confirmed that the 60-day period during which a petition for review of the *August 31, 2021 CSC CIP-IROL Costs Order* could be filed with an appropriate federal court was triggered when the FERC did not act on CSC’s request for rehearing of the *August 31, 2021 CSC CIP-IROL Costs 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 February 24, 2022, the FERC issued that order, modifying the discussion in, but sustaining the results of, the *August 31, 2021 CSC CIP-IROL Costs Order*.³⁸ As previously reported, CSC has appealed the FERC’s orders in this proceeding to the DC Circuit (see Section XVI below, where reporting on this matter will continue). If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

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

Each of the *July 17 Orders*³⁹ and the *Mystic ROE Orders*,⁴⁰ which addressed in part or in whole the Cost-of-Service Agreement (“COS Agreement”)⁴¹ among Constellation Mystic Power (“Mystic”), Exelon

³³ *Cross-Sound Cable Co., LLC*, 176 FERC ¶ 61,073 (Aug. 31, 2021) (“*August 31, 2021 CSC CIP-IROL Costs Order*”).

³⁴ *ISO New England Inc.*, 171 FERC ¶ 61,160 (“*Schedule 17 Order*”), order on reh’g, 172 FERC ¶ 61,251 (2020) (“*Schedule 17 Rehearing Order*”) (collectively, “*Schedule 17 Orders*”), appeal pending sub nom., *Cogentrix Energy Power Mgmt., LLC v. FERC*, D.C. Cir. No. 20-1389 (filed Oct. 14, 2020) (see Section XVI).

³⁵ *August 31 Order* at P 33.

³⁶ *Id.* at PP 33-37. As previously reported, CSC proposed three alternative bases upon which the FERC could grant its request to use a regulatory asset for CIP IROL cost recovery and rate treatment: (i) FPA section 219 and Order 679 (incentive rate framework); FPA section 205 (in furtherance of the FERC’s expressed policy of ensuring reliability of the BES in response to cybersecurity threats); or (iii) FPA section 309 (FERC’s remedial authority). In the *August 31 Order*, the FERC rejected each of these in turn.

³⁷ *Cross-Sound Cable Co., LLC*, 177 FERC ¶ 62,064 (Nov. 1, 2021) (Notice of Denial By Operation of Law of Rehearings of *August 31, 2021 CSC CIP-IROL Costs Order*).

³⁸ *Cross-Sound Cable Co., LLC*, 178 FERC ¶ 61,134 (Feb. 4, 2022) (“*August 31, 2021 CSC CIP-IROL Costs Allegheny Order*”).

³⁹ 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).

⁴⁰ *Constellation Mystic Power, LLC*, 176 FERC ¶ 61,019 (July 15, 2021) (“*Mystic ROE Order*”) (setting the base ROE for the Mystic COS Agreement at 9.33%); *Constellation Mystic Power, LLC*, 177 FERC ¶ 61,106 (Nov. 18, 2021) (“*Mystic ROE First Allegheny Order*”) (re-setting Mystic’s ROE to 9.19%); *Constellation Mystic Power, LLC*, 177 FERC ¶ 61,106 (Nov. 18, 2021) (“*Mystic ROE Second Allegheny Order*”), and together with the *Mystic ROE Order* and the *Mystic ROE Allegheny Order*, the “*Mystic ROE Orders*”) (modifying the discussion in, but sustaining the results of, the *Mystic ROE First Allegheny Order*).

⁴¹ 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

Generation Company (“ExGen”), and ISO-NE, have been appealed to, and consolidated before, the DC Circuit (see Section XVI below).

Mystic ROE First Allegheny Order. On November 18, 2021, the FERC issued an “Allegheny Order”⁴² modifying the discussion in the *Mystic ROE Order* and setting aside that *Order*, in part.⁴³ In particular, agreeing with Connecticut Parties that “Otter Tail is properly excluded [as an outlier] from the [Discounted Cash Flow model (“DCF”)] under the natural break analysis”, the FERC found that the resulting average of the medians of the DCF, Capital Asset Pricing, and Risk Premium models (which sets the ROE) is 9.19%.⁴⁴ According the FERC directed Mystic to submit a compliance filing revising the Mystic Agreement to reflect a 9.19% (rather than a 9.33%) base ROE. The FERC also clarified that Avangrid’s exclusion from the proxy group was based on its controlled status (ownership stakes by a single entity greater than 50%) and not on the particulars of Iberdrola’s ownership or operations.⁴⁵ The FERC either disagreed with or dismissed as repetitive the remainder of the parties’ arguments on rehearing. Mystic requested rehearing of the *Mystic ROE First Allegheny Order* on December 18, 2021. On January 18, 2022, the FERC issued a “Notice of Denial of Rehearings by Operation of Law and Providing for Further Consideration”.⁴⁶ As noted in Section XVI below, Mystic filed a petition for review of the *Mystic ROE Allegheny Order* with the DC Circuit Court of Appeals on January 18, 2022.

Mystic ROE Second Allegheny Order. On February 18, 2022, the FERC issued its order⁴⁷ on Mystic’s December 18, 2021 request for rehearing of the *Mystic ROE First Allegheny Order*. The *Mystic ROE Second Allegheny Order* modified the discussion in, but sustained the results of, the *Mystic ROE First Allegheny Order*. As noted in Section XVI below, Mystic filed a petition for review of the *Mystic ROE Second Allegheny Order* with the DC Circuit Court of Appeals on February 22, 2022, and that proceeding has been consolidated with each of the other Mystic appeals, with 21-1198 as the lead Mystic proceeding before the DC Circuit.

Revised ROE (Sixth) Compliance Filing (-014). Still pending is Mystic’s December 20, 2021 filing in response to the requirements of the *Mystic ROE Allegheny Order*. The sixth compliance filing revised (i) the Cost of Common Equity figures from 9.33% to 9.19%, for both Mystic 8&9 and Everett Marine Terminal (“Everett”), and (ii) the stated Annual Fixed Revenue Requirements for both the 2022/23 and 2023/24 Capacity Commitment Periods. Comments on the sixth compliance filing were due on or before January 10, 2022; none were filed. The Sixth Compliance Filing is pending before the FERC.

First CapEx Info. Filing. On September 15, 2021, Mystic submitted, as required by orders in this proceeding and Sections I.B.1.i. and II.6. of Schedule 3A of the COS Agreement (“Protocols”), its informational filing to provide support for the capital expenditures and related costs that Mystic projects will be collected as an expense between June 1, 2022 to December 31, 2022 (“First CapEx Projects Info. Filing”). Formal challenges to the

Mystic’s unique circumstances, including the value placed on continued sourcing of fuel from the Distrigas liquefied natural gas (“LNG”) facility.

⁴² An “Allegheny Order” is a merits rehearing order issued on or after the 31st day after receipt of a rehearing request, reflecting the FERC’s authority to “modify or set aside, in whole or in part,” its order until it files the record on appeal with a reviewing federal court. An Allegheny Order will use “modifying the discussion” if the FERC is providing a further explanation, but is not changing the outcome, of the underlying order; or “set aside” if the FERC is changing the outcome of the underlying order. Aggrieved parties have 60 days after a deemed denial to file a review petition, even if FERC has announced its intention to issue a further merits order.

⁴³ *Constellation Mystic Power, LLC*, 177 FERC ¶ 61,106 (Nov. 18, 2021) (“*Mystic ROE First Allegheny Order*”) (re-setting Mystic’s ROE to 9.19%).

⁴⁴ *Id.* at P 15.

⁴⁵ *Id.* at P 21.

⁴⁶ *Constellation Mystic Power, LLC*, 178 FERC ¶ 62,028 (Jan. 18, 2022) (Notice of Denial of Reh’g by Operation of Law).

⁴⁷ *Constellation Mystic Power, LLC*, 178 FERC ¶ 61,116 (Feb. 18, 2022) (“*Mystic ROE Second Allegheny Order*”) (modifying the discussion in, but sustaining the results of, the *Mystic ROE First Allegheny Order*).

September 15 filing were submitted by the Eastern New England Customer-Owned Systems (“ENECOS”) and NESCOE. Comments on the formal challenges were due on or before November 17, 2021, and Mystic responded on November 17 asserting that the challenges should be rejected without further procedures. ENECOS and NESCOE replied to Mystic’s November 17, 2021 reply on December 2 and December 6, 2021, respectively. The formal challenges remain pending before the FERC.

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

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

- **Waiver Request: FCA16 Information Publication Deadline (ISO-NE) (ER22-1060)**

On February 15, 2022, ISO-NE asked the FERC to waive for FCA16 provisions of the Tariff that require ISO-NE to publish information related to an FCA no later than 15 days after the FCA (or in the case of FCA16, February 22, 2022) (“FCA16 Info Publication Waiver Request”). Specifically, ISO-NE asked for a temporary waiver of the requirements in Sections III.13.1.8(a), (b), (c), and (d), and III.13.8.1(c) of the Tariff, until ISO-NE publishes the results of FCA 16. Comments on ISO-NE’s waiver request were due on or before February 2, 2022. NEPGA asked the FERC to grant ISO-NE’s request. NEPOOL, Calpine, Constellation, Eversource, HQUS, LSPower, National Grid, NESCOE, NRG, EPSA, and the MA DPU (out-of-time) filed doc-less interventions. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dtdoot@daypitney.com) or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

- **Exigent Circumstances Filing: FCA16 Information Publication Deadline (ISO-NE) (ER22-1053)**

Also on February 15, 2022, ISO-NE filed, pursuant to the Exigent Circumstances provision of the Participants Agreement (Section 11.2), a proposed modification to Section III.13 of the Tariff. The modification would, for FCA17, make any of the dates, date ranges, and/or deadlines currently established or prescribed in the Tariff or ISO-NE operating documents (“FCA 17 Schedule Dates”) inapplicable for FCA 17. Instead, ISO-NE would be permitted to adjust any FCA17 Schedule Date and required to publish the revised FCA 17 Schedule Dates as soon as practicable (providing reasonable advance notice of the FCA17 Schedule Dates if and as revised). The Exigent Circumstances Filing, including the proposed Tariff provision, is scheduled to be reviewed with the Participants Committee at its March 3, 2022 meeting. Comments on the Exigent Circumstances Filing are due on or before March 8, 2021. Thus far, NEPOOL, Constellation, Dominion, Eversource, HQUS, National Grid, NESCOE, EPSA, and the MA DPU have filed doc-less interventions. If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dtdoot@daypitney.com) or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

- **New England’s Order 2222 Compliance Filing (ER22-983)**

On February 2, 2022, ISO-NE, NEPOOL and the PTO AC (“Filing Parties”) submitted Tariff revisions (“Order 2222 Changes”) in response to the requirements of Order 2222. The Filing Parties stated that the Order 2222 Changes create a pathway for Distributed Energy Resource Aggregations (“DERAs”) to participate in the New England Markets by: creating new, and modifying existing, market participation models for DERA use; establishing eligibility requirements for DERA participation (including size, location, information and data requirements); setting bidding parameters for DERAs; requiring metering and telemetry arrangements for DERAs and individual Distributed Energy Resources (“DERs”); and providing for coordination with distribution utilities and relevant electric retail regulatory authorities (“RERRAs”) for DERA/DER registration, operations, and dispute resolution purposes. Comments, following an extension of time granted by the FERC in response to a request by Advanced Energy Management Alliance (“AEMA”), are now due on or before **April 1, 2022**. While no comments have been filed thus far, doc-less interventions have been filed by Avangrid (CMP/UI), Calpine, Constellation, ENE, Enerwise, Eversource, FirstLight, MA AG, National Grid, NESCOE, NRDC/Sustainable FERC Project, NRG, Voltus, AEMA, APPA, EEI, and SEIA. If you have any questions concerning this matter, please contact Sebastian Lombardi (860-275-

0663; slombardi@daypitney.com); Eric Runge (617-345-4735; ekrunge@daypitney.com) or Rosendo Garza (860-275-0660; rgarza@daypitney.com).

- **Waiver Request: Queue Position Modifications (ConnectGen South Wrentham) (ER22-864)**

On January 20, 2022, ConnectGen South Wrentham LLC (“South Wrentham”) petitioned the FERC for a one-time, limited waiver of the requirements outlined in Schedule 22 section 4.4 of the Tariff (Queue Position Modifications). Specifically, the waiver request seeks an extension of the FCA resource clearing window under Schedule 22, Section 4.4, to allow South Wrentham to seek qualification for, and bid into, FCA17 with its existing queue position (QP877).⁴⁸ Absent the requested waiver, South Wrentham will be required to file a new Capacity Network Resource (“CNR”)–only Interconnection Service application and be assigned a new queue position for purposes of participating in FCA 17. South Wrentham asserts that it has not had a meaningful opportunity to meet the Schedule 22, section 4.4 requirement to clear in an FCA under its current CNR Interconnection Service request given the “extensive, 420+ day delay in the completion of feasibility and system impact studies. Comments on South Wrentham’s waiver request were due on or before February 10, 2022. ISO-NE opposed the waiver request on February 10, and South Wrentham answered ISO-NE on February 25. On March 2, 2022, ISO-NE answered South Wrentham’s February 25 answer. NEPOOL and RENEW filed doc-less interventions. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **CSO Termination: Killingly Energy Center (ER22-355)**

As previously reported, the FERC accepted ISO-NE’s November 21, 2021 filing⁴⁹ to involuntarily terminate the CSO held by NTE Connecticut LLC (“NTE CT”) as Project Sponsor for Resource No. 38633, the Killingly Energy Center on January 3, 2022.⁵⁰ In accepting the filing, the FERC found that the relevant condition for termination set forth in Tariff section III.13.3.4A was met,⁵¹ and ISO-NE had fulfilled the requirement to consult with NTE CT before termination.⁵² The CSO termination was accepted effective January 4, 2022. In response, NTE CT not only requested rehearing of the *Killingly CSO Termination Order*, but also filed a motion for stay of that *Order*, in each case hoping to preserve Killingly’s ability to participate in FCA16 on February 7, 2022. When the FERC didn’t act on the motion for stay on the expedited basis requested by NTE CT, NTE CT also petitioned the DC Circuit for a stay of the *Killingly CSO Termination Order*.

On January 28, 2022, the FERC denied⁵³ NTE CT’s January 11, 2022 motion for stay. In denying NTE CT’s motion for stay, the FERC found that NTE CT was unable to demonstrate that it will suffer irreparable harm absent a stay, and found further that issuing the stay would substantially harm other Market Participants and was not in the public interest.⁵⁴ However, as more fully explained in Section XIV below, on February 4, 2022, the DC Circuit granted a stay of the *Killingly CSO Termination Order* and Killingly was able to participate in FCA16.

⁴⁸ South Wrentham is developing a 170 MW lithium-ion battery storage project to be located in Wrentham, Massachusetts.

⁴⁹ Comments on this filing were due Dec. 3, 2021, following a request by NTE CT for a one-week extension of time to respond to ISO-NE’s filing (which the FERC granted on Dec. 3). NTE CT protested ISO-NE’s filing on Dec. 3, 2021. ISO-NE answered NTE CT’s protest on Dec. 20, 2021 and NTE CT answered ISO-NE’s answer on Dec. 28, 2021. Doc-less interventions were filed by Calpine, Connecticut Light & Power (“CL&P”), Emera Energy Services, NEPGA, NESCOE, National Grid, CT AG, CT DEEP, EPSA, Gemma Power Systems, North Atlantic States Regional Council of Carpenters, Public Citizen, Sierra Club, Yankee Gas, CT OCC, and Mitsubishi Power Americas, Inc.

⁵⁰ *ISO New England Inc.*, 178 FERC ¶ 61,001 (Jan. 3, 2022), *reh’g requested* (“*Killingly CSO Termination Order*”).

⁵¹ *Id.* at P 25.

⁵² *Id.* at P 27.

⁵³ *ISO New England Inc.*, 178 FERC ¶ 61,063 (Jan. 28, 2022) (“*Order Denying Stay*”).

⁵⁴ *Id.* at PP 12-19.

On February 11, 2022, the FERC issued a “Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration”.⁵⁵ The Notice confirmed that the 60-day period during which a petition for review of the *Killingly CSO Termination Order* could be filed with an appropriate federal court was triggered when the FERC did not act on the requests for rehearing of *Killingly CSO Termination Order*. The Notice also indicated that the FERC would address, as was its right, NTE CT’s rehearing request in a future order, and might modify or set aside its orders, in whole or in part, “in such manner as it shall deem proper.” Before addressing NTE CT’s rehearing request, the FERC issued a February 11 notice that it was considering the release of information designated as confidential by ISO-NE and NTE CT in their submissions. On February 15, both ISO-NE and NTE CT confirmed that they had no objection to release of information.

On February 23, 2022, the FERC issued an order addressing NTE’s request for rehearing.⁵⁶ In the *Killingly CSO Termination Allegheny Order*, the FERC modified the discussion in the *Killingly CSO Termination Order* and continued to reach the same result. Specifically, the FERC concluded that “after [NTE CT] repeatedly delayed its milestones, ISO-NE has sufficiently demonstrated that [NTE CT] will not meet its May 31, 2024 critical path milestone for commercial operation of the Killingly project (or the next-day June 1, 2024 deadline), as required by the ISO-NE Tariff.” The FERC also directed ISO-NE and NTE CT to re-file public versions of their confidential submissions on or before February 28, 2022. On February 24, 2022, ISO-NE and NTE CT filed un-redacted versions of their filings submitted in this proceeding, which the FERC curiously noticed for public comment on or before March 21, 2022. As summarized in Section XVI below, NTE CT petitioned the DC Circuit on February 23 for review of the *Killingly CSO Termination* and *Killingly CSO Termination Allegheny Orders*.

If you have any questions concerning these matters, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com) or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

IV. OATT Amendments / TOAs / Coordination Agreements

- **Order 676-J Compliance Filing Part I (CSC-Schedule 18-Attachment Z) (ER22-1168)**

On March 2, 2022, in response to the requirements of *Order 676-J*, ISO-NE and Cross-Sound Cable Company (“CSC”) filed revisions to ISO-NE Tariff Schedule 18 Attachment Z to incorporate the new cybersecurity and PFV standards contained in the North American Energy Standards Board (“NAESB”) Wholesale Electric Quadrant (“WEQ”) Version 003.3 Standards (“Schedule 18 Order 676-J Part I Changes”).⁵⁷ An effective date as of the date of the FERC order accepting these changes was requested. Comments on this filing are due on or before March 23, 2022. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **Order 676-J Compliance Filing Part I (TOs-Schedule 20/21-Common) (ER22-1161)**

Also on March 2, 2022, in response to the requirements of *Order 676-J*, the PTO AC, ISO-NE, and the Schedule 20A Service Providers (“S20SPs”) (collectively, the “TOs”) filed revisions to ISO-NE Tariff Schedules 20A-Common and 21-Common to incorporate the new cybersecurity and PFV standards contained in NAESB WEQ Version 003.3 Standards (“Schedule 20/21-Common Order 676-J Part I Changes”).⁵⁷ An effective date as of the date the FERC may determine was requested. Comments on this filing are due on or before March 23, 2022. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

⁵⁵ *ISO New England Inc.*, 178 FERC ¶ 62,082 (Feb. 11, 2022) (“*Killingly CSO Termination Order Notice of Denial of Rehearing by Operation of Law*”).

⁵⁶ *ISO New England Inc.*, 178 FERC ¶ 61,130 (Feb. 23, 2022) (“*Killingly CSO Termination Allegheny Order*”).

⁵⁷ Compliance filings for the rest of the WEQ Version 003.3 Standards (Schedule 24 Order 676-J Part II Changes) are due 12 months after implementation of the WEQ Version 003.2 Standards, or no earlier than October 27, 2022.

- **Order 676-J Compliance Filing Part I (ISO-NE-Schedule 24) (ER22-1150)**

Again on March 2, 2022, in response to the requirements of *Order 676-J*, ISO-NE filed revisions to ISO-NE Tariff Schedule 24 (Incorporation by Reference of NAESB Standards) to incorporate the new cybersecurity and PFV standards contained in NAESB WEQ Version 003.3 Standards (“Schedule 24 Order 676-J Part I Changes”).⁵⁷ An effective date no earlier than June 2, 2022 was requested. In its filing, ISO-NE stated that the Schedule 24 Order 676-J Part I Changes will be considered at the next regularly-scheduled meeting of the Transmission Committee and the Participants Committee thereafter. Comments on this filing are due on or before March 23, 2022. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **Tariff Changes Associated with Order 1000 Lessons Learned (ER22-733)**

On February 25, 2022, the FERC accepted⁵⁸ proposed Tariff revisions (“Transmission Planning Improvements”) filed by ISO-NE and NEPOOL.⁵⁹ As previously reported, the Transmission Planning Improvements were developed after a “lessons learned” process with stakeholders conducted shortly after the conclusion of the Boston RFP, and are intended to improve New England’s competitive transmission planning process. The Transmission Planning Improvements were accepted effective as of February 28, 2022, as requested. In accepting the Transmission Planning Improvements, the FERC found that “these revisions enhance the competitive transmission planning process in New England. We encourage ISO-NE to continue to pursue improvements to the competitive transmission solicitation process as it gains additional experience.”⁶⁰ In response to comments and protests filed,⁶¹ the FERC (i) did not discuss the issues raised by Public Systems because it found those issues not directly pertinent to the Transmission Planning Improvements and already being considered elsewhere;⁶² (ii) though it recognized the importance of the issues raised by LS Power, found them not properly part of this proceeding;⁶³ and (iii) did not discuss AEE’s question about whether storage will be allowed to be considered as a transmission asset for purposes of implementing solutions to a Needs Assessment or Public Policy Transmission Study, finding it outside the scope of this proceeding.⁶⁴ Unless the *Transmission Planning Improvements Order* is challenged, with any challenges due on or before March 28, 2022, this proceeding will be concluded. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

⁵⁸ *ISO New England Inc. and New England Power Pool Participants Comm.*, 178 FERC ¶ 61,138 (Feb. 25, 2022) (“*Transmission Planning Improvements Order*”).

⁵⁹ The Participants Committee unanimously supported the Transmission Planning Improvements at its Nov. 3, 2021 meeting (Consent Agenda Items #3 & 4).

⁶⁰ *Id.* at P 26.

⁶¹ Comments and protests were filed by: (i) Public Systems (highlighting that, while the revisions are incremental improvements, more needs to be done to ensure that New England is able to meet the region’s ambitious policy mandates); (ii) LS Power Grid Northeast, LLC (“LS Power”) (requesting that the FERC either confirm that Section 4.3(a) permits a QTPS to include as part of its comprehensive proposal, elements that require the PTO to build new facilities not related to the interconnection of the proposal or, if not, reject the filing as unjust and unreasonable because “ISO New England failed to address its discriminatory policy of eliminating proposals from a non-incumbent [Qualified Transmission Project Sponsor (“QTPS”)] that include requiring the PTO to build new facilities not related to the interconnection of the proposal”); and (iii) Advanced Energy Economy (“AEE”) (which supported LS Power’s request regarding ISO-NE’s interpretation of Section 4.3(a) of Attachment K and urged the FERC to confirm that “a QTPS can submit a proposal that requires the incumbent Participating Transmission Owner (“PTO”) to build new facilities or that relies on property in which the PTO has an interest”).

⁶² *Transmission Planning Improvements Order* at P 27.

⁶³ *Id.* at P 28.

⁶⁴ *Id.* at P 29.

- **Attachment K Planning Changes (ER22-727)**

Also on February 25, 2022, the FERC accepted⁶⁵ proposed Tariff revisions (“Attachment K Planning Changes”) filed by ISO-NE and NEPOOL.⁶⁶ As previously reported, the Attachment K Planning Changes provide an additional option for the New England states to further their energy policy goals. The FERC accepted the Attachment K Planning Changes effective as of February 25, 2022, as requested. Unless the *Attachment K Planning Changes Order* is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **BTM Generation Proposal (ER21-2337)**

On February 11, 2022, the FERC accepted⁶⁷ revisions to Tariff sections I and II, jointly filed by ISO-NE and the Participating Transmission Owners Administrative Committee (“PTO AC”),⁶⁸ to clarify that the calculation of Monthly Regional Network Load excludes load served by behind-the-meter (“BTM”) generation, which does not participate in the New England wholesale markets as a Generator Asset, as well as the portions of a Generator Asset utilized to net load at the same retail meter (“BTM Generation Proposal”). The FERC accepted the BTM Generation Proposal effective as of September 1, 2021, as requested. In accepting the Proposal, the FERC found among other things that (i) the Proposal “appropriately assigns costs for use of the transmission system among Network Customers”;⁶⁹ (ii) it is just and reasonable to exclude from the Monthly RNL load served by unregistered [BTM] generation and the portion of the output of a Generator Asset that serves load located behind the same retail customer meter as outlined in this proposal and assign [RNS] charges to Network Customers based on each Network Customer’s actual use of the system”;⁷⁰ (iii) the methods for calculating load in the determination of RNS charges and longer-term transmission planning need not be perfectly aligned;⁷¹ (iv) a shift in transmission costs is not discriminatory under the facts and circumstance of this proceeding’s record because all Network Customers are treated equally under the proposed revisions since the allocation is based on the relative observed usage of each Network Customer;⁷² (v) BTM Generator Assets and unregistered BTM generators are not similarly situated for purposes of Monthly RNL calculation and corresponding RNS charges;⁷³ and (vi) “it is not unduly discriminatory to exclude from the Monthly RNL load served by unregistered [BTM] generation, along with the portion of the output of a Generator Asset that serves load located behind the same retail customer meter as the Generator Asset.”⁷⁴ Unless the *BTM Generation Proposal Order* is challenged, with any challenges due on or before March 14, 2022, this proceeding will be concluded. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

⁶⁵ *ISO New England Inc. and New England Power Pool*, 178 FERC ¶ 61,137 (Feb. 25, 2022) (“*Attachment K Planning Changes Order*”).

⁶⁶ The Participants Committee unanimously supported the Attachment K Planning Changes at its Dec. 2, 2021 meeting (Agenda Item # 6A).

⁶⁷ *ISO New England Inc. and the Participating Transmission Owners Admin. Comm.*, 178 FERC ¶ 61,086 (Feb. 11, 2022) (“*BTM Generation Proposal Order*”). In separate concurrences, Commissioners Danly and Christie expressed concerns with the Proposal, raised, respectively, by NEPGA and the IMM, but neither found sufficient evidence in the record to support a finding other than the Proposal is just and reasonable, and not unduly discriminatory.

⁶⁸ The BTM Generation Proposal was filed on Jul. 1, 2022, and was amended two times by responses to deficiency letters (described in previous Reports) filed on Sep. 20, 2021 and Dec. 13, 2021, respectively. The Participants Committee supported the BTM Generation Proposal at its June 3, 2021 meeting (Consent Agenda Items #3 and 4).

⁶⁹ *Id.* at P 49.

⁷⁰ *Id.* at P 51.

⁷¹ *Id.* at P 52.

⁷² *Id.* at P 53.

⁷³ *Id.* at PP 54-55.

⁷⁴ *Id.* at P 56.

- **TOs Order 676-I Compliance Filing (ER21-2529)**

On July 27, 2021, the PTO AC, ISO-NE, Schedule 20A Service Providers, GMP, and VTransco (collectively, the "TOs") filed revisions to ISO-NE Tariff Schedule 21-Common and Schedule 20A-Common in accordance with *Order 676-I*. The revisions include certain updated business practice standards (Version 003.2) adopted by NAESB's Wholesale Electric Quadrant and incorporated by reference in the FERC's regulations through *Order 676-I*. Comments on this filing were due on or before August 19, 2021; none were filed. National Grid filed a doc-less intervention on August 13, 2021.

Amended Revisions (ER21-2529-001). On October 22, 2021, the PTO AC submitted amendments to the July 27 compliance filing to include in Schedules 20A-Common and 21-Common revised and new WEQ standards identified in the FERC's March 3, 2020 errata notice to *Order 676-I* ("*Order 676-I Errata Notice*") but not included in the July 27, 2021 filing. Any comments on the errata filing were due on or before November 12, 2021; none were filed.

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).

- **CSC Schedule 18 Order 676-I Compliance Filing (ER21-2509)**

On July 26, 2021, CSC and ISO-NE filed revisions to ISO-NE Tariff Schedule 18-Attachment Z in accordance with *Order 676-I*. The revisions include certain updated business practice standards (Version 003.2) adopted by NAESB's Wholesale Electric Quadrant and incorporated by reference in the FERC's regulations through *Order 676-I*. Comments on this filing were due on or before August 16, 2021; none were filed. National Grid and CSC filed doc-less interventions on August 13, 2021 and August 16, 2021, respectively.

Amended Revisions (ER21-2509-001). On October 27, 2021, ISO-NE and CSC submitted amendments to the July 26 compliance filing to include in Schedule 18 revised and new WEQ standards identified in the FERC's *Order 676-I Errata Notice* but not included in the July 26, 2021 filing. Any comments on the errata filing were due on or before November 17, 2021; none were filed.

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).

- **ISO-NE/NEPOOL 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 NAESB's Wholesale Electric Quadrant. 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.

Amended Revisions (ER21-941-001). On October 22, 2021, ISO-NE and NEPOOL submitted amendments to the January 26 compliance filing to include in Schedule 24 revised and new WEQ standards identified in the *Order 676-I Errata Notice* but not included in the July 26, 2021 filing. Any comments on the errata filing were due on or before November 12, 2021; none were filed.

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).

V. Financial Assurance/Billing Policy Amendments

- **FCM Billing Acceleration and RBA Changes (ER22-1167)**

On March 2, 2022, ISO-NE and NEPOOL jointly filed changes to the ISO-NE Financial Assurance Policy (“FAP”) to (i) accelerate the settlement and billing of certain Forward Capacity Market (“FCM”) charges and payments from a monthly settlement and billing to a daily settlement and bi-weekly billing (the “FCM Acceleration Changes”); (ii) make several corrections and clarifications to the FCM Cost Allocation provisions previously approved by the FERC in 2018 before those go into effect on June 1, 2022 (the “FCM Cost Allocation Changes”); (iii) revise the method to submit Requested Billing Adjustments (the “RBA Changes”); and (iv) make several conforming and clean-up changes (the “Clean-up Changes”). The changes were unanimously supported at the January 6, 2022 Participants Committee meeting. ISO-NE requested a May 1, 2022 effective date for the RBA Changes and a June 1, 2022 effective date for the FCM Acceleration Changes, FCM Cost Allocation Changes, and the Clean-Up Changes. Comments on the changes are due on or before March 23, 2022. If you have any questions concerning this matter, please contact Paul Belval (860-275-0381; pnbelval@daypitney.com) or Rosendo Garza (860-275-0660; rgarza@daypitney.com).

- **Non-Commercial Capacity Trading FA Changes (ER22-863)**

On January 21, 2022, ISO-NE and NEPOOL jointly filed changes to the FAP to make certain adjustments to the Non-Commercial Capacity (“NCC”) Trading Financial Assurance (“FA”) calculation (“NCC Trading FA Changes”). Specifically, the NCC Trading FA Changes (i) include the cash flow from any Annual Reconfiguration Transactions (“ARTs”) associated with NCC in the NCC Trading FA calculation; and (ii) further refine the Capacity Supply Obligation (“CSO”) Bilateral price overwrite provisions in FA calculations. The NCC Trading FA Changes were unanimously approved at the May 6, 2021 Participants Committee meeting. ISO-NE requested a March 22, 2022 effective date for the NCC Trading FA Changes. Comments on the NCC Trading FA Changes were due on or before February 11, 2022; none were filed. Calpine, Eversource, National Grid, and NRG filed doc-less interventions. 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).

VI. Schedule 20/21/22/23 Changes

- **Schedule 21-VP: Schedule 21 Name Update (ER22-1115)**

On February 25, 2022, Versant filed a revised Schedule 21-VP to rename the Schedule from “Schedule 21-EM” to “Schedule 21-VP” and to replace all references to “Emera Maine” with “Versant Power”. As of the date of this Report, this filing has not been noticed for public comment. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **Schedule 21-NEP: 3rd Revised RI LSAs (ER22-927)**

On January 31, 2022, ISO-NE and National Grid filed third revised Local Service Agreements (“LSAs”), one among New England Power, ISO-NE, and The Narragansett Electric Company (“Narragansett”), the other among New England Power, ISO-NE, and Block Island Utility District d/b/a Block Island Power Company (“BIPCO”). The filing revises a surcharge in the LSAs for the recovery of costs for the Block Island transmission system from a carrying charge approach to a formula that uses actual costs in the year the surcharge is calculated, with a true-up mechanism. The revisions are expected to result in lower rates to Rhode Island (RI) customers. A January 1, 2022 effective was requested. Comments on this filing were due on or before February 22, 2022. On February 9, 2022, the Rhode Island Division of Public Utilities and Carriers (“RI PUC”) submitted comments in support of the LSAs. No other comments were filed, and this matter is pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **Schedule 23: NSTAR/Berkshire Wind/ISO-NE SGIA (ER22-720)**

On February 17, 2022, the FERC accepted⁷⁵ a non-conforming Small Generation Interconnection Agreement (“SGIA”) among ISO-NE, NSTAR and Berkshire Wind Power Cooperative Corporation (“Berkshire Wind”), which covers the continued interconnection of Berkshire Wind’s 19.6 MW Small Generating Facility at Brodie Mountain in Lanesborough and Hancock, MA. As previously reported, the SGIA, which replaces a 2014 SGIA, was filed as a result of a requested increase in Capacity Network Resource Interconnection Service (“CNRIS”), as well to update facility descriptions and certain milestones in Appendix B associated with two wind turbine additions, the merger into NSTAR of WMECO and update contact information, and incorporate other ministerial clean-up changes. The CNRIS increase required the filing of a new three-party SGIA, and the 2021 SGIA carries forward certain non-conforming provisions from the 2014 SGIA related to indemnification provisions. A notice of cancellation of the 2014 SGIA was also accepted. The 2021 SGIA and cancellation of the 2014 SGIA were accepted effective as of November 23, 2021, as requested. Unless the February 17, 2022 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **Schedule 21-NEP: 2nd Revised Narragansett LSA (ER22-707)**

On February 18, 2022, the FERC accepted a Local Service Agreement (“LSA”) among New England Power, The Narragansett Electric Company (“Narragansett”) and ISO-NE.⁷⁶ As previously reported, the LSA reflects the construction of the new Iron Mine Hill Road Substation and related transmission modifications, and the assessment to Narragansett of a Direct Assignment Facilities Charge (“DAF Charge”) associated with the facilities. The Iron Mine Hill Road Substation, a new 115 kV/34.5 kV substation (including modifications necessary to loop Narragansett’s existing 115 kV H17 transmission line through the new substation) will connect to a new 34.5 kV distribution feeder, which will serve as the point of interconnection for several distributed generation projects being developed by Green Development, LLC (“Green Development”), located in North Smithfield, Rhode Island. The LSA was accepted effective as of January 1, 2022, as requested. The FERC was not persuaded by Green Development’s arguments that the revised Narragansett LSA was unjust and unreasonable and should be rejected.⁷⁷ Unless the February 18 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **Schedule 21-VP: 2020 Annual Update Settlement Agreement (ER15-1434-005)**

On November 19, 2021, Versant Power submitted a joint offer of settlement between itself and the MPUC to resolve all issues raised by the MPUC in response to Versant’s 2020 annual charges update filed, as previously reported, on June 15, 2020 (the “Versant 2020 Annual Update Settlement Agreement”). Under Part V of Attachment P-EM to Schedule 21-VP, “Interested Parties shall have the opportunity to conduct discovery seeking any information relevant to implementation of the [Attachment P-EM] Rate Formula. . .” and follow a dispute resolution procedure set forth there. In accordance with those provisions, the MPUC identified certain disputes with the 2020 Annual Update, all of which are resolved by the Versant 2020 Annual Update Settlement Agreement. Comments on the Versant 2020 Annual Update Settlement Agreement were due on or before December 9, 2021; reply comments, December 19, 2021; none were filed. This matter is pending before the FERC. If you have any questions concerning this proceeding, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

⁷⁵ *ISO New England Inc.*, Docket No. ER22-720 (Feb. 17, 2022) (unpublished letter order).

⁷⁶ *ISO New England Inc. and New England Power Co. d/b/a National Grid*, 178 FERC ¶ 61,115 (Feb 18, 2022).

⁷⁷ *Id.* at P 55.

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

Still pending before the FERC is the MPS Merger Cost Recovery Settlement, filed by Emera Maine on May 8, 2018 to resolve all issues pending before the FERC in the consolidated proceedings set for hearing in the *MPS Merger-Related Costs Order*,⁷⁸ and certified by Settlement Judge Dring⁷⁹ to the Commission.⁸⁰ As previously reported, under this 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 this proceeding, please contact Pat Gerity (860-275-0533; 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)**

Fitchburg Gas & Electric's ("FG&E") 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).

- **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*⁸¹ and *531-B*⁸² also remains pending. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

⁷⁸ *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.

⁷⁹ 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.

⁸⁰ *Emera Maine and BHE Holdings*, 163 FERC ¶ 63,018 (June 11, 2018).

⁸¹ *Martha Coakley, Mass. Att'y Gen.*, 149 FERC ¶ 61,032 (Oct. 16, 2014) ("*Opinion 531-A*").

⁸² *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).

- **Capital Projects Report - 2021 Q4 (ER22-1041)**

On February 10, 2022, ISO-NE filed its Capital Projects Report and Unamortized Cost Schedule covering the fourth quarter ("Q4") 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) nGEM Hardware Phase II (\$4.57 million); (ii) Forecast Enhancements (\$1.78 million); (iii) Solar Do-Not-Exceed ("DNE") Dispatch Phase I (\$1.595 million); (iv) Physical Security Improvement Project (\$1.136 million); (v) Replace Messaging Software (\$432,100); (vi) Asset Activation Automation (\$408,000); (vii) Browser Standardization (\$472,000); (viii) Linear State Estimator Phase I (\$362,000); (ix) Short-Term Load Forecast Curve Modification Enhancement (\$279,600); (x) FCM Delayed Commercial Resource Treatment Phase II (\$253,000); and (xi) Energy Management System Communications Monitoring (\$235,200). The one significant change for a Chartered Project was the Replacement of the LMP Monitor (an increase of \$265,000). Comments on this filing are due on or before March 3, 2022. NEPOOL filed comments on February 23 supporting the 2021 Q4 Report. Doc-less interventions have been filed by Eversource and National Grid. If you have any questions concerning this matter, please contact Paul Belval (860-275-0381; pnbelval@daypitney.com).

- **Interconnection Study Metrics Processing Time Exceedance Report Q4 2021 (ER19-1951)**

On February 14, 2022, ISO-NE filed, as required,⁸³ public and confidential⁸⁴ versions of its Interconnection Study Metrics Processing Time Exceedance Report (the "Exceedance Report") for the Fourth Quarter of 2021 ("2021 Q4"). ISO-NE reported that four of the five 2021 Q4 **Interconnection Feasibility Study ("IFS") reports** delivered to Interconnection Customers were delivered later than the best efforts completion timeline.⁸⁵ In addition, five IFS Reports that are not yet completed have exceeded the 90-day completion expectation. The average mean time from ISO-NE's receipt of the executed IFS Agreement to delivery of the completed IFS report to the Interconnection Customer was 118.2 days (comparable to 2021 Q3). Both **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 319 days (down 100 from 2021 Q3). There were no Interconnection Requests with projects in the Interconnection Facilities Study phase of the interconnection process. Section 4 of the Report identified steps ISO-NE has identified to remedy issues and prevent future delays, including mitigating the impact of backlogs and initiating clustering, moving to earlier in the process certain Interconnection Customer data reviews, and enhanced information sharing and coordination efforts with Interconnecting TOs. This report was not noticed for public comment.

⁸³ 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.

⁸⁴ 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.

⁸⁵ 90 days from the Interconnection Customer's execution of the study agreement.

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

On January 31, 2022, ISO-NE filed, as required under Section 4.1(j)(iii) of the OATT, its annual informational filing of projects on the Regional System Plan (“RSP”) project list that had a year of need three years or less from the completion of the Needs Assessment. The list of prior year designations is maintained on the ISO-NE website at <https://www.iso-ne.com/static-assets/documents/2022/01/2021-prior-year-projects-section-4-j-iii.pdf>. This filing will not be noticed for public comment by the FERC.

- **Order 2222 Stakeholder Process Status Update; Tech Conf Request (RM18-9)**

Pursuant to the FERC’s order granting an extension of time for the filing of the region’s *Order 2222* compliance filing,⁸⁶ ISO-NE filed on December 20, 2021 an update on the status of the stakeholder process and its schedule for making the required compliance filing (due February 2, 2022). The Participants Committee will consider the proposed compliance filing changes at its January 6, 2022 meeting (Agenda Item #5). This filing is for informational purposes only and will not be noticed for public comment or subject to a FERC order.

Voltus Petition for a FERC Technical Conference on Order 2222. On December 22, 2022, Voltus, Inc. (“Voltus”) requested that the FERC convene a technical conference regarding *Order 2222*-related issues sometime in the months of February or March, 2022. Specifically, Voltus requested the technical conference to allow for a collective discussion of key issues arising from the ISO/RTO *Order 2222* compliance proposals, including certain regional variability, roles of industry participants, narrowing perceived knowledge gaps, and subsequent FERC guidance, all of which Voltus asserts supports the request for a technical conference. On January 7, 2022, the FERC issued a notice of Voltus’ request, inviting comments on Voltus’ request on or before February 7, 2022. Comments supporting Voltus’ request were filed by: [AEE](#), [AEMA](#), [APPA/NRECA](#), [EEI](#), [ISO-RTO Council](#), [MISO](#), [SPP](#), [Sunrun](#), [Ameren](#), [Camus Energy](#), [Energy Web Foundation](#), [Integrity Energy Partners](#), [Environmental Law and Policy Center](#), [Fermata LLC](#), [Google](#), [Leapfrog Power](#), [Nuvve Holding](#), [Tesla](#), [U Delaware EV Research and Development Group](#), and [Utilidata](#). This matter is pending before the FERC.

IX. Membership Filings

- **March 2022 Membership Filing (ER22-1131)**

On February 28, 2022, NEPOOL requested that the FERC accept (i) the following Applicant’s membership in NEPOOL: Emera Energy Services Subsidiary No. 6 [Related Person to Emera Energy Services companies (Supplier Sector)]; and Tidal Energy USA (Supplier Sector); and (ii) the name changes of GB II New Haven LLC (f/k/a PSEG New Haven LLC) and GB II Connecticut LLC (f/k/a PSEG Power Connecticut LLC), each of which are now Related Persons to Great River Hydro (AR Sector; RG Sub-Sector) (see ER21-125 in Section XI below), and Generate Colchester Fuel Cells, LLC (f/k/a Bloom Connecticut Clean Energy Company, LLC). Comments on this filing are due on or before March 22, 2022.

- **Involuntary Termination Filing: Sunwave USA Holdings Inc. (ER22-1039)**

On February 11, 2022, NEPOOL and ISO-NE jointly requested that the FERC accept the involuntary termination of the NEPOOL membership and MPSA with ISO-NE (Market Participant status) of Sunwave USA Holdings, Inc. (Supplier Sector), effective April 13, 2022. Comments on this filing are due on or before March 4, 2022.

- **February 2022 Membership Filing (ER22-945)**

On January 31, 2022, NEPOOL requested that the FERC accept (i) the following Applicant’s membership in NEPOOL: Sam Mintz (End User Sector); (ii) the termination of the Participant status of the following 16 Participants: Aminpour, Farhad (End User Sector); Brooks, Richard (End User Sector); King Forest Industries, Inc.

⁸⁶ *Participation of Distributed Energy Resource Aggregations in Mkts. Operated by RTOs and ISOs*, 175 FERC ¶ 61,156 at P 5 (May 24, 2021) (“May 24 Order”).

(End User Sector); Kuser, Michael (End User Sector); PNE Energy Supply LLC (Supplier Sector); Connecticut Jet Power LLC, Devon Power LLC, Middletown Power LLC, and Montville Power LLC [each Related Persons to Great River Hydro/Generation Bridge Companies (AR Sector; RG Sub-Sector)]; and Ambit Northeast LLC, Connecticut Gas & Electric, Inc., Energy Rewards, LLC, Everyday Energy, LLC, Massachusetts Gas and Electric, Inc., Public Power, LLC, and Viridian Energy, LLC [each Related Persons to Dynegy Marketing and Trade (Supplier Sector)]; and (iii) the name change of Constellation Energy Generation, LLC (f/k/a Exelon Generation Company, LLC) (Supplier Sector). Comments on this filing were due on or before February 21, 2022; none were filed. This matter is pending before the FERC.

- **January 2022 Membership Filing (ER22-747)**

On February 24, 2022, the FERC accepted (i) the memberships of EnPowered USA Inc. (Supplier Sector); and Sheldon Energy LLC [Related Person to Invenergy Energy Management (Supplier Sector)]; and (ii) the termination of the Participant status of ENGIE Power & Gas [Related Person to ENGIE Energy Marketing NA (AR Sector, RG Sub-Sector)].⁸⁷ Unless the February 24 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:

<i>Date of Suspension/ FERC Notice</i>	<i>Participant Name</i>	<i>Default Type</i>	<i>Date Reinstated</i>
Feb 9/11	NTE Connecticut, LLC	Financial Assurance	Feb 24

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

X. Misc. - ERO Rules, Filings; Reliability Standards⁸⁸

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).

- **NERC Annual Report on FFT & Compliance Exception Programs (RC11-6-014)**

On February 25, 2022, the FERC accepted⁸⁹ NERC's annual report on Find, Fix, and Track ("FFT") and Compliance Exception programs, in accordance with prior FERC Orders.⁹⁰ As previously reported, NERC stated that the ERO Enterprise appropriately handles noncompliance posing a minimal or moderate risk through these programs and that the results of the annual report show consistent improvement in program implementation. NERC also suggested that the report demonstrates significant alignment across the ERO Enterprise, particularly in the processing and understanding of the risk associated with individual noncompliance. Unless the February 25 order is challenged, this proceeding will be concluded.

⁸⁷ *New England Power Pool Participants Comm.*, Docket No. ER22-747 (Feb. 24, 2022) (unpublished letter order).

⁸⁸ Reporting on the following proceedings has been suspended since the last Report and will be continued if and when there is new activity to report: NOI: Enhancements to CIP Standards (RM20-12).

⁸⁹ *N. Am. Elec. Rel. Corp.*, Docket No. RC11-6-014 (Feb 25, 2022) (unpublished letter order).

⁹⁰ See *N. Am. Elec. Rel. Corp.*, 138 FERC 61,193 (2012) ("March 2012 Order"); *N. Am. Elec. Rel. Corp.*, 143 FERC 61,253 (2013) ("June 2013 Order"); *N. Am. Elec. Rel. Corp.*, 148 FERC 61,214 (2014) ("September 2014 Order"); and *N. Am. Elec. Rel. Corp.*, Docket No. RC11-6-004 (Nov. 13, 2015) (unpublished letter order) ("November 2015 Order").

- **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. On December 15, 2021, NERC submitted an informational filing regarding one active CIP standard development project (Project 2016-02 – Modifications to CIP Standards (“Project 2016-02”)).⁹¹ Project 2016-02 focuses on modifications to the CIP Reliability Standards to incorporate applicable protections for virtualized environments. A revised schedule for Project 2016-02 calls for final balloting of revised standards in March 2022, NERC Board of Trustees Adoption in May 2022 and filing of the revised standards with the FERC in June 2022.

- **Revised Reliability Standard (CIP-014 Compliance Section) (RD22-3)**

On February 16, 2022, NERC filed for approval proposed changes to the compliance section of CIP-014 (Physical Security). The modifications remove from the Compliance section the provision that requires all evidence demonstrating compliance with the standard to be retained at the Transmission Owner’s or Transmission Operator’s facility. No changes to the mandatory and enforceable provisions of the CIP-014 standard were proposed. Comments on the CIP-014 changes are due on or before March 15, 2022.

- **Revised Reliability Standards (SOL Changes): FAC-003-5, 011-4, 014-3; IRO-008-3; PRC 002-3, 023-5, -026-2; and TOP-001-6 (RD22-2)**

On June 28, 2021, NERC filed for approval proposed changes to the following Reliability Standards related to establishing and communicating System Operating Limits (“SOLs”, and together the “SOL Changes”):

- ◆ FAC-011-4 (System Operating Limits Methodology for the Operations Horizon)
- ◆ FAC-014-3 (Establish and Communicate System Operating Limits)
- ◆ FAC-003-5 (Transmission Vegetation Management)
- ◆ IRO-008-3 (Reliability Coordinator Operational Analyses and Real-time Assessments)
- ◆ PRC-002-3 (Disturbance Monitoring and Reporting Requirements)
- ◆ PRC-023-5 (Transmission Relay Loadability)
- ◆ PRC-026-2 (Relay Performance During Stable Power Swings)
- ◆ TOP-001-6 (Transmission Operations)

NERC also requested the retirement of Reliability Standard FAC-010-3 (System Operating Limits Methodology for the Planning Horizon) and modifications to NERC’s Glossary of Terms to revise the definition for System Operating Limit and to include “System Voltage Limit”. The SOL Changes (NERC Project 2015-09) were developed in response to recommendations from a periodic review of the FAC-010, FAC-011, and FAC-014 Reliability Standards. NERC asked that revised Reliability Standards become effective (and the currently effective versions be retired) on the first day of the first calendar quarter that is 24 months following FERC approval. Since the last Report, the FERC re-docketed this proceeding (from RM21-19) and established February 24, 2022 as the comment date. No comments were filed on or before the comment date and the SOL Changes are now 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

⁹¹ The other project which had been addressed in prior updates, Project 2019-02, has concluded, and the FERC approved in RD21-6 the Reliability Standards revised as part of that project (CIP-004-7 and CIP-011-3) on Dec. 7, 2021.

or cloud computing services.⁹² On March 25, 2020, Joint Associations⁹³ requested an extension of time to submit comments and reply comments. On April 2, the FERC granted Joint Associations' request and extended the deadline for initial comments on the NOI to July 1, 2020; the deadline for reply comments, July 31, 2020. Comments were filed by NERC, the IRC, Accenture, Amazon Web Services ("Amazon"), Bonneville, the Bureau of Reclamation, Barry Jones, Georgia System Operations, GridBright, Idaho Power, Microsoft, MISO, MISO Transmission Owners, Siemens Energy Management, Tri-State Generation and Transmission Association, VMware, Inc., AEE, American Association for Laboratory Accreditation ("A2LA"), APPA, Canadian Electricity Assoc., EEI, NRECA, and Waterfall Security Solutions. Reply comments were due on or before July 31, 2020, and were filed by AEE, Amazon and Microsoft.

Dec 2021 Informational Filing. In part in response to the comments filed, the FERC, in a December 17, 2020 order,⁹⁴ 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. NERC submitted that informational filing on December 17, 2021. In that filing, NERC addressed the status of NERC's formal process to assess the feasibility of voluntarily conducting BES operations in the cloud in a secure manner, evaluated potential modifications to the CIP Standards to facilitate expanded use of the cloud, and considered topic areas raised in comments to the NOI. NERC requested that the FERC accept the informational filing as consistent with the *Order Directing Info. Filing*. NERC committed to continue to consider ways to support industry in securely adopting evolving technologies as necessary, including conducting BES reliability operating services in the cloud. NERC reported that there is no Standard Authorization Request ("SAR") to initiate standards development or a field test, nor had it identified a reliability gap that would necessitate standards development to facilitate BES reliability operating services in the cloud.

- **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,⁹⁵ 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."⁹⁶ 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.⁹⁷

⁹² *Virtualization and Cloud Computing Services*, 170 FERC ¶ 61,110 (Feb. 20, 2020).

⁹³ "Joint Associations" are for purposes of this proceeding: EEI, APPA, NRECA, and LPPC.

⁹⁴ *Virtualization and Cloud Computing Services*, 173 FERC ¶ 61,243 (Dec. 17, 2020) ("*Order Directing Info. Filing*").

⁹⁵ *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).

⁹⁶ *Order 873* at P 2.

⁹⁷ *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.

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*⁹⁸ (the “MOD A Reliability Standards”). The FERC intends to coordinate the effective dates for the retirement of the MOD A Reliability Standards with successor NAESB business practice standards (v. 003.3) that include Modeling business practices, which were accepted in *Order 676-J*.⁹⁹

- **Rules of Procedure Changes (CMEP Risk-Based Approach Enhancements) (RR21-10)**

On September 29, 2021, NERC filed for approval changes to sections 400 (Compliance Monitoring and Enforcement) and 1500 (Confidential Information), Appendix 2 (Definitions) and Appendix 4C (Compliance Monitoring and Enforcement Program) of the NERC Rules of Procedure (“ROP”). The changes were proposed to further enhance the risk-based approach to the Compliance Monitoring and Enforcement Program (“CMEP”) whereby registered entities and the ERO Enterprise focus on the greatest risks to the reliability and security of the Bulk Power System (“BPS”). Comments on this filing were due on or before October 20, 2021. Comments were filed by Public Utility District No. 1 of Chelan County and jointly by APPA/LPPC/TAPS. This matter remains pending before the FERC.

- **Rules of Procedure Changes (Reliability Standards Development Revisions) (RR21-8)**

On August 18, 2021, NERC filed for approval revisions to sections 300 (Reliability Standards Development), Appendix 3B (Procedure for Election of Members of the Standards Committee) and Appendix 3D (Development of Registered Ballot Body Criteria) of the NERC Rules of Procedure (“ROP”), which are designed to update language, staff titles, and processes; remove unnecessary or duplicative obligations; and clarify roles and responsibilities related to the development of Reliability Standards (the “Reliability Standards Development ROP Revisions”). Comments on this filing were due on or before September 8, 2021; none were filed.

Deficiency Letter. On February 24, 2022, the FERC issued a deficiency letter, directing NERC to provide, on or before March 28, 2022, additional information and clarifications. NERC’s responses to the Deficiency Letter will constitute and must be filed as an amendment to its filing and will publicly noticed upon receipt of NERC’s response.

XI. Misc. - of Regional Interest

- **203 Application: Howard Wind / Greenbacker Wind (EC22-13)**

On January 11, 2022, the FERC authorized Greenbacker Wind, LLC’s acquisition of 100% of the equity interests in Howard Wind LLC from Everpower Wind Holdings, Inc. (“Everpower”).¹⁰⁰ Pursuant to the December 6 order, Greenback Wind must file a notice within 10 days of consummation of the transaction, which as of the date of this Report has not yet occurred. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

⁹⁸ *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.

⁹⁹ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-J, 175 FERC ¶ 61,139 (May 20, 2021) (“*Order 676-J*”).

¹⁰⁰ *Howard Wind LLC*, 178 FERC ¶ 62,024 (Jan. 11, 2022)

- **203 Application: PSEG/Generation Bridge II (ArcLight) (EC21-125)**

On February 14, 2022, the FERC authorized¹⁰¹ the sale of 100% of the membership interests in the PSEG Project Companies¹⁰² to Generation Bridge II, LLC (“Purchaser”), a wholly-owned, indirect subsidiary of ArcLight Fund VII, which is itself affiliated with Great River Hydro. Purchaser and Project Companies filed a notice on February 23, 2022 that the transaction was consummated on that day. PSEG New Haven and PSEG Power Connecticut, now known as GB II New Haven and GB II Connecticut, respectively, are now Related Persons to Great River Hydro. Reporting on this proceeding is now concluded. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

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

On September 23, 2021, the FERC authorized a transaction pursuant to which a wholly-owned subsidiary of PPL Corporation will acquire 100% of the outstanding shares of common stock of The Narragansett Electric Company (“Narragansett”).¹⁰³ This transaction is expected to close in the first quarter of 2022. Pursuant to the September 23 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. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **Versant Power MPD OATT Order 676-J Compliance Filing Part I (ER22-1142)**

On March 2, 2022, in response to the requirements of *Order 676-J*, Versant Power filed revisions to Section 4 of the Versant OATT for the Maine Public District (“MPD OATT”) to incorporate the new cybersecurity and PFV standards contained in NAESB WEQ Version 003.3 Standards (“Versant MPD OATT Order 676-J Part I Changes”).⁵⁷ A placeholder effective date was submitted. Comments on this filing are due on or before March 23, 2022. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **ISA Cancellation: NSTAR/Servistar (ER22-1013)**

On February 15, 2022, NSTAR & P filed a notice of termination of the Interconnection Study Agreement (“ISA”) between NSTAR and Servistar. NSTAR reported that Servistar has withdrawn the project and has terminated the ISA. NSTAR has finalized all billing and refunds under the Agreement and no further work is being done pursuant to the Agreement. A February 10, 2022 effective date was requested. Comments on this filing are due on or before March 3, 2022. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **D&E Agreement Cancellation: CL&P/UCONN (ER22-912)**

On January 28, 2022, CL&P filed a notice of cancellation of an Engineering, Design, and Procurement Agreement (“D&E Agreement”) with the University of Connecticut (“UCONN”). The D&E Agreement set forth the terms and conditions under which CL&P would undertake certain preliminary engineering and design activities for a proposed increase in capacity of its transmission interconnection service. The term of the Agreement ended on September 21, 2021. CL&P determined that the upgrades contemplated by the Agreement should be considered a capital project as a result of organic system load growth for customers Eversource is obligated to serve. CL&P fully refunded UConn for all charges under the Agreement. A January 28, 2022 effective date was requested. Comments on this filing were due on or before February 18, 2022; 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; 860-275-0533).

¹⁰¹ *PSEG New Haven, LLC et al.*, 178 FERC ¶ 61,091 (Feb. 14, 2022).

¹⁰² The “PSEG Project Companies” are: PSEG New Haven LLC (“PSEG New Haven”), PSEG Power Connecticut LLC (“PSEG Power CT”), PSEG Power New York LLC (“PSEG Power NY”).

¹⁰³ *PPL Corp. and The Narragansett Elec. Co.*, 176 FERC ¶ 61,175 (Sep. 23, 2021).

- **D&E Agreement Cancellation: NSTAR/Ocean State (ER22-911)**

Also on January 28, 2022, NSTAR filed a notice of cancellation of a D&E Agreement with Ocean State Power, LLC (“Ocean State”). The D&E Agreement set forth the terms and conditions under which NSTAR would undertake certain preliminary engineering and design activities consistent with Ocean State’s April 26, 2018 interconnection request (queue position #758) (for a proposed increase in capacity of its Large Generating Facility). The term of the Agreement ended on October 23, 2021. NSTAR completed all refunds and billing under the Agreement on January 4, 2022, and no further work will be done under the Agreement. A January 28, 2022 effective date was requested. Comments on this filing were due on or before February 18, 2022; 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; 860-275-0533).

- **Cost Reimbursement Agreement: Narragansett/BIPCO (ER22-817)**

On January 13, 2022, Narragansett filed a Cost Reimbursement Agreement with Block Island Utility District d/b/a Block Island Power Company (“BIPCO”). Under the agreement, Narragansett will perform certain work to modify its substation equipment in order to facilitate voltage modifications that Block Island plans to make to its distribution system. A November 29, 2021 effective date was requested. Comments on this filing were due on or before February 3, 2022; 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; 860-275-0533).

- **Related Facilities Agreement: CL&P / Revolution Wind (ER22-697)**

On February 15, 2022, the FERC accepted a Related Facilities Agreement (“RFA”) between The Connecticut Light & Power Company (“CL&P”) and Revolution Wind LLC.¹⁰⁴ As previously reported, the RFA provides the terms and conditions governing CL&P’s activities, and Revolution Wind’s cost responsibility for, completing the Related Facilities required to interconnect Revolution Wind’s facility to National Grid’s 115 kV Davisville Substation in Washington County, Rhode Island. The FRA was accepted effective as of December 21, 2021, as requested. Unless the February 15 order is challenged, this proceeding will be concluded. If there are questions on this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **Cost Reimbursement Agreement Cancellation: Narragansett / CV South Street Landing (ER22-612)**

On February 7, 2022, the FERC accepted Narragansett’s notice of cancellation of its Cost Reimbursement Agreement with CV South Street Landing, LLC (“South Street”).¹⁰⁵ As previously reported, performance under the Agreement, which related to work by National Grid to underground a 115 kV transmission line,¹⁰⁶ is complete and all amounts due and owing paid in full. The notice of cancellation was accepted effective as of February 9, 2022, as requested. Unless the February 7 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **D&E Agreement Cancellation: CL&P/ NRG Middletown (ER22-599)**

On February 4, 2022, the FERC accepted NSTAR’s notice of cancellation of the Preliminary Engineering & Design Agreement (“D&E Agreement”) with NRG Middletown Repowering LLC (“NRG Middletown”).¹⁰⁷ As previously reported, the D&E Agreement set forth the terms and conditions under which CL&P was to undertake certain preliminary design and engineering activities on the Interconnection Facilities for NRG Middletown’s proposed Large Generation Facility prior to the execution of an LGIA. , and NRG Middletown provided written notice to CL&P that it was terminating the Agreement effective December 31, 2021. CL&P finalized all billing and invoices and no further work is being done under the Agreement. The notice of cancellation was accepted

¹⁰⁴ *The Connecticut Light and Power Co.*, Docket No. ER22-697 (Feb. 15, 2022) (unpublished letter order).

¹⁰⁵ *The Narragansett Electric Co.*, Docket No. ER22-612 (Feb. 7, 2022) (unpublished letter order).

¹⁰⁶ See Filing of Cost Reimbursement Agreement with CV South Street Landing LLC, *The Narragansett Elec. Co.*, Docket No. ER16-986 (filed Feb. 22, 2016); accepted in *The Narragansett Elec. Co.*, Docket No. ER16-986 (Mar. 21, 2016).

¹⁰⁷ *The Connecticut Light and Power Co.*, Docket No. ER22-599 (Feb. 4, 2022) (unpublished letter order).

effective as of December 31, 2021, as requested. Unless the February 4 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **IA Termination: CL&P / Sterling Property (ER21-2860)**

As previously reported, the FERC rejected the notice of termination filed by CL&P of a 2002 Interconnection Agreement (“IA”) governing interconnection service to what CL&P characterized as a since-decommissioned 26 MW waste-tire fueled generator located in Sterling, Connecticut (the “Facility”).¹⁰⁸ In rejecting the notice, the FERC found that CL&P had “not provided adequate justification demonstrating that the Facility has been decommissioned in order to terminate the Interconnection Agreement.”¹⁰⁹ However, the FERC noted that its determination did not indicate that Sterling retains any interconnection rights under the IA, stating that there had been no interconnection rights associated with the facility since ISO-NE deemed the Facility retired in 2017.

Requests for Rehearing and/or Clarification Denied by Operation of Law. On January 10, 2022, the FERC issued a “Notice of Denial of Rehearings by Operation of Law and Providing for Further Consideration”.¹¹⁰ The Notice confirmed that the 60-day period during which a petition for review of the *Sterling IA Order* can be filed with an appropriate federal court was triggered when the FERC did not act on CL&P’s and Brookfield’s requests for rehearing of the *Sterling IA Order*.¹¹¹ The Notice also indicated that the FERC would address, as 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.” There has been no activity in this proceeding since the last Report. If you have any questions, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **Versant Power MPD OATT Order 676-I Compliance Filing (ER21-2498)**

On July 23, 2021, Versant Power filed proposed revisions to Section 4 of the Versant Power Open Access Transmission Tariff for Maine Public District (the “MPD OATT”) to incorporate by reference certain of the revisions required by *Order 676-I* and requested waiver of certain of those standards that are not applicable to MPD and/or the MPD OATT. Comments on this filing were due on or before August 13, 2021; none were filed. Subsequently, on November 1, 2021, Versant submitted amendments to its July 23 compliance filing to include revised and new WEQ standards identified in the *Order 676-I* Errata Notice but not included in the July 23, 2021 filing. Comments on the amendment filing were due on or before December 1, 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; 860-275-0533).

¹⁰⁸ *The Connecticut Light and Power Co.*, 177 FERC ¶ 61,083 (Nov. 8, 2021) (“*Sterling IA Order*”).

¹⁰⁹ *Id.* at P 23.

¹¹⁰ *The Conn. Light & Power Co.*, 178 FERC ¶ 62,015 (Jan. 10, 2022).

¹¹¹ CL&P and Brookfield each requested rehearing and/or clarification of the *Sterling IA Order* on Dec. 8, 2021.

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

In accordance with *Order 864*¹¹² and *Order 864-A*,¹¹³ and extensions of time granted, New England's transmission-owning public utilities submitted their *Order 864* compliance filings, with specific dockets and filing dates identified in the following table. The FERC has addressed a number of the compliance filings, with some yet to be acted on, and others submitting further compliance filings (generally to reflect a January 27, 2020 effective date). The *Order 864* compliance proceedings that remain open are as follows:

Docket(s)	Transmission Provider	Date of Last Filing	Date Accepted
ER21-1130 ER20-2572	New England TOs (RNS)	Feb 18, 2022	Pending
ER20-2429	Central Maine Power ("CMP") (LNS)	Jul 15, 2020 Jul 6, 2021 Nov 8, 2021	Conditionally, Dec 22, 2021
ER21-1702	CMP (Schedule 1 Appendix A Implem. Rule)	Feb 28, 2022	Pending
ER21-1654	CL&P (LNS)	Feb 28, 2022	Pending
ER21-1295	Eversource (CL&P, PSNH, NSTAR) (LNS; Schedule 21-ES)	Feb 23, 2022	Pending
ER21-1154	FG&E (LNS)	Feb 23, 2022	Pending
ER21-1694	Green Mountain Power	Feb 18, 2022	Pending
ER20-1089	New England Elec. Trans. Corp.	Dec 11, 2020 Feb 26, 2020	Pending
ER20-1087	New England Hydro Trans. Corp.	Dec 11, 2020 Feb 26, 2020	Pending
ER20-1088	New England Hydro Trans. Elec. Co.	Dec 11, 2020 Feb 26, 2020	Pending
ER21-1241	NEP (LNS)	Feb 28, 2022	Pending
ER20-2551	NEP (Schedule 21-NEP and TSA-NEP-22 Compliance Revisions)	Jul 30, 2020	Pending
ER20-2219	NEP (Tariff No. 1)	Jun 29, 2020	Pending
ER20-2553	NEP (MECO/Nantucket LSA)	Jul 30, 2020	Pending
ER21-1293	NSTAR (LNS)	Feb 23, 2022	Pending
ER20-2608	PSNH (Seabrook TSA)	Aug 5, 2020	Jan 26, 2022
ER21-1709	VTransco (LNS)	Feb 22, 2022	Pending
ER20-2594	VTransco (1991 VTA)	Feb 25, 2022	Pending
ER20-1839	VETCO	Jan 22, 2021	Jan 26, 2022
ER20-2133 -001, -002	Versant Power	Nov 22, 2021	Conditionally, Feb 28, 2022

¹¹² *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 Accumulated Deferred Income Taxes ("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 ("ADIT Worksheet"). The **ADIT Worksheet** must contain the following five specific categories of information: (i) how any ADIT accounts were re-measured and the excess or deficient ADIT contained therein ("**Category 1 Information**"); (ii) is the accounting for any excess or deficient amounts in Accounts 254 (Other Regulatory Liabilities) and 182.3 (Other Regulatory Assets) ("**Category 2 Information**"); (iii) whether the excess or deficient ADIT is protected (and thus subject to the Tax Cuts and Jobs Act's normalization requirements) or unprotected ("**Category 3 Information**"); (iv) the accounts to which the excess or deficient ADIT are amortized ("**Category 4 Information**"); and (v) the amortization period of the excess or deficient ADIT being returned or recovered through the rates ("**Category 5 Information**"). In addition, the FERC stated that it expects public utilities to identify each specific source of the excess and deficient ADIT, classify the excess or deficient ADIT as protected or unprotected, and list the proposed amortization period associated with each classification or source.

¹¹³ *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*").

Compliance Filings Accepted. The FERC has accepted the following RNS and LNS-related *Order 864* compliance filings (with those accepted conditionally, subject to 60-day compliance filings, followed by an asterisk):

♦ **ER20-2572; ER21-1130 (New England Transmission Owners (“TOs”) - RNS).*** The FERC conditionally accepted the *Order 864*-related changes to Tariff Attachment F and the Settlement Agreement attached thereto as Appendix A, subject to a further, 60-day compliance filing.¹¹⁴ Areas the TOs must address in their compliance filing include: (i) changes to the Rate Base Adjustment and Income Tax Allowance Adjustment Mechanisms (TOs must adjust the Settled Formula Rate with respect to each mechanism to meet *Order 864* transparency requirements by specifying the source of the data used in those mechanisms); (ii) ADIT Worksheet Category 3 Information (TOs must clearly identify if excess and deficient ADIT is protected or unprotected); Category 4 Information (TOs must revise the Revised ADIT Worksheet to show amortized excess ADIT amounts included in Account 411.1 and amortized deficient ADIT amounts included in Account 410.1); Category 5 Information (TOs must correct discrepancies in the Revised ADIT Worksheet and the amortization periods; Versant Power must clarify which amortization method it will use; and UI, MEPCO, CMP, and VTransco must provide further justification for their proposed unprotected non-plant amortization periods). Also, the TOs were directed to file the Revised ADIT Worksheet in eTariff format. The Interim Period Formula Rate was accepted effective as of January 27, 2020; the Settled Formula Rate, January 1, 2022. The TOs filing in response to the requirements of the *TOs First Order 864 Compliance Filings Order* was due and was filed on February 18, 2022. Comments on that filing are due on or before March 11, 2022.

Request for Clarification and/or Rehearing. On January 20, 2022, New England Power (“NEP”) requested clarification and/or rehearing of the *TOs First Order 864 Compliance Filings Order*, seeking clarification (or rehearing if not) that the Order was intended to approve NEP’s proposed 10-year amortization period for unprotected non-plant related ADIT balances. On February 18, 2022, the FERC granted NEP’s request for clarification of the *TOs First Order 864 Compliance Filings Order* and, accordingly, dismissed NEP’s alternative request for rehearing.¹¹⁵ The FERC found that NEP’s proposal to amortize unprotected non-plant-related excess and deficient ADIT over a 10-year period complies with the requirements of *Order 864* and clarified that, “paragraphs 81 and 82 of the [*TOs First Order 864 Compliance Filings Order*] notwithstanding, NEP’s proposed amortization period is accepted in compliance and no further support is required.”¹¹⁶

♦ **Various Dockets (TOs LNS Compliance Filings).** On December 30, 2021, the FERC accepted, with the exception of CMP’s filing in ER21-1702, which it conditionally accepted, subject to a further 60-day compliance filing, the TOs’ revisions to each of their currently effective local transmission formula rate templates under Schedule 21 of the ISO-NE Tariff.¹¹⁷ The FERC also accepted revisions to certain TOs’ currently effective formula rate templates for scheduling, system control, and dispatch service for various transmission services under the respective Schedule 1 of the ISO-NE Tariff, and VTransco’s revisions to its formula rate under its grandfathered 1991 Vermont Transmission Agreement (“VTA”).

¹¹⁴ *ISO New England Inc. et al.*, 177 FERC ¶ 61,219 (Dec. 22, 2021) (“*TOs First Order 864 Compliance Filings Order*”).

¹¹⁵ *ISO New England Inc. and New England Power Co.*, 178 FERC ¶ 61,117 (Feb. 18, 2022) (“*Order on Clarification*”).

¹¹⁶ *Id.* at P 7.

¹¹⁷ *ISO New England Inc. et al.*, 177 FERC ¶ 61,239 (Dec. 30, 2021) (“*TO’s Order 864 LNS Compliance Order*”). *Order 864* LNS compliance filings accepted were those by: FG&E (ER21-1154-001); NEP (ER21-1241-001); NSTAR (ER21-1293-001 and ER21-1650-001); Eversource (ER21-1295-001); NHT (ER21-1325-001); CL&P (ER21-1654-001); GMP (ER21-311-000; ER21-1694-001); CMP (ER21-1702-001); and VTransco (ER21-1709-001; ER20-2594-001).

♦ **ER20-2429 (CMP - LNS).*** The FERC conditionally accepted CMP's proposed Tariff revisions, effective January 27, 2020,¹¹⁸ subject to a further, 60-day compliance filing.¹¹⁹ CMP must address in that compliance filing, due on or before February 22, 2022, the following aspects of its ADIT Worksheet: (i) Category 1 (provide sufficiently detailed information in the re-measurement portion of the ADIT Worksheets to permit interested parties to tie the amounts provided to the rest of the ADIT Worksheets); (ii) Category 4 (revise the ADIT Worksheets to show amortized excess ADIT amounts recorded to Account 411.1, and deficient ADIT amounts recorded to Account 410.1); and (iii) Category 5 (revise its proposal such that the amortization period for unprotected non-plant, deficient ADIT balances is the same amortization period as unprotected non-plant, excess ADIT balances or demonstrate how its deviation from this requirement is consistent with or superior to this requirement of *Order 864*; and revise note (g) of its ADIT Worksheet to make clear that it will amortize unprotected excess ADIT over a five-year period and unprotected deficient ADIT over a 10-year period).

♦ **ER20-2133 (Versant).*** Since the last Report, the FERC conditionally accepted Versant Power's *Order 864* filings, subject to certain compliance obligations (e.g. to clearly identify if excess and deficient ADIT is protected or unprotected in order to satisfy the Order No. 864 ADIT Worksheet category 3 requirements).¹²⁰ The Versant compliance filing was accepted effective January 27, 2020.

XII. Misc. - Administrative & Rulemaking Proceedings¹²¹

- **NOI: Dynamic Line Ratings (AD22-5)**

On February 17, 2022, the FERC issued a notice of inquiry ("NOI")¹²² seeking comments on (i) whether and how the required use of dynamic line ratings ("DLR") is needed to ensure just and reasonable wholesale rates; (ii) whether the lack of DLR requirements renders current wholesale rates unjust and unreasonable; (iii) potential criteria for DLR requirements; (iv) the benefits, costs, and challenges of implementing DLRs; (v) the nature of potential DLR requirements; and (vi) potential timeframes for implementing DLR requirements. This NOI represents the first step in the FERC's effort to gather more information about the costs and benefits, and potentially mandating the use, of DLRs. A more [detailed summary](#) was provided to the Transmission Committee and is posted on the Transmission Committee's [webpage](#). Initial comments are due **April 25, 2022**; reply comments; **May 25, 2022**.¹²³

- **Joint Federal-State Task Force on Electric Transmission (AD21-15)**

On June 17, 2021, the FERC established a Joint Federal-State Task Force on Electric Transmission ("Transmission Task Force").¹²⁴ The Transmission Task Force is comprised of all FERC Commissioners as well as representatives from 10 state commissions (two from each NARUC region). State commission representatives will serve one-year terms from the date of appointment by FERC and in no event will serve on the Task Force for more than three consecutive terms. The Transmission Task Force will convene multiple formal meetings annually, with FERC issuing orders fixing the time and place and agenda for each meeting, and the meetings will be open to the

¹¹⁸ The FERC denied CMP's request for a Jan. 1, 2018 effective date, which was earlier than the FERC is authorized under section 206 of the FPA to prescribe a rate 'to be thereafter observed'. Rather, the FERC accepted this filing on the earliest possible date, or Jan. 20, 2020, the date the FERC in *Order 864* required parties to make changes to their tariffs.

¹¹⁹ *ISO New England Inc. and Central Maine Power Co.*, 177 FERC ¶ 61,218 (Dec. 22, 2021) ("*CMP First Order 864 Compliance Filings Order*").

¹²⁰ *ISO New England Inc. and Versant Power*, 178 FERC ¶ 61,152 (Feb. 28, 2022).

¹²¹ Reporting on the following proceedings has been suspended since the last Report and will be continued if and when there is new activity to report: Electrification and the Grid of the Future (AD21-12); ISO/RTO Credit Principles and Practices (AD21-6); Offshore Wind Integration in RTOs/ISOs (AD20-18); Waiver of Tariff Requirements (PL20-7); FERC's ROE Policy for Natural Gas and Oil Pipelines (PL19-4); and NOI: Certification of New Interstate Natural Gas Facilities (PL18-1).

¹²² *Implementation of Dynamic Line Ratings*, 178 FERC ¶ 61,110 (Feb. 17, 2022) ("*Dynamic Line Ratings NOI*").

¹²³ The *Dynamic Line Ratings NOI* was published in the Fed. Reg. on Feb. 24, 2022 (Vol. 87, No. 37) pp. 10,349-10,354.

¹²⁴ *Joint Federal-State Task Force on Electric Transmission*, 175 FERC ¶ 61,224 (June 18, 2021).

public for listening and observing and on the record. The Transmission Task Force will focus on “topics related to efficiently and fairly planning and paying for transmission, including transmission to facilitate generator interconnection, that provides benefits from a federal and state perspective.”¹²⁵ On July 19, 2021, NARUC nominated the 10 state commissioners to the Transmission Task Force, including New England Commissioners Riley Allen (VT PUC) and Matt Nelson (Chair, MA DPU). Since the last Report, the FERC confirmed NARUC’s nomination of Utah PSC Chairman T. LeVar to represent the Western Conference region (to replace Commissioner Kate Raper, who resigned her position with the Idaho PUC on January 21, 2022).¹²⁶

Public Meetings.

♦ **Nov 10, 2021.** The first Joint Federal-State Task Force meeting, which focused on incorporating state perspectives into regional transmission planning, was convened on November 10, 2021. A transcript of this meeting is posted in eLibrary. Comments on the issues discussed at that meeting were filed by: [AEP](#), [LA PSC](#), [MI PSC](#), [PJM](#), and [Public Citizen](#).

♦ **Feb 16, 2022.** A second meeting was held February 16, 2022 in Washington, DC. The agenda included a discussion, for purposes of transmission planning and cost allocation, specific categories and types of transmission benefits that transmission providers should consider and cost allocation principles, methodologies, and decision processes. On March 2, 2022, the FERC invited interested persons to file post-meeting comments to address issues raised during the February 16 meeting and identified in the agenda issued February 2, 2022. Post-meeting comments are due on or before April 1, 2022.

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

On June 1-2, 2021, FERC staff convened a technical conference to discuss issues surrounding the threat to electric system reliability posed by climate change and extreme weather events. This technical conference addressed (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. 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](#), [EEL](#), [NARUC](#), [NEI](#), [NERC](#), [NRECA](#), and the [R Street Institute](#). Speaker materials were posted in eLibrary on June 3, 2021; transcripts of the June 1-2 days, July 22, 2021.

On August 11, 2021, the FERC issued a [notice inviting post-technical conference comments](#). Comments could address the questions raised in the notice, as well as any other issues raised during the technical conference or identified in the Supplemental Notices of Technical Conference issued March 15 and May 21, 2021. Comments were due on or before September 27, 2021 and were filed by: [CAISO](#); [MISO](#); [NYISO](#); [PJM](#); [AEP](#); [City of New Orleans](#); [City of New York](#); [Columbia Law School's Sabin Center for Climate Change Law](#); [EDF and Sabin Center for Climate Change Law](#); [EEL](#); [EPSCA](#); [Eversource](#); [Exelon](#); [Jupiter Intelligence](#); [Louisville Gas and Electric Company and Kentucky Utilities Company](#); [MI PSC](#); [NRDC](#), [Sierra Club](#), [Sustainable FERC Project](#), and [UCS](#); [Old Dominion Electric](#)

¹²⁵ Topics that the Task Force may consider include: (i) identifying barriers that inhibit planning and development of optimal transmission necessary to achieve federal and state policy goals, as well as potential solutions to those barriers; (ii) exploring potential bases for one or more states to use FERC-jurisdictional transmission planning processes to advance their policy goals, including multi-state goals; (iii) exploring opportunities for states to voluntarily coordinate in order to identify, plan, and develop regional transmission solutions; (iv) reviewing FERC rules and regulations regarding planning and cost allocation of transmission projects and potentially identifying recommendations for reforms; (v) examining barriers to the efficient and expeditious interconnection of new resources through the FERC-jurisdictional interconnection processes, as well as potential solutions to those barriers; and (vi) discussing mechanisms to ensure that transmission investment is cost effective, including approaches to enhance transparency and improve oversight of transmission investment including, potentially, through enhanced federal-state coordination.

¹²⁶ *Joint Federal-State Task Force on Electric Transmission*, 178 FERC ¶ 61,080 (Feb. 4, 2022).

[Cooperative](#) (“ODEC”); [NERC](#); and [C. Wright](#). On October 14, [Entergy](#) answered the comments submitted by City of New Orleans. This matter is pending before the FERC.

- **Reliability Technical Conference (Sep 30) (AD21-11)**

On September 30, 2021, the FERC convened its annual Commissioner-led technical conference to discuss policy issues related to the reliability of the Bulk-Power System (“BPS”). Panel discussions addressed: (1) BPS reliability and security (current state, challenges and initiatives); (2) extreme weather, risks and challenges); (3) managing cyber risks in the electric power sector; and (4) maintaining electric reliability with changing resource mix. A detailed final agenda, identifying the presenters and panelists, is available [here](#). Speaker materials have been posted to eLibrary. A transcript of the September 30 technical conference was posted in eLibrary on November 16, 2021. On January 7, 2022, the FERC issued a notice inviting post-technical conference comments, either to address the questions raised in the January 7 notice or any other issues raised during the technical conference. Comments were due on or before February 22, 2022 and were filed by: [ISO-NE](#), [Americans for a Clean Energy Grid](#), [AGA/APGA](#), [CAISO](#), [EEI](#), [Energy Systems Integration Group](#), [EPSA](#), [Grain Belt Express](#), [Grid Lab](#), [MISO](#), [Natural Gas Council](#), [Natural Gas Supply Association](#), [Public Power Associations](#). This matter is pending before the FERC.

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

March 23 Tech Conf (PJM). The FERC convened a Commissioner-led technical conference 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, 2021, 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 May 25, 2021, the FERC held a Commissioner-led technical conference regarding the wholesale markets administered by ISO New England Inc. Supplemental notices of the technical conference were issued on May 3 and May 17. The May 17 supplemental notice identified panelists and topics/questions for discussion for the technical conference. Panel discussions included: (1) a Commissioner-led discussion of the relationship between state policies and the New England Markets; (2) a Staff-led discussion of short-term options and complementary potential market changes to accommodate state policies in New England; and (3) a Staff-led discussion of long-term options and centralized procurement of clean energy.

Post (New England) Tech Conf Comments. On June 4, 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 May 17, 2021 supplemental notice. Post-technical conference comments were due on or before **July 19, 2021** and were filed by: [AEE](#), [Calpine](#), [CT Parties](#), [Dominion](#), [Eversource](#), [MMWEC](#), [NESCOE](#), [NEPGA](#), [NextEra](#), [NRG](#), [Public Interest Orgs](#), [Vistra](#), [AEMA](#), [EPSA](#), [RENEW](#).

- **Modernizing Electricity Market Design - Energy and Ancillary Service Markets (AD21-10)**

Tech Conferences. As previously reported, the FERC held in the Fall of 2021 two staff-led technical conferences addressing ISO/RTO energy and ancillary services markets (including potential energy and ancillary services market reforms, such as market reforms to increase operational flexibility, that may be needed as the

resource fleet and load profiles change over time).¹²⁷ The first technical conference was held September 14, 2021; the second, October 12, 2021. Transcripts of both technical conferences are posted in eLibrary.

Post-Technical Conference Comments. On December 6, 2021, the FERC invited all interested persons to file initial and reply comments on the topics discussed during each of the two technical conferences. Initial comments were due on or before **February 4, 2022** and were filed by: [ISO-NE](#), [Appian Way Energy Partners](#), [Constellation](#), [Dominion](#), [Envir. Defense Fund](#), [FirstLight](#), [LS Power](#), [CAISO](#), [MISO](#), [NYISO](#), [PJM](#), [SPP](#), [MMU](#), [ACPA](#), [Clean Energy Organizations](#), [EEL](#), [Energy Trading Institute](#), [EPRI](#), [EPSA](#), [Middle River Power](#), [National Hydropower Assoc.](#), [NYSERDA](#), [PJM Providers Group](#), [Public Citizen](#). Reply comments are due on or before **March 7, 2022**.

- **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. The ISO/RTO Reports, including ISO-NE’s, were filed on July 19, 2021. Public comments in response to the ISO/RTO reports were filed in September 20, 2021.¹²⁸

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 will also be due on September 20, 2021.

Comments. Comments on the RTO filing and on the FERC’s Hybrid Resources White Paper were submitted by the American Council on Renewable Energy (“ACRE”), Clean Grid Alliance, EEI, the City of New York, Hybrid Resource Coalition, NRECA, Pine Gate Renewables, PJM IMM, and UCS. On October 20, 2021, NYISO submitted comments in response to issues raised by those comments. These matters remain pending before the FERC.

- **Increasing Market and Planning Efficiency Through Improved Software Tech Conf (Jun 21-23, 2022) (AD10-12)**

On February 24, 2022, the FERC announced that it will hold its 13th annual technical conference addressing increasing Real-Time and Day-Ahead market efficiency through improved software from June 21-23. A detailed

¹²⁷ In advance of the technical conferences, in an effort to frame discussions at those technical conferences, FERC staff issued on Sept. 7, 2021, a White Paper entitled “[Energy and Ancillary Services Market Reforms to Address Changing System Needs](#)” summarizing recent energy and ancillary services markets reforms as well as reforms then under consideration.

¹²⁸ Public comments were initially due Aug. 18, 2021. However, in response to a request by the Energy Storage Association (“ESA”), the American Clean Power Association (“ACP”), and SEIA, the FERC granted a 30-day extension of time, to Sep. 20, 2021, to file comments in response to the ISO/RTO reports.

agenda with the list of and times for the selected speakers will be published on the FERC's website¹²⁹ and in eLibrary after May 20, 2022.

- **Order 882: 2022 Civil Monetary Penalty Inflation Adjustments (RM22-6)**

On January 14, 2022, the FERC issued *Order 882*¹³⁰ to amend its regulations governing the maximum civil monetary penalties assessable for violations of statutes, rules, and orders within FERC's jurisdiction. The FERC is required to update each such civil monetary penalty on an annual basis every January 15.¹³¹ Of particular interest is the increase in potential civil penalties for market manipulation, which were increased from \$1,307,164 to \$1,388,496 per violation, per day. *Order 882* became effective January 13, 2022.¹³²

- **NOI: Rate Recovery, Reporting, and Accounting Treatment of Industry Association Dues and Certain Civic, Political, and Related Expenses (RM22-5)**

On December 16, 2021, the FERC issued a notice of inquiry¹³³ seeking comments on (i) the rate recovery, reporting, and accounting treatment of industry association dues and certain civic, political, and related expenses; (ii) the ratemaking implications of potential accounting and reporting changes; (iii) whether additional transparency or guidance is needed with respect to defining donations for charitable, social, or community welfare purposes; and (iv) a framework for guidance should the FERC determine action is necessary to further define the recoverability of industry association dues charged to utilities and/or utilities' expenses from civic, political, and related activities. Initial comments were due February 22, 2022 and were filed by [AGA](#), [APPA](#), [EEI](#), [EPRI](#), [Harvard Electricity Law Institute](#), [INGA](#), [MAAG](#), [National Grid](#), [NEI](#), [Nexamp](#), [NRECA](#), [PJM](#), [Public Citizen](#), [Public Interest Organizations](#), [Ratepayers](#), [Sunova](#), and [UCS](#). Reply comments are due on or before March 23, 2022.

- **ANOPR: Transmission Planning and Allocation and Generator Interconnection (RM21-17)**

On July 15, 2021, the FERC issued an advanced notice of proposed rulemaking ("ANOPR")¹³⁴ to consider whether there should be changes in the regional transmission planning and cost allocation and generator interconnection processes and, if so, which changes are necessary to ensure that transmission rates remain just and reasonable and not unduly discriminatory or preferential and that reliability is maintained. Specifically, the ANOPR discusses proposals or concepts for changes to existing processes in several broad categories: regional transmission planning, regional cost allocation, generator interconnection funding, generator interconnection queueing processes and consumer protection, and in several instances the ANOPR also offers a potential rationale or argument for potential proposals. The FERC seeks comments from the public on these proposals and welcomes commenters to offer additional or alternative proposals for consideration.

Pre-technical conference comments were submitted by over 175 parties, including by: [NEPOOL](#), [ISO-NE](#), [AEE](#), [Anbaric](#), [Avangrid](#), [BP](#), [CPV](#), [Dominion](#), [EDF](#), [EDP](#), [Enel](#), [EPSA](#), [Eversource](#), [Exelon](#), [LS Power](#), [MAAG](#), [MMWEC](#), [National Grid](#), [NECOS](#), [NESCOE](#), [NextEra](#), [NRDC](#), [Orsted](#), [Shell](#), [UCS](#), [VELCO](#), [Vistra](#), [Potomac Economics](#), [ACORE](#),

¹²⁹ <https://www.ferc.gov/industries-data/electric/power-sales-and-markets/increasing-efficiency-through-improved-software>.

¹³⁰ *Civil Monetary Penalty Inflation Adjustments*, Order No. 882, 178 FERC ¶ 61,008 (Jan. 7, 2022) ("*Order 882*").

¹³¹ See Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701, Pub. L. 114-74, 129 Stat. 584, 599. The FERC made its first adjustment under the Act in July 2016. See *Civil Monetary Penalty Inflation Adjustments*, Order No. 826, 81 FR 43937 (July 6, 2016), FERC Stats. & Regs. ¶ 31,386 (2016). The second adjustment was made January 9, 2017. *Civil Monetary Penalty Inflation Adjustments*, Order No. 834, 158 FERC ¶ 61,170 (Jan. 9, 2017). The third adjustment was made January 8, 2018. *Civil Monetary Penalty Inflation Adjustments*, Order No. 839, 162 FERC ¶ 61,010 (Jan. 8, 2018). The fourth adjustment was made January 9, 2019. *Civil Monetary Penalty Inflation Adjustments*, Order No. 853, 166 FERC ¶ 61,041 (Jan. 8, 2019). The fifth adjustment was made January 14, 2020. *Civil Monetary Penalty Inflation Adjustments*, Order No. 865, 170 FERC ¶ 61,001 (Jan. 2, 2020). The sixth adjustment was made January 8, 2021. *Civil Monetary Penalty Inflation Adjustments*, Order No. 875, 174 FERC ¶ 61,015 (Jan. 8, 2021).

¹³² *Order 882* was published in the *Fed. Reg.* on Jan. 13, 2022 (Vol. 87, No. 9) pp. 2,036-2,037.

¹³³ *Rate Recovery, Reporting, and Accounting Treatment of Industry Association Dues and Certain Civic, Political, and Related Expenses*, 177 FERC ¶ 61,180 (Dec. 16, 2021) ("*Dues & Expenses NOI*").

¹³⁴ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, 176 FERC ¶ 61,024 (July 15, 2021) ("*Transmission Planning & Allocation/Generation Interconnection ANOPR*").

[ACPA/ESA](#), [APPA](#), [EEI](#), [ELCON](#), [Industrial Customer Orgs](#), [LPPC](#), [MA DOER](#), [NARUC](#), [NASUCA](#), [NASEO](#), [NERC](#), [NRECA](#), [SEIA](#), [State Agencies](#), [TAPS](#), [WIRES](#), [Harvard Electric Law Initiative](#); [NYU Institute for Policy Integrity](#), [New England for Offshore Wind Coalition](#), and the [R Street Institute](#).

November 15, 2021 Tech Conf. On November 15, 2021, the FERC convened a technical conference to examine in detail issues and potential reforms related to regional transmission planning as described in the July 15, 2021 ANOPR. Specifically, the technical conference examined issues related to incorporating sufficiently long-term and comprehensive forecasts of future transmission needs during regional transmission planning processes, including considering the needs of anticipated future generation in identifying needed transmission facilities. Speaker materials were posted to eLibrary on November 16, 2021.

Reply and Post-Tech Conf Comments. ANOPR Reply Comments and Post-November 15 technical conference comments were due on or before **November 30, 2021** and were filed by over 100 parties, including: by: [CT AG](#), [Acadia Center/CLF](#), [CT AG](#), [Dominion](#), [Enel](#), [Eversource](#), [LS Power](#), [MA AG](#), [MMWEC](#), [NESCOE](#), [NextEra](#), [Shell](#), [UCS](#), [Vistra](#), [ACPA/ESA](#), [AEE](#), [APPA](#), [EEI](#), [ELCON](#), [Environmental and Renewable Energy Advocates](#), [EPSA](#), [Harvard ELI](#), [NRECA](#), [Potomac Economics](#), and [SEIA](#). Subsequently, supplemental reply comments were filed by [WIRES](#) and a group of [former military leaders and former Department of Defense officials](#) filed a statement. Since the last Report, joint supplemental comments were filed by the [Clean Energy Coalition](#).¹³⁵ This matter is pending before the FERC.

- **NOI: Removing the DR Opt-Out in ISO/RTO Markets (RM21-14)**

On March 18, 2021, the FERC issued a NOI¹³⁶ seeking comments on whether to revise its Demand Response (“DR”) Opt-Out regulations established in *Orders 719 and 719-A*. Those regulations require an ISO/RTO not to accept bids from an aggregator of retail customers (“ARC”) that aggregates DR of the customers of utilities that distributed more than 4 million MWh in the previous fiscal year, where the relevant electric retail regulatory authority prohibits such customers’ DR to be bid into ISO/RTO markets by an ARC. The FERC now seek information to help it examine the potential costs/burdens and benefits, both quantitative and qualitative, of removing the DR Opt-Out, as well as other changes relating to DR since the FERC issued *Orders 719 and 719-A*. The FERC is not seeking comment on the Small Utility Opt-In. Comments on the NOI, following an extension, were due on or before July 23, 2021 and were filed by nearly 30 parties, including by [AEE](#), [Voltus](#), [AEMA](#), [APPA/NRECA](#), [EEI](#), and [NARUC](#). Reply comments were due on or before August 23, 2021, and were filed by [AEP](#), [Armada Power](#), [Entergy](#), [Southern Pioneer Electric](#), [Voltus](#), State Commissions from [LA/MS](#), [MI](#), [MO](#), [NC](#), [APPA/NRECA](#), Assoc. of Bus. Advocating Tariff Equity (“[ABATE](#)”), and [PIOs](#). This matter is pending before the FERC.

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

On December 17, 2020, the FERC issued a NOPR¹³⁷ 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](#), [LPPC](#), [NERC](#), [NRECA](#), [TAPS](#), [Accenture](#), [aDolus Inc. et al.](#),¹³⁸ [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](#)

¹³⁵ The “Clean Energy Coalition” are ACPA, AEE and SEIA.

¹³⁶ *Participation of Aggregators of Retail Demand Response Customers in Markets Operated by Regional Transmission Organizations and Independent System Operators*, 174 FERC ¶ 61,198 (March 18, 2021) (“DR Aggregator NOI”).

¹³⁷ *Cybersecurity Incentives*, 173 FERC ¶ 61,240 (Dec. 17, 2020) (“Cybersecurity Incentives NOPR”).

¹³⁸ 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, 2021¹³⁹ 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 remains pending before the FERC.

- **Order 881: Managing Transmission Line Ratings (RM20-16)**

On December 16, 2021, the FERC issued its final rule, *Order 881*, on Managing Transmission Line Ratings.¹⁴⁰ In *Order 881*, the FERC reforms both the *pro forma* OATT and its regulations to improve the accuracy and transparency of transmission line ratings. Specifically, *Order 881* requires:

- (i) transmission providers to implement ambient-adjusted ratings on the transmission lines over which they provide transmission service;
- (ii) ISO/RTOs to establish and implement the systems and procedures necessary to allow transmission owners to electronically update transmission line ratings at least hourly;
- (iii) 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); and
- (iv) transmission providers to maintain a database of transmission owners’ transmission line ratings and transmission line rating methodologies on the transmission provider’s Open Access Same-Time Information System (“OASIS”) site or other password-protected website.

Order 881 will become effective March 14, 2022.¹⁴¹ Requests for rehearing and/or clarification of *Order 881* were filed by ATC, EEI, ITC Holdings, MISO IMM, and the MISO TOs on January 18, 2022, but may be deemed denied by operation of law. On February 18, 2022, the FERC issued a “Notice of Denial of Rehearings by Operation of Law and Providing for Further Consideration”.¹⁴² The Notice confirmed that the 60-day period during which a petition for review of *Order 881* can be filed with an appropriate federal court was triggered when the FERC did not act on the requests for rehearing of *Order 881*. 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.”

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

Supplemental NOPR. In light of comments already received in this proceeding,¹⁴³ the FERC issued on April 15, 2021 a *Supplemental NOPR*¹⁴⁴ 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

¹³⁹ The *Cybersecurity Incentives NOPR* was published in the *Fed. Reg.* on Feb. 5, 2021 (Vol. 86, No. 23) pp. 8,309-8,325.

¹⁴⁰ *Managing Transmission Line Ratings*, Order No. 881, 177 FERC ¶ 61,179 (Dec. 16, 2021) (“*Order 881*”).

¹⁴¹ *Order 881* was published in the *Fed. Reg.* on Jan. 13, 2022 (Vol. 87, No. 9) pp. 2,244-2,307.

¹⁴² *Managing Transmission Line Ratings*, 178 FERC ¶ 62,104 (Feb. 18, 2022) (“*Order 881 Notice of Denial of Rehearings by Operation of Law*”).

¹⁴³ 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.

¹⁴⁴ *Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act*, 175 FERC ¶ 61,035 (Apr. 15, 2021) (“*Supplemental NOPR*”).

transmission tariff. The *Supplemental NOPR* did not address the other proposals contained in the *March NOPR*.¹⁴⁵ A more detailed summary of the NOPR was distributed to the Transmission Committee and discussed at the TC's March 25, 2020 meeting.

Comments on the *Supplemental NOPR* were due on or before June 25, 2021. Over 60 sets of comments were filed, including by the New England TOs, MMWEC/NHEC/CMMEC, NECOS, NESCOE, Potomac Economics, and CT PURA. Reply comments were due on or before July 26, 2021, with 28 sets of comments received, including by the [New England TOs](#), [NECOS](#), [NESCOE](#), [CT PURA/CT DEEP/MAAG](#), [CT AG](#), and [Public Interest Groups](#).¹⁴⁶ Since the last Report, reply comments were posted from New England State Parties,¹⁴⁷ Alliant/Consumers/DTE, AEP, Pacific Gas & Electric, Joint Consumer Advocates, and the American Clean Power Association.

September 10, 2021 Workshop. The FERC convened a workshop on September 10, 2021¹⁴⁸ 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 also discussed 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. The FERC issued an agenda for the workshop, which included the final workshop program and expected speakers, on August 23, 2021. The FERC supplemented that notice on September 9, 2021. On October 13, 2021, the FERC posted a transcript of the workshop in eLibrary.

Notice Inviting Post-Workshop Comments. On October 18, 2021, the FERC issued a notice inviting those interested to file post-workshop comments to address the issues raised during the workshop concerning incentives and shared savings. Comments were due on or before January 14, 2022 and were filed by APPA, CAISO,

¹⁴⁵ 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-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.

¹⁴⁶ "Public Interest Groups" are NRDC, Sierra Club, Sustainable FERC Project, and Western Grid Group.

¹⁴⁷ "New England State Parties" are CT PURA, CT DEEP and the MA AG.

¹⁴⁸ 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).

Clean Energy Parties,¹⁴⁹ EDF Renewables, EEI, the Industrial Energy Consumers of America (“IECA”), National Grid, PJM IMM, TAPS.

These matters are pending before the FERC. If you have any questions concerning these matters, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **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,¹⁵⁰ 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 NAESB’s Wholesale Electric Quadrant. 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 became effective August 2, 2021.¹⁵¹ 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 were due March 2, 2022.

XIII. FERC Enforcement Proceedings

Electric-Related Enforcement Actions

- **PacifiCorp (IN21-6)**

On April 15, 2021, in the FERC’s first-ever Show Cause Order addressing alleged violations of NERC Reliability Standards,¹⁵² the FERC directed PacifiCorp to show cause why it should not be found to have 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**.

¹⁴⁹ The “Clean Energy Parties” are: Working for Advanced Transmission Technologies (“WATT Coalition”), the American Clean Power Association (“ACP”), AEE, American Council on Renewable Energy (“ACORE”), Natural Resources Defense Council (“NRDC”), and the Sustainable FERC Project.

¹⁵⁰ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-J, 175 FERC ¶ 61,139 (May 20, 2021) (“Order 676-J”).

¹⁵¹ Order 676-J was published *Fed. Reg.* on June 2, 2021 (Vol. 86, No. 104) pp. 29,491-29,503.

¹⁵² *PacifiCorp*, 175 FERC ¶ 61,039 (Apr. 15, 2021) (“*PacifiCorp Show Cause Order*”).

On July 16, 2021, PacifiCorp answered the PacifiCorp Show Cause Order, denying the alleged violations of FAC-009. Enforcement filed its reply on September 14, 2021. This matter remains pending before the FERC. (Should the FERC choose to pursue a civil penalty against PacifiCorp for the alleged violations, PacifiCorp has already exercised its right to adjudicate these allegations in federal district court.) If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

Natural Gas-Related Enforcement Actions

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

On January 20, 2022, the FERC issued an order establishing a hearing to determine whether Rover Pipeline, LLC (“Rover”) and its parent company Energy Transfer Partners, L.P. (“ETP” and collectively with Rover, “Respondents”) violated section 157.5 of the FERC’s regulations and to ascertain certain facts relevant for any application of the FERC’s Penalty Guidelines.¹⁵³

As previously reported, on March 18, 2021, the FERC issued a show cause order¹⁵⁴ 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 (“CPCN”) under NGA section 7(c).¹⁵⁵ 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. On June 18, 2021, Rover and ETP answered the *Rover/ETP Show CPCN Cause Order*, asserting that the FERC should dismiss this matter and decline to initiate an enforcement action. On July 21, 2021, Enforcement Staff answered Rover/ETP’s answer, stating the evidence supports a finding that Rover violated the FERC’s Regulations and should be assessed the civil penalty identified in the *Rover/ETP Show Cause Order*. Rover answered the July 21 answer on September 15.

Hearings. On January 25, 2022, Chief ALJ Cintron designated Deputy Chief ALJ Andrew Satten as the Presiding Judge for the purpose of conducting a hearing and issuing an initial decision in this case. Track II procedural time standards were established for this hearing, calling for the hearing to be convened by September 6, 2022 and an initial decision to be issued on or before December 20, 2022. On February 1, 2022, Respondents requested a stay of the ALJ proceedings, which would remain in place until the completion of the Declaratory Judgment Act action that Respondents filed also on February 1, 2022 in the U.S. District Court for the Northern District of Texas challenging the legality of the pending ALJ proceedings. Enforcement Litigation Staff answered the February 1 Motion for Stay on February 4, 2022.

Also since the last Report, then-presiding ALJ Satten issued an order scheduling a prehearing videoconference for March 8, 2022. On February 24, 2022, Chief Judge Cintron substituted ALJ Joel DeJesus in place of ALJ Satten, without modification to any of the schedule for the proceeding. In a February 25, 2022 order, Presiding Judge DeJesus adopted the time and date for the March 8 videoconference and the instructions

¹⁵³ Rover Pipeline, LLC, and Energy Transfer Partners, L.P., 178 FERC ¶ 61,028 (Jan. 20, 2022) (“*Rover/ETP Hearings Order*”).

¹⁵⁴ *Rover Pipeline, LLC, and Energy Transfer Partners, L.P.*, 174 FERC ¶ 61,208 (Mar. 18, 2021) (“*Rover/ETP CPCN Show Cause Order*”).

¹⁵⁵ 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.

provided by Judge Satten as his own. Presiding Judge DeJesus directed the participants to submit a jointly-proposed procedural schedule by March 2, 2022.

- **Rover and ETP (Tuscarawas River HDD Show Cause Order) (IN17-4)**

On December 16, 2021, the FERC issued a show cause order¹⁵⁶ in which it directed Rover and ETP (together, “Respondents”) to show cause why they should not be found to have violated NGA section 7(e), FERC Regulations (18 C.F.R. § 157.20); and the FERC’s Certificate Order,¹⁵⁷ by: (i) intentionally including diesel fuel and other toxic substances and unapproved additives in the drilling mud during its horizontal directional drilling (“HDD”) operations under the Tuscarawas River in Stark County, Ohio, in connection with the Rover Pipeline Project;¹⁵⁸ (ii) failing to adequately monitor the right-of-way at the site of the Tuscarawas River HDD operation; and (iii) improperly disposing of inadvertently released drilling mud that was contaminated with diesel fuel and hydraulic oil. The FERC directed Respondents to show why they should not be assessed civil penalties in the amount of **\$40 million**. Following a request from Respondents, the answer period was extended to and including March 21, 2022.

- **BP (IN13-15)**

On December 17, 2020, the FERC issued *Opinion 549-A*,¹⁵⁹ a 159-page decision addressing arguments raised on rehearing requested of *Opinion 549*.¹⁶⁰ *Opinion 549-A* modifies the discussion in *Opinion 549*, but reaches the same the result (ultimately requiring BP to pay a **\$20.16 million civil penalty (roughly \$24.4 million with accrued interest) and disgorge \$207,169**). Of note, *Opinion 549-A* denied BP’s motion to dismiss this enforcement action as time barred (by the five-year statute of limitations set forth in 28 U.S.C. § 2462), finding BP waived any statute of limitations defense by failing to raise it earlier in this proceeding.¹⁶¹ *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.¹⁶²

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*.

¹⁵⁶ *Rover Pipeline, LLC, and Energy Transfer Partners, L.P.*, 177 FERC ¶ 61,182 (Dec. 16, 2021) (“*Rover/ETP Tuscarawas River HDD Show Cause Order*”).

¹⁵⁷ *Rover Pipeline LLC*, 158 FERC ¶ 61,109 (2017), *order on clarification & reh’g*, 161 FERC ¶ 61,244 (2017), *Petition for Rev., Rover Pipeline LLC v. FERC*, No. 18-1032 (D.C. Cir. Jan. 29, 2018) (“*Certificate or Certificate Order*”).

¹⁵⁸ The Rover Pipeline Project is an approximately 711 mile long interstate natural gas pipeline designed to transport gas from the Marcellus and Utica shale supply areas through West Virginia, Pennsylvania, Ohio, and Michigan to outlets in the Midwest and elsewhere.

¹⁵⁹ *BP America Inc. et al.*, Opinion No. 549-A, 173 FERC ¶ 61,239 (Dec. 17, 2020) (“*BP Penalties Allegheny Order*”).

¹⁶⁰ *BP America Inc.*, Opinion No. 549, 156 FERC ¶ 61,031 (July 11, 2016) (“*BP Penalties Order*”) (affirming Judge Cintron’s Aug. 13, 2015 Initial Decision finding that BP America Inc., BP Corporation North America Inc., BP America Production Company, and BP Energy Company (collectively, “BP”) violated Section 1c.1 of the FERC’s regulations (“*Anti-Manipulation Rule*”) and NGA Section 4A (*BP America Inc. et al.*, 152 FERC ¶ 63,016 (Aug. 13, 2015) (“*BP Initial Decision*”))).

¹⁶¹ *BP Penalties Allegheny Order* at P 1.

¹⁶² *Id.* at P 319.

- **Total Gas & Power North America, Inc. et al. (IN12-17)**

On April 28, 2016, the FERC issued a show cause order¹⁶³ 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 2012.¹⁶⁴

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.

Hearing Procedures. On July 15, 2021, the FERC issued an order establishing hearing procedures to determine whether Respondents violated the FERC's Anti-Manipulation Rule, and to ascertain certain facts relevant for any application of the FERC's Penalty Guidelines.¹⁶⁵ On July 27, Chief Judge Cintron designated Judge Suzanne Krolkowski as the Presiding ALJ and established an extended Track III Schedule¹⁶⁶ for the proceeding. Judge Krolkowski scheduled and convened on August 26, 2021 a prehearing conference. Judge Krolkowski issued an order confirming her rulings from the August 26 prehearing conference and establishing a procedural schedule that calls for, among other dates, pre-hearing briefs by July 25, 2022, hearings (estimated to take 2-3 weeks) to begin on August 15, 2022, and an initial decision on January 9, 2023. In light of the settlement judge procedures undertaken, Chief Judge Cintron extended the hearing commencement and initial decision deadlines to September 26, 2022, and February 20, 2023, respectively. Since the last Report, an oral argument addressing administrative matters and procedural motions was held on February 16, 2022. Answers to motions to intervene by whistleblower witnesses are due on Mar 2, 2022; discussions between Respondents and FERC Enforcement Litigation Staff on disputed data requests not resolved during oral argument are to continue. Presiding ALJ Krolkowski issued an order confirming his February 16 bench rulings on February 23, 2022.

¹⁶³ *Total Gas & Power North America, Inc.*, 155 FERC ¶ 61,105 (Apr. 28, 2016) ("TGPNA Show Cause Order").

¹⁶⁴ 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.

¹⁶⁵ *Total Gas & Power North America, Inc. et al.*, 176 FERC ¶ 61,026 (July 15, 2021).

¹⁶⁶ The hearing in this proceeding will be convened within 55 weeks (Aug. 15, 2022) and the initial decision issued within 76 weeks (January 9, 2023) of the issuance of the Chief Judge's order.

XIV. Natural Gas Proceedings

For further information on any of the natural gas proceedings, please contact Joe Fagan (202-218-3901; 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.
- ▶ On June 11, 2021, FERC staff issued a notice that it has prepared a draft EIS for this Project, which responds to comments on the September 30, 2020 Environmental Assessment, and with the exception of greenhouse gas ("GHG") emissions, concludes that approval of the proposed Project, with the mitigation measures recommended in the EIS, would not result in significant environmental impacts. FERC staff did not come to a determination of significance with regards to GHG emissions. Comments on the draft EIS were due on or before August 9, 2021. Since the last Report, 93 sets of individual comments were filed, bring to nearly 300 the number of individual comments have been filed. Algonquin responded to those comments on August 24, 2021.
- ▶ On September 2, 2021, FERC staff modified the issuance date of its final EIS for the Project, due to the "complexity of comments received on the draft EIS". Issuance of a final EIS is now expected on November 12, 2021; the 90-day Federal Authorization Decision Deadline, February 9, 2022.
- ▶ On September 3, 2021, FERC staff issued environmental information request #4, to which Iroquois responded on September 13, 2021.
- ▶ On October 15, 2021, Iroquois submitted a supplemental Life Cycle Greenhouse Gas Analysis Report.
- ▶ On November 12, 2021, FERC staff issued the final EIS for the Project, which responds to comments that were received on the September 30, 2020 Environmental Assessment and June 11, 2021 draft EIS and discloses downstream GHG emissions for the Project. "With the exception of climate change impacts, FERC staff concluded that approval of the proposed Project, with the mitigation measures recommended in this EIS, would not result in significant environmental impacts."
- ▶ Since the last Report, Iroquois, ConEd and National Grid answered/replied to the December 20, 2021 comments on the final EIS by the U.S. Environmental Protection Agency ("EPA").

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.¹⁶⁷ 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*.¹⁶⁸ 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,¹⁶⁹ and proceeded to find that the NY DEC was obligated to act on the application within one year, failed to do so, and so waived its authority under section 401 of the CWA.
- ▶ The FERC authorized the Companies to construct and operate pipeline, compression, and ancillary facilities in McKean County, Pennsylvania, and Allegany, Cattaraugus, Erie, and Niagara Counties, New York (“Northern Access Project”) in an order issued February 3, 2017.¹⁷⁰ 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.¹⁷¹ 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,¹⁷² 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,

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

¹⁶⁸ *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).

¹⁶⁹ 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).

¹⁷⁰ *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*”).

¹⁷¹ *Nat’l Fuel Gas Supply Corp. v. NYSDEC et al.* (2d Cir., Case No. 17-1164).

¹⁷² 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).

even if the NY DEC and Sierra Club prevail in their currently pending court petitions challenging the basis for the Commission's Waiver Order.¹⁷³

- ▶ 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,¹⁷⁴ 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.¹⁷⁵
- ▶ On January 28, 2022, Applicants again requested an additional extension of time, this time until December 31, 2024, to complete construction of the Project and enter service. Comments on that request were due on or before February 16, 2022.

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/>).

Report to the Governors. On June 29, 2021, the NESCOE Managers published their Progress Report to the New England Governors Regarding "Advancing the New England Energy Vision". The Report was further discussed at the August 5, 2021 Participants Committee meeting. View Report [here](#).

ISO-NE Board Response. On September 23, 2021, the ISO-NE Board responded to the New England States' Vision Statement and Advancing the Vision Report. A copy of that response was included with the materials for the October 7, 2021 Participants Committee meeting and is posted on the ISO-NE website [here](#).

¹⁷³ 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).

¹⁷⁴ *National Fuel Gas Supply Corp. and Empire Pipeline, Inc.*, 173 FERC ¶ 61,197 (Dec. 1, 2020).

¹⁷⁵ *Id.* at P 10.

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 (“DC 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).

- **NTE CT Petition for Review of *Killingly CSO Termination Orders* (22-1027)**

Underlying FERC Proceeding: ER22-355¹⁷⁶

Petitioner: NTE CT

Status: Filing of Initial Submissions Underway

On February 23, 2022, NTE CT petitioned the DC Circuit for review of the FERC’s orders accepting the termination of the Killingly Energy Center’s CSO. NTE CT must file a Docketing Statement, Statement of Issues, any Procedural Motions, and the underlying decisions from which the appeal arises by March 28, 2022. Appearances must also be filed by March 28, 2022. Dispositive motions, if any, and a Certified Index to the Record must be filed by April 11, 2022.

- **NTE CT Petition for Writ of Mandamus for Stay of FERC Order Accepting the Killingly Energy Center CSO Termination (22-1011)**

Underlying FERC Proceeding: ER22-355¹⁷⁷

Petitioner: NTE CT

Status: Court Lifts Stay

On January 20, 2022, NTE CT petitioned the DC Circuit Court of Appeals for a Writ of Mandamus to stay the *Killingly CSO Termination Order*. The Court granted that Stay in a 2-1, February 4, 2022 per curiam order, which meant that Killingly was able to participate in FCA16. On February 24, 2022, the Court issued its full opinion, as promised in the per curiam order, setting forth its rationale for granting the Stay. The Stay was to remain in effect until 30 days after the FERC resolves NTE’s request for rehearing of the *Killingly CSO Termination Order*.

On February 18, 2022, however, ISO-NE filed an emergency motion to lift the Stay. On February 22, NEPGA moved to intervene and support ISO-NE’s motion to lift the Stay. NTE CT opposed the motion to lift the Stay and ISO-NE replied to NTE CT’s motion to oppose. The FERC filed a response taking no position on ISO-NE’s motion, but advising the Court that it had issued the *Killingly CSO Termination Allegheny Order*. On February 24, the Court amended its February 4 per curiam order and issued a full opinion as promised in the per curiam order. Finally, on March 2, 2022, the Court issued an order lifting the Stay. In lifting the Stay, the Court stated that ISO-NE had “demonstrated that, due to changed circumstances, the stay is no longer equitable.” The Court highlighted the facts that (i) the FERC had issued the *Killingly CSO Termination Allegheny Order*, “addressing some of the deficiencies in its earlier termination order,” and (ii) it was “undisputed that NTE has defaulted on its financial assurance obligations under the ISO-NE Tariff, which default provides an independent ground for terminating the Killingly plant’s capacity supply obligation.”

¹⁷⁶ *ISO New England Inc.*, 178 FERC ¶ 61,001 (Jan. 3, 2022) (“*Killingly CSO Termination Order*”) (order accepting CSO termination); *ISO New England Inc.*, 178 FERC ¶ 62,082 (Feb. 11, 2022) (notice denying reh’g by operation of law and providing for further consideration); *ISO New England Inc.*, 178 FERC ¶ 61,130 (Feb. 23, 2022) (order addressing arguments raised on reh’g, sustaining results of *Killingly CSO Termination Order*). Together, these orders referred to as the “*Killingly CSO Termination Orders*”.

¹⁷⁷ *Killingly CSO Termination Order*.

- **CSC Request for Regulatory Asset Recovery of Previously-Incurred CIP IROL Costs (21-1275)**
Underlying FERC Proceeding: ER21-2334¹⁷⁸
Petitioner: CSC
Status: Filing of Initial Submissions Underway

On December 30, 2021, CSC petitioned the DC Circuit Court of Appeals for review of the FERC's orders denying it authorization to establish a regulatory asset that would include all CIP-IROL Costs prudently incurred between January 1, 2016 and May 31, 2021 and to recover those costs under Schedule 17 over a five-year period. Appearances are due February 2, 2022. CSC must file a Docketing Statement, Statement of Issues, any Procedural Motions, and the underlying decision from which the appeal arises by February 2, 2022. Dispositive motions, if any, and a Certified Index to the Record must be filed by February 17, 2022.

NESCOE intervened on January 28, 2022. On February 2, 2022, CSC filed a docketing statement and statement of issues. Also on February 2, the FERC asked that the Court hold the petition for review in abeyance, including suspending the initial filing schedule, until the Commission issues an order addressing Petitioner's request for rehearing. On February 16, 2021, the FERC granted the FERC's motion to hold the petition in abeyance, directing (i) the FERC to file status reports at 30-day intervals (with the first such report due March 18, 2022) and (ii) the parties to file motions to govern future proceedings within 30 days of the completion of FERC's proceedings on rehearing (or March 28, 2022, given the FERC's *CSC CIP-IROL Costs Allegheny Order* summarized in Section II above).

- **Mystic ROE (21-1198; 21-1222, 21-1223, 21-1224, 22-1001, 22-1008, 22-1026) (consolidated)**
Underlying FERC Proceeding: EL18-1639-010, -011,¹⁷⁹ -013¹⁸⁰
Petitioners: Mystic, CT Parties,¹⁸¹ MA AG, ENECOS
Status: Filing of Initial Submissions Underway

As previously reported, this case was initiated when, on October 8, 2021, Mystic petitioned the DC Circuit Court of Appeals for review of the FERC's orders setting the base ROE for the Mystic COS Agreement at 9.33%. The *Mystic ROE Order* and subsequent FERC orders addressing the Mystic ROE issues have all also been appealed by various parties and consolidated under 21-1198. Docketing Statements and Statements of Issues to be Raised, and the Underlying Decision from which the various appeals arise have been filed as new dockets have been opened and then consolidated with 21-1198.

Since the last Report, Mystic's appeal of the *Mystic ROE Second Allegheny Order* (22-1026) was also consolidated under 21-1198. On February 8, 2022, the Court issued an order granting in part the FERC's further request, contested by Mystic, for an extension of time to file the Certified Index to the Record.¹⁸² Pursuant to the February 8 order, the Certified Index to the Record was due, and filed by the FERC, on February 22, 2022. On March 1, 2022, the Court directed that proposed briefing formats be filed by March 31, 2022.

¹⁷⁸ *Cross-Sound Cable Co., LLC*, 176 FERC ¶ 61,073 (Aug. 31, 2021) ("*August 31 Order*"); *Cross-Sound Cable Co., LLC*, 177 FERC ¶ 62,064 (Nov. 1, 2021) (Notice of Denial By Operation of Law of Rehearings of *August 31 Order*).

¹⁷⁹ *Constellation Mystic Power, LLC*, 176 FERC ¶ 61,019 (July 15, 2021) ("*Mystic ROE Order*"); *Constellation Mystic Power, LLC*, 176 FERC ¶ 62,127 (Sep. 13, 2021) ("*September 13 Notice*") (Notice of Denial By Operation of Law of Rehearings of *Mystic ROE Order*).

¹⁸⁰

¹⁸¹ In this appeal, "CT Parties" are the Connecticut Public Utilities Regulatory Authority ("CT PURA"), Connecticut Department of Energy and Environmental Protection ("CT DEEP"), and the Connecticut Office of Consumer Counsel ("CT OCC").

¹⁸² The FERC's request was for an extension to March 29, 2022.

- **ISO-NE Implementation of Order 1000 Exemptions for Immediate Need Reliability Projects (20-1422)**
Underlying FERC Proceeding: EL19-90¹⁸³
Petitioner: LS Power
Status: Briefing Complete; Oral Argument Held Jan 27, 2022; Awaiting Decision

As previously reported, 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. Following completion of briefing, oral argument before Judges Rogers, Pillard and Randolph was held on January 27, 2022. This matter is pending before the Court.

- **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: EL18-1639¹⁸⁴
Petitioners: Mystic (20-1343), NESCOE (20-1361, 21-1067), MA AG (20-1362), CT Parties (20-1365, 20-1368, 21-1070)
Status: Briefing Complete; Oral Argument May 5, 2022

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.¹⁸⁵ 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.

Since the last Report, Reply Briefs were filed on February 3, 2022); a Joint Appendix, February 17, 2022; and Final Briefs, February 24, 2022. Briefing is now complete. On February 9, 2022, oral argument was scheduled for **May 5, 2022**. The composition of the merits panel will be identified at a later time.

- **CASPR (20-1333, 21-1031) (consolidated)****
Underlying FERC Proceeding: ER18-619¹⁸⁶
Petitioners: Sierra Club, NRDC, RENEW Northeast, and CLF
Status: Being Held in Abeyance (until June 1, 2022)

On August 31, 2020, the Sierra Club, NRDC, RENEW Northeast, and CLF petitioned the DC Circuit Court of Appeals for review of the FERC’s order accepting ISO-NE’s CASPR revisions (which, under *Allegheny*, is ripe for review). On October 2, 2020, appearances, docketing statements, a statement of issues to be raised, and a statement of intent to utilize deferred joint appendix were filed. On October 19, 2020, the FERC moved to dismiss the case for a lack of jurisdiction (arguing that Petitioners missed their opportunity to timely file their Petition for review in 2018, and filing within 60 days of *Allegheny* did not make their Petition timely). Alternatively, the FERC asked that the case be held in abeyance for 60 days pending issuance of a further FERC order on this matter. On October 29, Petitioners opposed the FERC’s motion. On November 5, 2020, the FERC filed a reply, indicated that

¹⁸³ *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).

¹⁸⁴ *July 2018 Order; July 2018 Rehearing Order; Dec 2018 Order; Dec 2018 Rehearing Order; Jul 17 Compliance Order.*

¹⁸⁵ 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.

¹⁸⁶ *ISO New England Inc.*, 162 FERC ¶ 61,205 (Mar. 9, 2018) (“*CASPR Order*”).

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, 2021, CT Parties and MMWEC and NHEC filed statements of issues and notices that they intend to participate in support of Petitioners. On January 27, 2021, 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. On October 22, 2021, Petitioners Sierra Club, NRDC, Renew Northeast, Inc., and CLF moved the Court to hold this matter in abeyance until June 1, 2022. On October 25, 2021, the Court granted Petitioners' second motion to hold this matter in abeyance. The parties were directed to file motions to govern future proceedings in these cases on or before June 1, 2022.

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

Underlying FERC Proceeding: ER15-414¹⁸⁷

Petitioners: TOs' (CMP et al.)

Status: Being Held in Abeyance

On August 28, 2020, the TOs¹⁸⁸ 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*¹⁸⁹ 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

¹⁸⁷ *ISO New England Inc.*, 161 FERC ¶ 61,031 (Oct. 6, 2017) ("Order Rejecting Filing").

¹⁸⁸ 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.

¹⁸⁹ *Emera Maine v. FERC*, 854 F.3d 9 (D.C. Cir. 2017) ("*Emera Maine*").

proceedings. On December 15, 2021, the FERC submitted a status report indicating that the proceedings before the Commission remain ongoing and that this appeal should continue to remain in abeyance.

- **ISO-NE's Inventoried Energy Program (Chapter 2B) Proposal (19-1224***; 19-1247; 19-1252; 19-1253)(consolidated); Underlying FERC Proceeding: ER19-1428¹⁹⁰**
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; Oral Argument Held Oct 21, 2021; Awaiting Decision

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. Following completion of briefing, oral argument was held October 21, 2021 before Judges Wilkins, Katsas and Jackson. This matter is pending before the Court

Other Federal Court Activity of Interest

- **Order 872 (20-72788, * 21-70113; 20-73375, 21-70113) (consol.) (9th Cir.)**
Underlying FERC Proceeding: RM19-15¹⁹¹
Petitioners: SEIA et al.

Status: Briefing Complete; Oral Argument Scheduled for March 8, 2022

On September 17, 2020, SEIA petitioned the 9th Circuit Court of Appeals for review of *Order 872*.¹⁹² Briefing is now complete and oral argument has been scheduled for March 8, 2022, though the Court stated that panel to be assigned could decide to submit the case on the briefs instead. The composition of the argument panel will be identified roughly 30 days prior to oral argument.

- **PennEast Project (18-1128 et al.)**
Underlying FERC Proceeding: CP15-558¹⁹³
Petitioners: NJ DEP, DE and Raritan Canal Commission, NJ Div. of Rate Counsel
Status: Case Dismissed

On January 28, 2022, the FERC filed an unopposed motion to dismiss the petitions in these consolidated cases. The FERC stated that dismissal should be granted, and its December 16 order¹⁹⁴ permitted to go into effect, since PennEast informed the FERC that it has "ceased all further development of the Project." On February 8, 2022, the Court issued a per curiam order granting the FERC's motion and issued the mandate to FERC, concluding these proceedings. Reporting on these proceedings is concluded.

¹⁹⁰ 162 FERC ¶ 61,127 (Feb. 15, 2018) ("Order 841"); 167 FERC ¶ 61,154 (May 16, 2019) ("Order 841-A").

¹⁹¹ *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).

¹⁹² *Order 872* approved pricing and eligibility revisions to the FERC's long-standing regulations implementing sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), including: state flexibility in setting QF rates; a decrease (to 5 MW) to the threshold for a rebuttable presumption of access to nondiscriminatory, competitive markets; updates to the "One-Mile Rule"; clarifications to when a QF establishes its entitlement to a purchase obligation; and provision for certification challenges.

¹⁹³ *PennEast Pipeline Co., LLC*, 162 FERC ¶ 61,053 (Jan. 19, 2018), *reh'g denied*, 163 FERC ¶ 61,159 (May 30, 2018).

¹⁹⁴ *PennEast Pipeline Co., LLC*, 177 FERC ¶ 61,197 at P 4 (Dec. 16, 2022) (order (i) vacating the certificate authorization for the PennEast Pipeline Project issued in FERC Docket No. CP15-558, (ii) vacating the authorization of an amendment in FERC Docket No. CP19-78, and (iii) dismissing the pending certificate amendment application in FERC Docket No. CP20-47).

- **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) (consol.)**

Underlying FERC Proceeding: EL14-12; EL15-45¹⁹⁵

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

Status: Oral Argument Held Nov 18, 2021; Awaiting Decision

The MISO TOs, Transource and “Dec 23 Petitioners”,¹⁹⁶ 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. Following completion of briefing, oral argument was held on November 18, 2021 before Judges Srinivasan, Katsas and Walker. This matter is pending before the Court.

- **Algonquin Atlantic Bridge Project Briefing Order (21-1115*, 21-1138, 21-1153, 21-1155) (consol.);**

Underlying FERC Proceeding: CP16-9-012¹⁹⁷

Petitioners: LS Power, Algonquin, INGA

Status: Case Being Held in Abeyance

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, docketing statements and a statement of issues were due and filed June 4, 2021. Also on June 4, 2021, the FERC filed an unopposed motion to hold this proceeding in temporary abeyance, until August 2, 2021, including the filing of the certified index to the record, because “the May 3 petition for review no longer reflects the [FERC]’s latest determination in this matter.” The Court granted the first abeyance motion. On November 15, 2021, the Court granted a third abeyance motion by the FERC, directing the parties to file motions to govern future proceedings by January 31, 2022. On January 31, 2022, Algonquin and INGA asked the Court to extend the abeyance by an additional 120 days (to May 31, 2022). On February 15, 2022, the Court issued an order extending the abeyance and directing the Petitioners to file motions to govern future proceedings by May 31, 2022.

¹⁹⁵ *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).

¹⁹⁶ “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.

¹⁹⁷ *Briefing Order; April 19 Notice of Denial of Rehearings by Operation of Law*.

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